

File No 14/3/2011-DGAD
Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Anti-Dumping & Allied Duties)
Udyog Bhawan, New Delhi

NOTIFICATION
(Final Findings)

Dated 9th February, 2013

Subject: - Final Findings in the anti-dumping duty investigation concerning imports of Di-sodium Carbonate (Soda Ash) originating in or exported from Turkey and Russia-reg

No. 14/3/2011-DGAD:- Having regard to the Customs Tariff Act, 1975 as amended from time to time, and the Customs Tariff (Identification, Assessment and Collection of Anti- Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995 thereof:

A. Background of the case:

1. Whereas having regard to the Customs Tariff Act, 1975, as amended from time to time, (hereinafter referred to as the Act), and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time, (hereinafter referred to as the Rules) thereof, the Designated Authority (hereinafter referred to as the Authority), received a written application from Alkali Manufacturers' Association of India (AMAI), Delhi, on behalf of the domestic industry, namely, M/s Nirma Ltd, Bhavnagar, Gujarat, M/s Saurashtra Chemicals Ltd, Porbandar, Gujarat, M/s Gujarat Heavy Chemicals Ltd, Noida and M/s DCW Ltd, Mumbai alleging dumping of Soda Ash (hereinafter referred to as subject goods), originating in or exported from Turkey and Russia (hereinafter referred to as the subject countries).
2. Whereas, the Authority on the basis of sufficient evidence submitted by the applicant on behalf of the domestic industry, issued a public notice dated 10th February, 2012 published in the Gazette of India, Extraordinary, initiating anti-dumping investigations concerning imports of the subject goods, originating in or exported from the subject countries, in accordance with the Sub-Rule 6(1) of the Rules, to determine the existence, degree and effect of alleged dumping and to consider recommendation of the anti-dumping duty.

B. PROCEDURE

3. The procedure described below has been followed in this investigation:

- i. The Authority notified the Embassies of the subject countries in India about the receipt of application before proceeding to initiate the investigation in accordance with Sub-Rule 5(5) of the Anti-dumping Rules.
- ii. The Authority issued a public notice dated 10th February, 2012, published in the Gazette of India, Extraordinary, initiating anti-dumping investigation concerning imports of the subject goods, originating in or exported from the subject countries.
- iii. The Authority forwarded a copy of the public notice to all the known exporters (whose details were made available by the Applicant) and industry associations and gave them opportunity to make their views known in writing in accordance with Rule 6(2) of the Anti-dumping Rules.
- iv. The Authority also forwarded a copy of the said public notice to all the known importers/users of the subject goods in India (whose details were made available by the Applicant) and advised them to submit their views in writing within forty days from the date of the communication.
- v. The Authority provided a copy of the non-confidential version of the application to the known exporters and the Embassies of the subject countries in India in accordance with Rule 6(3) of the Anti-dumping Rules. A copy of the Application was also provided to other interested parties, wherever requested.
- vi. The Authority sent questionnaires to elicit relevant information to the following known exporters in subject countries in accordance with Rule 6(4) of the Anti-dumping Rules:
 - a. AS KIMYA SANAYI VE TICARET LTD STI
 - b. BEKA YAPI MUHENDISLIK
 - c. BROC DIS TICARET LTD STI,
 - d. HRT CO
 - e. ZEYIN CHEM
 - f. KORUMA,
 - g. KAZAKH ITHALAT IHRACAT SAN. TIC. LTD STI
 - h. AS KIMYA SANAYI VE TICARET LTD STI
 - i. RHWL KIMYA SAN TIC LTD STI
 - j. MAYA PETROL,
 - k. KANAS CHEMICALS INDUSTRY & TRADE INC.
 - l. LONZERCHEM
 - m. MYRA INTERNATIONAL TRADE
 - n. BENTONITE TRADE CO.
 - o. SISECAM,
 - p. ETI MINE WORKS GENERAL MANAGEMENT.
- vii. In response to the Initiation Notification, the following exporters/producers/associations from the subject countries responded:

- a. Istanbul Kĩmyevi Maddeler ve Maműllerĩ İhracatçılari Birliđi, Turkey
- b. Soda Sanayii A.S, Turkey
- c. ETI Soda, Turkey
- d. M/s Vincom Commodities Limited, UK

viii. Questionnaires were sent to the following known importers/users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the Anti-dumping Rules:

- a. Gujarat Guardian Ltd
- b. Advance Surfactants India Ltd
- c. Float Glass India Ltd
- d. A.R. Stanchem Pvt. Ltd
- e. Alembic Glass Industries Ltd
- f. Hind Silicates Pvt. Ltd.
- g. Deepak Nitrite Ltd
- h. Taurus Chemicals (P) Ltd
- i. Hindusthan National Glass & Ind. Ltd
- j. Kishoresons Detergents Pvt. Ltd
- k. Hindusthan Uniliver Ltd
- l. J.J. Patel Industries
- m. Procter & Gamble Hygiene & Health Care
- n. Shriram Bharath Chemicals & Detergents (P) Ltd
- o. Albright Morarji & Pandit Ltd
- p. Modern Glass Industries,
- q. Advatech Industries Pvt. Ltd
- r. Adarsh Kanch Udyog (P) Ltd
- s. Saint Gobain Glass Ltd.
- t. Advance Lamp Component & Table Wares Pvt Ltd
- u. U.P. Glass Manufacturer Syndicate
- v. Pragati Glass Pvt. Ltd
- w. Asahi India Glass Ltd
- x. Gora Mal Hari Ram Ltd
- y. Fena (P) Ltd
- z. Rohit Surfactants(P) Ltd
- aa. Shree Unicon Organics Pvt Ltd
- bb. Astral Glass Pvt. Ltd
- cc. Pollachi Chamber Of Commerce & Industry
- dd. BDJ Glass Industries Pvt Ltd
- ee. Vasundhara Rasayan Ltd
- ff. Power Soap Ltd
- gg. Shri Hari Industries
- hh. Shanti Nath Detergents(P) Ltd
- ii. Hindusthan National Glass & Industries Ltd
- jj. Advance Home & Personal Care Ltd
- kk. Jagatjit Industries Limited
- ll. S. Kumar Detergent P. Ltd
- mm. Advance Surfactants India Ltd

- ix. In response to the Initiation Notification, the following importers/users have responded:
- a. The All India Glass Manufacturers' Federation
 - b. Hindustan National Glass & Industries Ltd
 - c. HNG Float Glass Ltd
 - d. Piramal Glass Ltd
 - e. AGI Glaspac
 - f. Hindustan Unilever Ltd
 - g. Detergent Manufacturers Association of India
 - h. Gujarat Guardian Ltd
- x. The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties.
- xi. Optimum cost of production and cost to make and sell the subject goods in India based on the information furnished by the applicant on the basis of Generally Accepted Accounting Principles (GAAP) was worked out so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the Domestic Industry.
- xii. Investigation was carried out for the period of investigation (POI) starting from 1st July, 2010 to 30th September, 2011. The examination of trends, in the context of injury analysis, covered the period April 2008-March 2009, April 2009-March 2010, April 2010-March 2011 April and the POI.
- xiii. The Authority held an Oral Hearing on 03.01.2013 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 considered to the extent considered relevant.
- xiv. A Disclosure Statement containing the essential facts which would form the basis for the Final Findings was issued on 06.02.2013.
- xv. The submissions made by the interested parties post public hearing and post Disclosure Statements considered relevant by the Authority have been addressed in this Final Findings Notification.
- xvi.*** in this Final Findings Notification represents information furnished by the interested parties on confidential basis and so considered by the Authority under the Rules.
- xvii. The exchange rate adopted for the POI is 1 US \$ =Rs 45.87.

C. Product Under Consideration and Like Article

Submissions made by the domestic industry

4. Following are the submissions made by the domestic industry with regard to the product under consideration (PUC) and like article during the course of the investigation:
 - i. The product under consideration in the present application is Disodium Carbonate commonly known as Soda Ash. Soda Ash can be produced through synthetic route and natural route. The present petition includes all types and forms of Soda Ash. Further, it is produced in two forms, viz. Light Soda Ash and Dense Soda Ash.
 - ii. These two forms of soda ash are like articles. The issue has been examined by the Authority in an earlier concluded investigation against China. The Authority has considered the two grades as a single product. Light and Dense Soda Ash clearly constitute one product. The Authority has held the same view in the previous investigation conducted on the subject goods.

Submissions made by the producers/exporters/importers/and other interested parties

5. Following submissions are made by the producers/exporters/importers/and other interested parties with regard to product under consideration and like article during the course of the investigation:
 - i. Dense soda ash and light soda ash are not like articles as the bulk density is different.
 - ii. Their production process, storage, uses and functions differ. These products cannot be used interchangeably.
 - iii. Their technical specifications and tariff classification also differ.
 - iv. Import statistics also contain transactions relating to Sodium Bicarbonate or Baking Soda. If Baking Soda is to be considered as part of PUC, then the initiation of present investigation is bad in law as the petition filed by the domestic industry is incomplete and incorrect. On the other hand, if Baking Soda is not to be considered as part of PUC, then also the import statistics and resultant injury analysis provided by domestic industry loses its value.

Examination by the Authority

6. The product under consideration in the present investigation is Disodium Carbonate, also 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 of bulk density. Further, it can be produced through

synthetic route and natural route, known as dissolution process. The present investigation includes all types and forms of Soda Ash.

7. Soda Ash is an essential ingredient in the manufacture of detergents, soaps, cleaning compounds, sodium based 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. Soda Ash is classified under Chapter 28 of the Customs Tariff Act under subheading No.2836.20. The customs classification is, however, indicative only and is not binding on the scope of the present investigation.
8. The interested parties have submitted that Light and Dense Soda Ash are different products due to different bulk density and not used interchangeably by the customers. They also submitted that the cost and price of the two grades are different. The Authority had earlier found in the anti dumping investigations relating to imports of the subject goods from Kenya, USA, etc. that the difference of cost and price between light and dense soda ash is negligible and the information available in the public domain shows that light soda ash can be used in manufacture of sodium salts, glass, sodium silicates, bi-chromate, bi-carbonates, etc. apart from the most common usage in the detergent sector. Similarly, while dense soda ash is used mainly for manufacturing glass, it can also find usage in manufacture of detergents, silicates, ultramarine, bi-chromate, etc. The Authority notes that both the grades of soda ash, having many common usages, are technically and commercially substitutable and, therefore, form part of the product under consideration. The Authority further notes that the difference in light and dense soda ash is in bulk density only but the product characteristics, production process, manufacturing technology, raw materials, manpower, functions & uses, customs classification and pricing of the light and dense soda ash are, however, the same, although for manufacturing dense soda ash, installation of additional equipment is required. The Authority notes that although some end applications may specifically require light or dense soda ash, the bulk density or inability of some of the consumers to interchangeably use light and dense soda ash cannot render the two as dislike articles. These are merely two different forms of the same product.
9. With regard to like article, Rule 2(d) of the Anti-dumping Rules provides as under:

"like article" means an article which is identical or alike in all respects to the article under investigation for being dumped in India or in the absence of such article, another article which although not alike in all respects, has characteristics closely resembling those of the articles under investigation."
10. The domestic industry claimed that there is no known difference in the subject goods produced by the domestic industry and that imported from the subject countries. The subject goods produced by the domestic industry and the subject goods imported from the subject countries are comparable in terms of characteristics such as physical and chemical characteristics, manufacturing

process and technology, functions and uses, product specifications, distribution and market & tariff classification of the goods.

11. The Authority notes that there is no significant difference in the subject goods produced by the Indian industry and those exported from subject countries. Even though the product is produced through a different route in Turkey, the subject goods produced by the Indian industry and that imported from the subject countries are technically and commercially substitutable. The consumers are using the two interchangeably. Therefore, the Authority holds that the subject goods produced by the petitioner companies are treated as like article to the subject goods imported from the subject countries in accordance with the anti-dumping Rules.
12. As regards natural and synthetic soda ash, the Authority notes that there is no known difference in natural and synthetic soda ash in terms of product characteristics, functions and uses, customs classification and pricing of the product. The only difference is in terms of the routes of manufacturing. However, the Authority notes that difference in production process cannot render the two grades of soda ash as dislike articles, particularly when the resultant products are interchangeably used.
13. With regard to the argument that sodium bi-carbonate (baking soda) has been wrongly included in the PUC, the Authority notes that the analysis has been undertaken by considering the data as procured from the DGCI&S excluding sodium bi-carbonate.

D. Domestic Industry and Standing

14. Following submissions are made by the domestic industry with regard to domestic industry and standing during the course of the investigation:
 - i. Alleged dumped article in the instant case can only be product under consideration imported from present subject countries. The placement of word "alleged" clearly implies "subject countries". Imports from countries attracting anti-dumping duty constitute "dumped article" and not "alleged dumped article".
 - ii. Eligibility of domestic producers who are related to exporters of soda ash from third countries now attracting anti dumping duty need not be considered for the exclusion issue of Rule 2(b).
 - iii. Section 9(B) does not provide for "entire" established industry and merely provides for "any" established industry. "Any" established industry is a subset of "entire" established industry. Rules provide for consideration of "domestic industry" and not "entire domestic producers".
 - iv. Petitioner is not privy to Tata Chemicals information and therefore question of withholding information does not arise. The interested parties have assumed that Tata Chemicals is subject to direction and control of AMAI. Tata Chemicals is a member of AMAI, but is not under the control of AMAI.

15. Following submissions are made by the producers/exporters/importers/and other interested parties with regard to domestic industry and standing during the course of the investigation:
 - i. Rule 2(b) requires examination of imports by domestic industry & relationship with exporters with regard to “alleged dumped article” and not subject countries. Thus in the present case, Authority is required to examine imports by domestic industry and relationship of domestic industry with exporters from all nine countries from which alleged article is being dumped.
 - ii. For the purpose of injury analysis Tata Chemicals has been excluded. In the previous investigation it was excluded as it imported the goods from subject country which is not the case at present. It constitutes 30% of the total production. Including Tata Chemicals would give a more accurate injury analysis.
 - iii. Section 9(B) and Para (i) of Annexure II mandate that domestic market and domestic producers as a whole must be examined and not just the domestic industry.

Examination by the Authority

16. Petition has been filed by the Association of the producers of the subject goods, i.e., Alkali Manufacturers’ Association of India. Production by the petitioner companies constitutes a major proportion in the Indian production.
17. With regard to the submission that Rule 2(b) requires examination of imports of Domestic Industry and relationship with exporters with regard to “alleged dumped article” and not subject countries, the Authority notes that the term ‘alleged’ itself implies that the test of relationship with exporters under Rule 2(b) is with respect to the alleged, i.e., the subject imports originating from the subject countries under the investigation. Further, the Authority notes the information provided by the petitioners shows that there is no import of the product under consideration from other countries now subject to anti dumping duty by the parties related to the petitioning domestic producers. In particular, it is found that:
 - a. DCW does not have any related producer outside India. The company has not imported the product during the POI. Also, there is no dispute with regard to the eligibility of DCW as a domestic industry.
 - b. Nirma has related producers outside India. However, there is no export by any of its related producers outside India during the present POI. Since there are no imports from related producer during the POI, the company is an eligible domestic industry under Rule 2(b). Even otherwise, the volume of exports during the period prior to POI was low and the Authority held Nirma as an eligible domestic industry in the previous investigation concerning Soda Ash.
 - c. Saukem is related to Nirma. However, Saukem constitutes eligible domestic industry for the same reasons as have been considered for Nirma.
 - d. GHCL has a related producer outside India. However, that company has not exported soda ash during the present POI. Since there are no

imports from related producer during the POI, GHCL is eligible domestic industry under Rule 2(b). Even otherwise, the volume of exports during the period prior to POI was low and the Authority held GHCL as an eligible domestic industry in the previous investigation concerning Soda Ash.

- e. Tata Chemicals Ltd. (TCL) is not a part of the petitioning companies. TCL has a related producer outside India (in Kenya) and there are continued significant imports from Kenya. However, since the company has not been included in injury analysis, the Authority considers it unnecessary to decide eligibility of TCL as a domestic industry.
18. With regard to the submission that Section 9(B) and Para (i) of Annexure II mandate that domestic market and domestic producers as a whole must be examined and not merely the domestic industry, the Authority notes that Section 9 (B) of the Customs Tariff Act specifically uses the phrase “any established industry”, which does not imply entirety of the domestic producers.
 19. The interested parties have argued that the information/data of Tata Chemicals (TCL) should be included in the present case for the purpose of injury determination. In view of the submissions made by the interested parties, TCL was directed to provide relevant information in the form and manner prescribed. However, the company has not provided the information. However, the Authority has procured such information from Ministry of Corporate Affairs which shows decline in Return on capital employed from 100 (Indexed figure) during 2008-09 to 66(Indexed figure) in 2009-10 and further deteriorated in 2010-11 to 36(Indexed figure). Further, the Authority notes that the domestic producers expressly supporting the application account for significantly more than 50 percent of production of the like product produced by the domestic industry. The Authority therefore holds that the domestic producers expressly supporting the application account for more than twenty five percent of the total production of the like article by the domestic industry and the petition is supported by those domestic producers whose collective output constitutes more than fifty percent of the total production of the like article produced by that portion of the domestic industry expressing either support for or opposition, as the case may be, to the application. Further, petitioner companies command a major proportion of the production of the subject goods in India and for the purpose of this investigation the petitioner companies constitute domestic industry in terms of Rule 2(b).

E. Confidentiality

20. Following submissions are made by the domestic industry with regard to confidentiality during the course of the investigation:
 - i. Merely because data is consolidated for three companies it does not mean that the same is not confidential. The absolute amounts of profits, ROI, cash flow are highly business sensitive information, disclosure of which will seriously prejudice the business interest of the domestic industry.

- ii. Range of indexation provided by Soda Sanayii in its exporter questionnaire response fails to provide any meaningful information. Indexed figures of several information have not been provided.
 - iii. Information for previous years has been blocked by ETI Soda which has prevented the domestic industry from defending their interests.
 - iv. Despite using indexation, the exporter has given range. Range of indexed figures should not be given when indexed information itself protects the confidentiality.
21. Following submissions are made by the producers/exporters/importers/and other interested parties with regard to confidentiality during the course of the investigation:
- i. For Section VI of the petition, only a single line statement stating that the information is business proprietary information which is not amenable to summarization, has been provided. No reason has been provided as to why the descriptive answers as well as the numerical data given in various costing formats are not amenable to summarization.
 - ii. DI cannot claim confidentiality as data is an aggregate of three companies and hence there would be no business sensitive information which would be revealed.

Examination by the Authority

22. The Authority has examined the confidentiality claims of the interested parties. The Authority made available the non confidential version of the evidences submitted by various interested parties in the form of public file.
23. With regard to confidentiality of information, Rule 7 of Anti-dumping Rules provides as follows:-
- (1) Notwithstanding anything contained in sub-rules (2), (3) and (7) of rule 6, sub-rule (2) of rule 12, sub-rule (4) of rule 15 and sub-rule (4) of rule 17, the copies of applications received under sub-rule (1) of rule 5, or any other information provided to the designated authority on a confidential basis by any party in the course of investigation, shall, upon the designated authority being satisfied as to its confidentiality, be treated as such by it and no such information shall be disclosed to any other party without specific authorization of the party providing such information. (2) The designated authority may require the parties providing information on confidential basis to furnish non-confidential summary thereof and if, in the opinion of a party providing such information, such information is not susceptible of summary, such party may submit to the designated authority a statement of reasons why summarization is not possible. (3) Notwithstanding anything contained in sub-rule (2), if the designated authority is satisfied that the request for confidentiality is not warranted or*

the supplier of the information is either unwilling to make the information public or to authorise its disclosure in a generalized or summary form, it may disregard such information.

24. The Authority notes that the information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claims. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, the parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis
25. On the specific submission that consolidated information of domestic industry should not be allowed to be kept confidential, the Authority notes that consolidated data, if disclosed, can have adverse impact on the business interests of the domestic industry, therefore the same cannot be disclosed on actual basis.

F. Miscellaneous Submissions

26. Miscellaneous submissions made by the domestic industry are as follows:
 - i. There is no legal requirement that such petition should be for the POI for which the Authority intends to initiate the investigations. As submitted before, POI in petition and POI for investigations need not be the same.
 - ii. Rules provide that the petition should contain sufficient evidence of dumping, injury and causal link. This cannot certainly be considered to imply that the petition should prescribe an investigation period and contain information for the investigation period and therefore the Authority should examine that investigation period.
 - iii. Committee on Anti-dumping practices nowhere prescribed that the investigating authorities should require the petitioners to provide petition for an investigation period and then the Authority should consider the same.
 - iv. The interested parties received updated information on 15.04.2012 and a period of almost eight months has since expired. Admittedly, interested parties have had sufficient time to defend their interests. It is not a situation where the Authority has curtailed any interested party from making submissions after the time limits.
 - v. The trend for POI figures and for annualized figures for POI cannot be different.
 - vi. The data required for AD investigation should be with regard to product under consideration, for the period of investigation and injury period considered, and in respect of domestic operations only.
 - vii. Information compiled from the annual report of Tata Chemicals shows that this information is not at all sufficient/useful for the present investigation.
 - viii. The Authority should allow submissions only from those interested parties who have made themselves known within the time limits imposed by the Authority and who have filed submissions and information within the time limits prescribed by the Authority in the notice of initiation.

- ix. Domestic industry has provided more than adequate information and the same cannot become a ground for termination of investigation. Nor the domestic industry has truncated any information.
 - x. The volume of imports into India has actually crossed historically high levels and the dumped imports are now commanding historically highest market share. Anti-dumping duties have been actually absorbed by the exporters as would be seen from the current trend of prices.
 - xi. The domestic industry has merely given information for the POI chosen by the Authority. Gujarat Guardian & Saint Gobain are non cooperative importers/consumers. They have filed their submissions for the first time after initiation and got about nine months time to respond to the information provided by the domestic industry. Therefore no prejudice can be claimed under these circumstances.
27. Miscellaneous submissions made by the producers/exporters/importers/and other interested parties are as follows:
- i. The Authority has failed to follow rule 5(3)(b) and has not ensured adequacy and accuracy of information provided as the Authority did not have information for the extended 3 month period.
 - ii. The Authority extended the POI by one quarter to include June11-Sept 11 to the POI, whereas the petition contained data only till June 2011. The initiation has therefore been done for a period of investigation for which adequate and accurate information had not even been provided.
 - iii. The initiation and the continuation of the investigation is illegal and without the authority of law as the information which forms a part of the initiation remained inaccessible to the interested parties. The data for the extended period which forms part of the POI cannot be kept confidential and, therefore, the analysis of both dumping and injury remained deficient. The Authority cannot request the interested parties to file the data for the POI when the Authority itself has not provided this data which has been considered in the new POI as accurate and adequate.
 - iv. Complainants have misused the ADD provision by aggressively targeting imports of soda ash and increasing their prices. Almost 97% of the import from world to India of soda ash is subject to either anti dumping measures or an ongoing investigation.
 - v. If the Authority had determined that the data were insufficient for initiation purposes, it should have had the Applicants provide additional information before initiating the investigation, and the Authority was then required to provide all interested parties with a suitably modified written application providing all the relevant evidence.
 - vi. Information in terms of initiation notification has not been received till date compelling to make limited rejoinder submissions.
 - vii. At various instances of submitting injury data, domestic industry has conveniently chosen to provide certain parameters and then withhold the same parameters at other instances, such as net fixed assets, working capital, capital employed, and productivity per employee and per day and PBIT per unit.

- viii. The trend figures provided for the annualized period as well as the 15 month period are exactly the same. It is undisputed that annualised figures and 15 month periods cannot be the same.
- ix. Tata Chemicals should be included in the injury analysis. Even though Tata Chemicals has not provided any data to DGAD, yet it is obligated to use the publically available information like annual reports and quarterly reports in determining the overall position of the Indian domestic industry.
- x. Since the POI was extended by 3 months by the Authority without information for the extended 3 months, the Authority was not in a position to verify imports or relationship with exporters of domestic industry, which is a violation of Rule5(3)(a).
- xi. In the initiation notification, the Authority in the injury paragraph only notes of injury caused to domestic industry. However, the paragraph on POI states that threat of material injury would be examined for period beyond POI which is against the spirit of the Act and Rules.
- xii. In any case, Section 9B and Rule 11 (1) use the word “or” between injury and threat of material injury and not the word “and” which clearly shows the intention of legislature and thus it cannot be interpreted against the intent of Section 9B and Rule 11.
- xiii. Domestic industry has been given unreasonable time of 69 days for filing revised petition, without sufficient reason.
- xiv. Contrary to Trade notice 2/2004, DI has provided data from 2007-08 despite injury period being from 2008-09. Also data provided at the time of oral hearing is truncated and not in terms of initiation notification, and hence proceedings must be terminated.
- xv. There is a gap of 3 months in revised data provided by DI which has been done to suppress information.

Examination by the Authority

- 28. The miscellaneous submissions made by the interested parties are examined as follows:
 - i. As regards the submission of the interested parties that accuracy and adequacy under Rule 5(3) (b) has not been complied with as information for the extended three month period was not available while initiating the investigation, the Authority notes that there is no legal mandate that the period of investigation considered by the Authority for undertaking detailed investigations should be the same as the period for which petition was filed. Further, the period of investigation has been chosen considering the facts and circumstances of the present case and has been appropriately chosen to cover the latest available data on the subject. The POI has been changed in view of consistent policy of the Directorate to consider the recent period for the purpose of investigation. In large number of investigations, a POI different from one proposed by the petitioners have been considered by the Authority while initiating the investigation.
 - ii. As regards the submission of the interested parties that the initiation is illegal, the Authority notes that the application contained sufficient evidence to justify initiation of the present investigation. It is also noted that the Authority called

for the information for the changed period of investigation from the domestic industry, after the initiation of investigation, which, after receipt, was placed in the public file for the interested parties to submit their comments. Interested parties have been provided ample opportunity to respond to the information provided by the domestic industry.

- iii. As regards the submission of the interested parties that complainants have misused the ADD provision by aggressively targeting imports of soda ash, the Authority notes that anti dumping investigation is not to put bar on imports of subject goods. It is only to eradicate the unfair trade practice of dumping and provide a level playing field to the domestic industry. The Authority further notes that it is only when dumped imports cause injury to the domestic industry that the anti dumping duties are imposed. The Authority also notes from the information on record that there is in fact increased volume of imports in the recent period.
- iv. As regards the submission of the interested parties that domestic Industry has provided data from 2007-08 despite injury period being from 2008-09, the Authority notes that the injury analysis in the current investigation considers data from 2008-09 onwards. The domestic industry merely provided data for longer period than required.
- v. As regards the submission of the interested parties that Tata Chemicals (TCL) information as, publically available, should be included, the Authority notes that data of TCL as obtained from Ministry of Corporate Affairs shows decline in Return on capital employed from 100 (Indexed figure) during 2008-09 to 66(Indexed figure) in 2009-10 and further deteriorated in 2010-11 to 36(Indexed figure).

Assessment of Dumping – Methodology and Parameters

G. Methodology for determination of Dumping Margin

Normal Value, Export Price and Dumping Margin

Submissions made by the domestic industry

29. The submissions made by the domestic industry with regard to the normal value, export price and dumping margin are as follows:
 - i. The normal value is required to be determined in respect of like article. Like article is defined under Rule 2(d) and implies an identical article or in the absence of the same, another article closely resembling the imported article. Therefore it is appropriate to determine normal value on the basis of synthetic soda ash prices prevailing in European Union.
 - ii. Evidence of prices prevailing in Russia could be obtained by the petitioner from the journal Chlor Alkali published by Harimann Chemsult which regularly publishes prices of Soda Ash.

- iii. With regard to Turkey, Chlor Alkali does not publish prices prevailing in Turkey. It, however, publishes Soda Ash prices prevailing in Europe which is a good indicator of prices prevailing in domestic market of Turkey.
- iv. Since the journal mentions high and low prices, petitioner has adopted weighted average price and determined the normal value.

Submissions made by the producers/exporters/importers/and other interested parties

30. The submissions made by the producers/exporters/importers/and other interested parties with regard to the normal value, export price and dumping margin are as follows:
- i. EU is an inappropriate benchmark for Turkey's soda ash domestic market. The international Journal Chlor Alkali has other more appropriate option such as Bulgaria. One of the two producers in Turkey manufactures subject goods from natural resource and, therefore, the petitioner should have chosen a market in which soda ash is produced from natural resource such as Bulgaria and the USA. That would be more representative of the Turkish market.
 - ii. Prices that have been used, currency conversion factors and other details of as to how ultimately the prices have been reached is unclear.
 - iii. Normal value considered on the basis of prices published in the Journal Chlor alkali which is not one of the allowed methods prescribed by the Rules.
 - iv. Data filed by the cooperating exporters, i.e., ETI Soda and Soda Sanayii should be relied upon in order to come to a reliable and accurate conclusion with regard to dumping and margins allocated thereof.
 - v. Soda Ash produced through synthetic process is more expensive than Natural Soda Ash, as produced in Turkey. Therefore, the normal value for Turkey cannot be determined by considering the domestic prices in EU, where a different production process is used. This is evident from the previous investigation on Soda Ash as well, wherein DGAD has determined normal values for countries employing natural process (USA) and countries employing synthetic process (EU).
 - vi. The partial use of DGCI&S and IBIS data for determining export price will lead to inconsistencies and hence, the data from one source only should be used.

Examination by the Authority

NORMAL VALUE

Normal value in case of Russia

31. The Authority notes that none of the producer/exporter from Russia has submitted exporter's questionnaire response. Therefore, the Authority has relied upon the best available information in terms of Rule 6(8) of the Rules for the determination of normal value in respect of Russia. Accordingly, the Authority determines the normal value in respect of Russia at ex-factory level on the basis of prices periodically published in Chlor Alkali, which periodically publishes the prices of Soda Ash prevailing in Russia, as US\$ ***per MT.

Normal value in case of Turkey

32. The Authority notes that two exporters from Turkey, namely, Soda Sanayii A.S and ETI Soda have submitted exporter's questionnaire response furnishing details of domestic sales of subject goods during the POI.

Soda Sanayii A.S, Turkey

33. Soda Sanayii A. S has responded and provided information. Exporter verification has been carried out by the Authority in Turkey. The cost of production of the respondent has been compared with the transaction wise domestic sales (excluding trading sales) and it was found that more than 80 % sales are profitable. The Authority also notes that exporter has made sales to its affiliated customer and these sales are at prices much lower (***%) than the prices to non-affiliated customer. Therefore, the Authority determines normal value on the basis of non-affiliated domestic sales excluding traded sales. The adjustments on account of Inland freight, insurance, interest are being allowed. Inventory carrying cost has not been allowed as per the practice followed in DGAD. Thus, the normal value is worked out as USD *** per MT.

ETI Soda, Turkey

34. ETI Soda, Turkey has responded and provided information. Exporter verification has been carried out by the Authority in Turkey. The cost of production of the respondent has been compared with the transaction wise domestic sales and it's found that more than 80 % sales are profitable. Thus, the Authority determines the normal value on the basis of total domestic sales. The adjustments on account of Inland freight, insurance, interest are being allowed. Thus, the Normal value is worked out as USD *** per MT.

EXPORT PRICE

Export price in case of Russia

35. The Authority notes that none of the exporters/producers of subject goods from Russia have responded to the Authority in the form and manner prescribed. In the absence of response from the producers/exporters from Russia, the Authority has determined the export price in respect of these countries on the basis of best available information on record in terms of Rule 6(8) of the AD Rules. The Authority has relied upon DGCI&S import data for the purpose of arriving at the weighted average CIF value of imports from the said countries during the POI. Adjustments on account of ocean freight, insurance, commission, port expenses,

inland freight and bank charges, as claimed by the petitioner, have been considered to arrive at the net export price of Russia. Accordingly, export price at ex-factory level for all exporters from Russia is determined as US\$ *** per MT.

Export price in case of Turkey

Soda Sanayii A.S, Turkey

36. Soda Sanayii A.S. has exported the subject goods to India directly as well as through un-related exporter M/s Vincom Commodities Limited, UK.. Export price (CIF) to India (direct exports) is determined as US\$ *** per MT as per data provided by the exporter in Appendix 2 and 3A of the exporter's questionnaire response. Price adjustments have been claimed on insurance, handling, , port charges, interest and overseas freight. These adjustments have been accepted after exporter verification by the Authority in Turkey. Accordingly the export price at ex-factory level is determined as US\$ ***per MT.
37. With regard to exports by Soda Sanayii A.S through M/s Vincom Commodities Limited, UK, the Net Export Price has been determined on the basis of considering export sales to India through the following channel:-

Soda Sanayii A.S, Turkey (Producer)>>>>M/s Vincom Commodities Limited, UK (Trader)>>>>Indian customers.

38. Weighted average export price to India is determined as US\$ *** per MT as per data provided by the exporter. Price adjustments have been claimed on insurance, handling, port charges, interest and overseas freight. The Authority has admitted the adjustments claimed by the exporter, after exporter verification by the Authority in Turkey. Accordingly the export price at ex-factory level is determined as US\$ *** per MT.

ETI Soda, Turkey

39. ETI Soda has exported the subject goods to India directly as well as through Vincom Commodities Limited, UK. Weighted average export price (CIF) to India (direct exports) is determined as US\$ *** per MT as per data provided by the exporter in the exporter's questionnaire response. Price adjustments have been claimed on inland freight, handling, and overseas freight. The Authority has admitted the adjustments claimed by the exporter, after exporter verification by the Authority in Turkey. Accordingly the export price at ex-factory level is determined as US\$ *** per MT.
40. With regard to exports by ETI Soda through M/s Vincom Commodities Limited, UK, the Net Export Price is has been determined on the basis of considering export sales to India through the following channel:-

ETI Soda, Turkey (Producer)>>>>M/s Vincom Commodities Limited, UK (Trader)>>>>Indian customers.

41. Weighted average export price to India is determined as US\$ *** per MT as per data provided by the exporter in the exporter's questionnaire response. Price adjustments have been claimed on inland freight, handling, and overseas freight. The Authority has admitted the adjustments claimed by the exporter, after exporter verification by the Authority in Turkey. Accordingly the export price at ex-factory level is determined as US\$ *** per MT.

Non Cooperative exporters

42. No other exporter and producer from Turkey has responded to the Questionnaire. The Authority determines their Normal value & Export price based on the facts available on record.

DUMPING MARGIN

43. Comparing the aforesaid normal values and export prices, the dumping margin is determined as follows:

Sn.	Channel of Export	Producer	Exporter	Normal value	Net export price	Dumping margin		Range
				(US\$/MT)	(US\$/MT)	(US\$/MT)	%	
1 A	Turkey-India	Soda Sanayii A.S	Soda Sanayii A.S	***	***	***	***	05-15
1B	Turkey-UK-India	Soda Sanayii A.S	Vincom Commodities Limited, UK	***	***	***	***	10-20
1C	Weighted average Soda Sanayii A.S				***	***	***	05-15
2A	Turkey-India	ETI Soda	ETI Soda	***	***	***	***	05-15
2B	Turkey-UK-India	ETI Soda	Vincom Commodities Limited, UK	***	***	***	***	30-40
2C	Weighted average ETI Soda				***	***	***	10-20
2D	Turkey-India	All other exporters/ and producers except the three companies mentioned above		***	***	***	***	55-65
3	Russia-India	All exporters and producers		***	***	***	***	65-75

Assessment of Injury and Examination of Causal Link

H. Injury Determination

Submissions made by the Domestic Industry

44. The submissions made by domestic industry with regard to injury and casual link are as follows:
- i. Imports have increased in absolute terms and the market share of the domestic industry has declined. Consequently, production and capacity utilization of the domestic industry has also declined.
 - ii. Imports are cheaper when compared with the selling price of the domestic industry. Resultantly, the imports are undercutting the prices of the domestic industry in the market.
 - iii. As a result of imports from the subject countries, the domestic industry is not able to increase its prices in proportion with the increase in cost. The imports were earlier depressing and now suppressing the prices of the domestic industry in the market.
 - iv. There is significant decline in profitability of the domestic industry. ROI (PBIT) of the domestic industry has significantly deteriorated over the injury period. Similar is the situation of cash profit as well.
 - v. Inventories with the domestic industry have increased significantly.
 - vi. The growth in terms of volume parameters is far below what was expected with the increase in demand for the subject goods in India. The Indian producers added capacities, having regard to the increase in current and potential demand of the consumers in the country.
 - vii. Imports from the subject countries are threatening further material injury to the domestic industry as subject exporters are holding significant freely disposable capacity indicating the likelihood of substantially increased dumped exports to Indian markets; import prices are significantly lower than selling price in India and significant price difference and consequent potential increase in imports is having significant depressing effect on the domestic prices.

Submissions made by the producers/exporters/importers/and other interested parties

45. The submissions made by the producers/exporters/importers/and other interested parties with regard to injury and casual link are as follows:
- i. Increase in subject imports is negligible when compared to the increase in domestic production.
 - ii. Impact of financial crisis has not been analyzed. Its effect will not just be on the demand, at least tightened credit conditions must have affected the domestic industry.
 - iii. For the purpose of injury analysis Tata Chemicals has been excluded. In the previous investigation, it was excluded as it imported the goods from subject country which is not the case at present. It constitutes 30% of the total production. Including Tata Chemicals would give a more accurate injury analysis. In PVC Suspension Grade case, Reliance was included so that 100% of domestic producers could be included.

- iv. Petitioners have erred by including transportation cost in the price undercutting analysis ignoring that importers will also have to bear transportation costs from port to the final destination of the customers as the ultimate end users are not located at the ports.
- v. To establish price effect of the imports, it must be shown that the domestic prices are directly proportional to import prices. Taking 2008-09 as the base year does not show any alarming difference between cost and prices of domestic industry.
- vi. The domestic industry's price changes in complete independence of the price of the subject imports. Prices of domestic industry are more comparable to the cost of sales.
- vii. No price depression caused from Turkey imports as whenever prices from Turkey decreased, prices of the domestic industry has gone up and vice versa.
- viii. Russian prices had shot up considerably and are now back to a point slightly higher than 2007-08. Domestic industry's prices have not moved nearly as radically as Russian prices.
- ix. Domestic industry's sales have increased by 18% in line with 20% increase in production. Largest increase is in export sales. Domestic industry's capacity is less than demand, whereby, if the domestic industry needed could make all sales in the domestic market.
- x. Profit dipped but there is an increase in the POI. Interests have gone up by 60%, PBIT shows only a minor dip compared to the base year; however improvement is seen in the POI as compared to the preceding year.
- xi. Approach of domestic industry to include freight as part of the selling price and the non injurious price while doing the comparisons of price undercutting, underselling is incorrect. Law does not provide for such inclusions.
- xii. The Designated Authority should investigate how complainants were able to hire more employees in 2009 and 2010 and how could they increase the wages while suffering from alleged injury.
- xiii. High transportation costs of the domestic industry are the main reason for injury. The domestic industry is concentrated on the western coast and incurs high costs in transporting to other parts of India.
- xiv. Fluctuation in raw material costs has not been examined by the complainants. Due to weak Indian rupee, import of coke has had negative impact on the Indian producers. 78% of imports coming into India are subject to ADD. Subject countries constitute only 3.5% of the demand. Further, share of domestic producers has increased by 6% during the POI. Therefore the only intention is to capture the entire market of Soda Ash.
- xv. Data in the petition does not match with the final finding issued by the Authority in the previous investigation concerning different countries.
- xvi. Fall in production and sale is for a brief period and was a temporary phenomenon on account of closure of plant by a domestic producer.
- xvii. The injury data filed by the Applicant is for the period 2007-08, 2008-09, 2009-10 and the POI in a blatant attempt to inflate perceived injury by including 2007-08 into Proforma IVA.
- xviii. Analyzing data sourced from the injury data circulated on January 2nd,

2013, from 2008-09 shows that demand has grown and then dipped over the injury period. However, the domestic industry's sales have grown at a higher rate than the total demand.

- xix. Capacity of the applicants has remained constant over the injury period. However, capacity utilisation has risen by about 15%.
- xx. Production to sales ratio has remained extremely high in the entire period of investigation, and has even shown a marginal increase towards the period of investigation. Any perceived decline in sales could be due to the decrease in captive consumption.
- xxi. With capacity remaining constant over the injury period the net fixed assets have grown by about 20%. Such a large increase in net fixed asset does not seem feasible without even the slightest increase in production capacity.
- xxii. All forecasts point to a significant growth in the Indian soda ash market. Testimony of the exporters clarifies how exports from Turkey are not likely to increase.
- xxiii. When the subject imports share in imports from 3 to 21%, the domestic sales value increased from 93 to 115 (index). Sales prices increased from 89 to 95 (index). Profit has increased from 84 to 88 (index). Wages increased from 100 to 116.
- xxiv. Market share of countries attracting duties have dropped from 96% to 77% in the same period. It is absurd to argue that the alleged injury was caused by imports from Turkey and Russia.
- xxv. In 2009-10 when the domestic industry lost 5% market share, the other dumping countries gained approximately the same market share lost by the domestic industry. Further, in 2010-11 when the domestic industry gained 6% market share, it can be seen that this market share has been lost by countries already attracting duties.
- xxvi. Total demand in the POI exceeds the total capacity of the domestic industry by about 21%. At the same time, the total imports are barely 16% of total demand. Therefore, imports are inevitable.
- xxvii. There have been unusual cost pressures on the domestic industry throughout the POI such as access to raw materials, limestone availability due to increased demand in other sectors, particularly cement production, salt prices.
- xxviii. Saurashtra Chemicals is undergoing a financial restructuring under the BIFR. This injury should not and cannot be attributed to dumping.
- xxix. Imports which cater to merely 3% market share cannot cause such material injury to the domestic industry as has been claimed.
- xxx. Domestic industry has failed to segregate injury caused by other factors from the alleged dumped articles. Such 'other factors' include imports from China PR, Iran, EU, Kenya, Pakistan, Ukraine and USA, on which anti-dumping duty has already been imposed.
- xxxi. The production capacity of domestic industry was 1,961,000 MT, compared to total domestic demand of 2,944,503 MT, in the POI. Thus, even assuming optimal capacity utilization by domestic industry, there will still be a deficit of 983,503 MT. Therefore, the end-users, who have no option but to import the subject goods.

- xxxii. Production of domestic industry increased consistently during the injury period, barring a small dip during the period of investigation, between July 2011 and Sep 2011, which is attributable to the planned shutdown undertaken by the domestic industry.
- xxxiii. Sales of domestic industry have seen significant growth during the injury period.
- xxxiv. Major reason for the claimed fall in profitability is the fact that the base years – 2007-08 and 2008-09 were the best years for the domestic industry when it earned robust profits. GHCL has claimed improved performance during the year in its annual report for 2010-11.
- xxxv. Even with increase in imports from subject countries, the profitability of domestic industry kept on increasing.
- xxxvi. Annual report of Tata Chemicals for 2010-11 further reports that despite price pressure, Tata Chemicals recorded higher domestic sales realization and higher production in 2010-11 compared to 2009-10.
- xxxvii. As per Annual report of GHCL, the main concern for domestic soda ash producers in India is two fold – increasing raw material and energy cost and geographical location disadvantage.
- xxxviii. As per Nirma's Annual Report the problems faced by domestic industry are intrinsic in nature. The domestic industry needs to focus on improving its integration, implementing cost conscious business practices to overcome problems of logistics costs and energy problems.
- xxxix. There exists no causal link between imports from subject countries and alleged injury to domestic industry as total market share of subject countries is only 3% and there already exists dumping from 7 other countries. Further increase in depreciation and interests costs could be reason of injury to domestic industry.
- xl. There is no explanation from Nirma as to why imports are being used for captive purposes.
- xli. While petition says that petitioners have used data of both IBIS & DGCI&S, in calculation export price only DGCI&S data has been used and no explanation has been provided for the same.
- xlii. Other factors are responsible for injury to domestic industry and the other factors are, imports from countries already attracting duty, Saurashtra Chemicals is a BIFR company and high inland transport costs for petitioner companies.
- xliii. While examining the facts of the instant case. Simultaneously another investigation for the same subject goods was also under process for finalization, therefore as per Annexure II (iii) Authority should have cumulatively assessed injury.
- xliv. The investigation was not initiated to examine the threat of injury. Decision to examine threat was required to be made separately by recording reasons in support thereof as also mandated under Rule 6(iv).
- xlv. Despite price undercutting, one constituent of domestic producer can increase its price, shows lack of causal nexus between import prices and domestic producer constituting major proportion of domestic sales and production.
- xlvi. Domestic industry has now taken DGCI&S data, while it has taken

combined information data from DGCI&S and IBIS in its application and updated information. Strategic sources have been used to reach pre determined consequences.

- xlvi. Domestic industry has admitted in the hearing that capacity is more than demand. In past Designated Authority has terminated cases on this ground as it results in underutilization of plants resulting in losses or increasing the cost of production.
- xlviii. NSR of the Domestic industry should also be compared with its NIP.
- xlix. Domestic industry has at one place admitted that there exists geographical disadvantage and that transportation cost forms a substantial portion of cost of production, and at some instance has denied it and claimed that it is beneficial to domestic industry.
 - I. Claim of threat of material injury is not backed by evidences. Further claim of excess capacities are insufficient to suggest a threat of material injury.
 - ii. Injury suffered by dumped imports has to necessarily be quantified and segregated from injury caused by other factors.

Examination by the Authority

46. The injury analysis made by the Authority hereunder addresses the various submissions made by the interested parties:
- i. With regard to the argument that the claim of difficulty to plan fresh investments is false as the Annual Reports are full with new installments, the Authority notes that the investment plans drawn and reported in the annual report are based on past performance of the product and are contingent upon good performance of the product and the company and, therefore, cannot be held as contrary statements.
 - ii. With regard to the argument that the Annual Reports of some of the complainant companies talks of profits for the company while the petition claims decline in profitability, the Authority notes that the detailed analysis of the injury parameters shows that the domestic industry has suffered in the current injury period in terms of decline in profit, return of investment, cash flow etc.
 - iii. With regard to the argument that petitioner has not provided any analysis to help the Authority to distinguish the impact of subject imports from the impact of imports from the countries attracting anti dumping duty, the Authority notes that the rules do not require segregation of injury suffered by the domestic industry on account of dumped imports from other sources. It is only the injury caused by the undumped imports from other countries that need to be segregated under the law.
 - iv. With regard to the argument that Tata Chemicals should be included for the injury analysis, the Authority notes that Tata Chemicals has not responded to the initiation notification and, therefore, the Authority is proceeding with the best available information on record.
 - v. With regard to the argument that petitioners have erred by including transportation cost in the price undercutting analysis, the Authority

- notes that transportation cost on the domestic price has not been added by the Authority while analyzing price undercutting.
- vi. With regard to the argument by the interested parties that the injury caused is on account of transportation cost, the Authority notes that profits of the domestic industry declined over the period. This decline in the profits is not because of transportation cost in the finished product, as transportation cost in the finished product is not included either in the cost or in the price. Thus, deterioration in performance of the domestic industry in respect of profits, return on investment and cash flow is not on account of transportation cost.
 - vii. With regard to the argument that the approach of domestic industry to include freight as part of the selling price and the NIP while doing the comparisons of price undercutting and underselling is incorrect, the Authority notes that it has followed the provisions laid down under Annexure III to the Anti-dumping Rules governing determination of NIP and consistent practice of the DGAD. Accordingly, the freight incurred by the domestic industry has not been included in their NIP.
 - viii. With regard to the argument that both injury and threat of injury cannot be determined in the same investigation, the Authority notes that the argument holds no merit. The Rules permit examination of all three forms of injury, i.e., material injury, threat of material injury and material retardation to the establishment of industry.
 - ix. With regard to the argument of the interested parties that different data has been used by the domestic industry at different stages and the injury data was updated one day before the hearing through the fact sheet, the Authority notes that petitioners provided additional information by including information for 2007-08 (a year prior to base year) and for the period upto Sept.2012 (for the period after the POI) during the hearing merely to supplement their claims on injury. It is quite usual for the parties to provide additional information as felt relevant by them. However, the Authority has considered the information for the relevant period alone for the present investigation.
 - x. As regards the claim of Istanbul Chemical association which exports to 63 countries any ADD/CVD investigation have been initiated , the Authority notes that as per the information available ,no case has been initiated so far for Soda Ash .
47. The Authority notes that Annexure II Para (iii) of the Anti-dumping Rules provides that in case imports of the product under consideration from more than one country are being simultaneously subjected to anti-dumping investigation, the Designated Authority will cumulatively assess the effect of such imports, in case it determines that: -
- i. The margin of dumping established in relation to the imports from each country is more than two per cent expressed as percentage of export price and the volume of the imports from each country is three per cent of the import of like article or where the export of individual countries is less than three per cent, the imports collectively account for more than seven per cent of the import 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.

48. In this regard, the Authority observes that:

- i. The margins of dumping from each of the subject countries are more than the limits prescribed above;
- ii. The volume of imports from each of the subject countries is more than the limits prescribed;
- iii. Cumulative assessment of the effects of imports is appropriate since the exports from the subject countries directly compete with the like articles offered by the domestic industry in the Indian market. This is evident from the following:
 - a. The subject goods manufactured by the producers from the subject countries inter-se and in comparison to the product manufactured by the domestic industry. In other words, the subject goods supplied from various subject countries and by the domestic industry are inter-se like articles.
 - b. There are common parties who are resorting to use of imported material from various sources and domestic material. Imported and domestic materials are, therefore, being used interchangeably and there is direct competition between the domestic product and the imported product.
 - c. The exporters from the subject countries and domestic industry have sold the same product in the same periods to the same set of customers. The sales channels are comparable.
 - d. Volume of imports from each of the subject countries is significant.
 - e. Consumers make purchase decision on the basis of prices offered by various suppliers.

49. In view of the above, the Authority considers it appropriate to cumulatively assess the effects of dumped imports of the subject goods from Turkey and Russia on the domestic industry in the light of conditions of competition between imported product and the like domestic product.

50. Annexure-II of the AD Rules provides 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 articles; and (b) the consequent impact of these imports on domestic producers of such articles. 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.

51. 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.”

52. For the examination of the impact of imports on the domestic industry in India, the Authority has considered such further indices having a bearing on the state of the industry as production, capacity utilization, sales quantum, stock, profitability, net sales realization, the magnitude and margin of dumping etc. in accordance with Annexure II(iv) of the Rules supra.

Demand and market share

53. For the purpose of assessment of the domestic consumption/demand of the subject goods, the sales volume of domestic industry and other Indian producer have been added to the total imports into India and the same has been summarized below:

SN	Particulars	Units	2008-09	2009-10	2010-11	POI July 2010- September 2011	POI- Annualized
1	Russia	MT	1,456	1,008	7,307	36,027	28,822
2	Turkey	MT	3,504	16,580	48,627	70,262	56,209
3	Other countries attracting AD duty	MT	351,475	531,119	368,335	525,452	420,362
4	Other countries	MT	2,120	7,249	9,416	27,559	22,047
5	Sales of Domestic Industry including captive	MT	1,184,655	1,203,057	1,414,416	1,736,174	1,388,939
6	Other Indian Producers	MT	615,044	675,481	691,884	864,855	691,884

7	Assessed Demand including captive	MT	2,158,254	2,434,494	2,539,985	3,260,330	2,608,264
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54. The Authority notes that the demand has shown a positive trend throughout the injury period.

I. Volume Effects of Dumped Imports

Import Volume and Market Share

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

S N	Particulars	Units	2008-09	2009-10	2010-11	POI	POI-Annualized
1	Imports Total	MT	358,555	555,956	433,685	659,300	527,440
2	From Russia	MT	1,456	1,008	7,307	36,027	28,822
3	From Turkey	MT	3,504	16,580	48,627	70,262	56,209
3	Total- Subject Countries	MT	4,960	17,588	55,934	106,289	85,031
4	Trends in subject imports						
5	Russia	Indexed	100	69	502	1,980	1,980
6	Turkey		100	473	1,388	1,604	1,604
7	Subject countries		100	355	1,128	1,714	1,714
8	Other countries attracting AD duty	MT	351,475	531,119	368,335	525,452	420,362
9	Other Countries	MT	2,120	7,249	9,416	27,559	22,047
	Market Share in Demand						
10	Assessed Demand	MT	2,158,254	2,434,494	2,539,985	3,260,330	2,608,264
11	Assessed Demand	%	100.00	100.00	100.00	100.00	100.00
12	Russia	%	0.07	0.04	0.29	1.11	1.11

13	Turkey	%	0.16	0.68	1.91	2.16	2.16
14	Subject countries	%	0.23	0.72	2.20	3.26	3.26
15	Other countries attracting AD duty	%	16.29	21.82	14.50	16.12	16.12
16	Other Countries	%	0.10	0.30	0.37	0.85	0.85
17	Domestic Industry	%	54.89	49.42	55.69	53.25	53.25
18	Other Indian Producers	%	28.50	27.75	27.24	26.53	26.53

56. The Authority notes that the imports from subject countries show an adverse volume effect, which is evident from the analysis below.

- i. Imports have increased in absolute terms from 4960 MT in the base year to 85,031 MT in POI (on annualized basis). The increase is significant and material.
- ii. While the demand for soda ash increased by about 26% in POI as compared to the base year, the volume of dumped imports from subject countries increased by about 1714 times during the corresponding period.
- iii. Imports of the subject goods from the subject countries have increased in relation to the demand of the subject goods in India.
- iv. The market share of the subject countries in the demand of the product in India has increased.

J. Price effect of imports

57. With regard to the effect of the dumped imports on prices, the Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared with the price of the like products in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. The impact 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.

Price undercutting

58. 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. The 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 and applicable basic customs duty. The comparison was done between net sales realization and landed price of imports. The Authority has determined weighted average price undercutting by the dumped imports.

59. The Authority notes that the landed price of the subject goods are significantly below the selling price of the domestic industry which suggests significant price undercutting being caused by the dumped imports from the subject countries as is apparent from the following table.

SN	Country/exporter	Landed Price	Net selling price	Price undercutting		range
				Rs./MT	%	
		Rs./MT	Rs./MT	Rs./MT	%	%
1	Turkey	10,550	***	***	***	15-25
2	Russia	12,276	***	***	***	05-15

60. The Authority notes from the above table that the landed price of imports of the subject goods are significantly below the selling prices of the domestic industry, resulting in significant price undercutting.

Price-underselling

61. From the table given below, the Authority notes that there is a positive price underselling effect:

SN	Country/exporter	Landed Price	Non Injurious Price	Price underselling		range
				Rs./MT	%	
		Rs./MT	Rs./MT	Rs./MT	%	%
1	Turkey	10,550	***	***	***	20-30
2	Russia	12,276	***	***	***	10-20

Price suppression/depression

62. In order to determine whether the dumped imports are suppressing or depressing the domestic prices, the Authority determined whether the effect of such imports is to suppress prices to a significant degree or prevent price increases which otherwise would have occurred to a significant degree.

SN	Particulars	Unit	2008-09	2009-10	2010-11	POI
1	Cost of Sales	Rs/MT	***	***	***	***
2	Selling Price	Rs/MT	***	***	***	***

	Trend					
3	Cost of Sales	Index	100	92	100	105
4	Selling Price	Index	100	89	91	95

63. From the above, the Authority notes that whereas the cost of sales increased in the POI as compared to the base year, there was decrease in selling price during the POI compared to the base year. This indicates price suppression whereby the domestic industry has not been able to increase the selling price with increase in the cost of sales.
64. It is seen that the cost of sales have increased over the period. Information provided by the domestic industry shows that in fact the cost of sales during this period increased globally. The information contained in the trade journals shows that product prices increased globally in this period in view of the increase in cost.

K. Economic parameters of the domestic industry

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

i. Production, capacity and capacity utilization of the Domestic Industry

SN	Particulars	Unit	2008-09	2009-10	2010-11	POI	POI-Annualized
1	Gross Capacity	MT	1,961,000	1,961,000	1,961,000	2,451,250	1,961,000
2	Adjusted Capacity	MT	1,954,973	1,866,000	1,961,000	2,451,250	1,961,000
3	Production	MT	1,286,473	1,349,724	1,562,627	1,940,884	1,552,707
4	Loss of Production	MT	6,027	53,544	-	-	-
5	Gross Production	MT	1,292,500	1,403,268	1,562,627	1,940,884	1,552,707
6	Capacity Utilization-actual	%	65.60%	68.83%	79.69%	79.18%	79.18%
7	Adjusted Capacity Utilization	%	65.91%	71.56%	79.69%	79.18%	79.18%

67. The Authority notes that the Domestic Industry has maintained the same capacity throughout the injury period. Further, the market for the product was briefly affected by the recession during 2008-09 and the demand stagnated during this period. Since this loss of production to the domestic industry is on account of other factors and the Authority is required to segregate injury suffered by the domestic industry due to other factors, the Authority has examined the production as well as the capacity utilization after adjusting the same for the loss of production due to other factors. Loss of production has been determined considering the number of days production was lost by the domestic industry and capacity utilization for the period when the domestic industry was operating during that year.
68. The Authority notes that the actual capacity utilization of the domestic industry has shown improvement in the POI as compared to the base year. The Authority notes that production of the domestic industry has increased in the POI.
69. It is noted that there is no addition of capacity by the domestic industry over the present period. It is also noted that the domestic industry itself has admitted increase in capacity utilisation and has not claimed injury on this account nor increase in capacity utilisation implies that the domestic industry has not suffered injury.

ii. Sales of Domestic Industry

Particulars	Unit	2008-09	2009-10	2010-11	POI	POI-Annualized
Domestic Sales	MT	1,038,138	1,092,500	1,270,710	1,559,278	1,247,423

70. The Authority notes that sales of the domestic industry increased throughout the injury period and the POI. The domestic industry contended that despite significant and positive growth in demand for the subject goods in India and sufficient capacities available with the domestic industry, dumped imports continue to hold high market share. The Authority has considered the sales of the domestic industry after excluding captive consumption.

iii. Market share:

71. The effects of the dumped imports on the domestic sales and the market shares of the domestic industry have been examined as below and it is noted that the market share of the domestic industry declined in 2009-10 and improved thereafter. The domestic industry contended that its market share was still lower than the levels earlier achieved by the domestic industry, as evidenced by the final findings of the previous investigation.

SN	Particulars	Units	2008-09	2009-10	2010-11	POI
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1	Assessed Demand	MT	2,158,254	2,434,494	2,539,985	3,260,330
2	Subject countries	%	0.23	0.72	2.20	3.26
3	Other countries attracting anti dumping duty	%	16.29	21.82	14.50	16.12
4	Other countries	%	0.10	0.30	0.37	0.85
5	Domestic Industry	%	54.89	49.42	55.69	53.25
6	Other Indian Producers	%	28.50	27.75	27.24	26.53

iv. Profits, return on investment and cash flow

72. The cost of sales, selling price and profit/loss of the domestic industry in respect of the domestic sales of the subject goods for the period from 2008-09 to POI were examined. Factual position is given in the following table.

(Figures are Indexed)

SN	Particulars	Unit	2008-09	2009-10	2010-11	POI	POI-Annualized
1	Selling price	Rs./MT	100	89	91	95	95
2	Cost of sales	Rs./MT	100	92	100	105	105
3	Profit/Loss	Rs/MT	100	75	49	53	53
4	Profits on domestic sales	Rs. Lacs	100	79	61	63	63
5	Profit before interest	Rs. Lacs	100	83	78	83	83
6	Profit before interest per unit	Rs./MT	100	79	64	69	69
7	Cash Profit	Rs. Lacs	100	84	86	88	88
8	Cash Profit per unit	Rs./MT	100	80	70	73	73
9	Return on investment	%	100	91	71	75	75

73. The Authority notes that:

- i. Per unit profits of the domestic industry in respect of production and sale in the domestic market has declined significantly over the injury period.
- ii. Domestic sales realization of the domestic industry has not increased in line with the increase in costs.
- iii. The profits of the domestic industry have declined over the injury investigation period, which has resulted in decline in profits earned by the domestic industry on the domestic sales in the POI.
- iv. Whereas the sales volumes increased by about 20% over the injury

period, profit on domestic sales declined by above 36%.

- v. As a result of decline in profits, return on capital employed in domestic sales of the domestic industry declined over the period.
- vi. Cash profit earned by the domestic industry declined over the period. The decline in cash profits was both in cash profit per unit and cash profits on domestic sales.
- vii. It has been argued by interested parties that the interest costs of the domestic industry has increased. It is, however, noted that the profit before interest has also shown a significant decline over the injury period. It is thus seen that the decline in profits is not due to increase in interest cost.
- viii. It is noted that the domestic industry has made fresh investment over the injury period. However, despite this fresh investment, the profit before tax declined by 36% over the period.
- ix. As noted herein below, the productivity has shown improvement over the period and therefore decline in return on investment is not due to possible decline in productivity. With improvement in productivity, normally, return on investment should have improved; whereas the same has declined

v. Factors affecting domestic prices

74. Consideration of the import prices from the subject countries and other countries, change in the cost structure, competition in the domestic market, factors other than dumped imports that might be affecting the prices of the domestic industry in the domestic market show that the landed value of imported material from subject countries is below the selling price of the domestic industry, causing price undercutting in the Indian market. Imports from other countries are at much higher prices. There is no viable substitute to this product. Demand for the product was showing significant increase and could not have been a factor responsible for price suppression faced by the domestic industry. One of the major factors responsible for the domestic industry prices is the import prices of the subject goods from subject countries and the cost of production of the domestic industry. As the information shows, the domestic industry has been prevented from charging a price that would permit recovery of reasonable profits.

vi. Inventories:-

75. The data relating to inventory of the subject goods are shown in the following table:

SN	Particulars	Unit	2008-09	2009-10	2010-11	POI
1	Opening stock	MT	34,385	56,394	28,423	26,647
2	Closing Stock	MT	56,394	28,423	58,454	60,394
3	Average Stock	MT	45,390	42,409	43,438	43,520
4	Stock per day	Days	16	8	14	14

	sales					
5	Inventory value	Rs. Lacs.	***	***	***	***

76. The Authority notes that the inventories with the domestic industry were high in 2008-09 and declined in 2009-10. Inventories, however, increased, thereafter, with the dumping of the product from other countries which are now attracting anti dumping duty. It is noted that the domestic industry continues to hold high level of inventories.

vii. Employment and wages

77. The position with regard to employment and wages is as follows:
(Figures are Indexed)

SN	Particulars	Unit	2008-09	2009-10	2010-11	POI	POI-Annualized
1	Number of employees	No.	100	102	95	96	96
2	Wages	Rs. Lacs	100	101	148	146	146

78. Number of employees deployed by the domestic industry declined in the POI as compared to base year. It is thus seen that the employment per unit of capacity has declined over the period, despite which the profitability of the domestic industry has deteriorated. Wages paid by the domestic industry have increased.

viii. Productivity

79. Data relating to productivity shows as follows:

SN	Particulars	Unit	2008-09	2009-10	2010-11	POI	POI-Annualized
1	Production per day	MT	3,525	3,698	4,281	4,254	4,254
2	Production per employee (indexed)	MT	100	103	128	126	126

80. It is noted that productivity in terms of production per day and production per employee has increased in the POI as compared to base year.

ix. Magnitude of Dumping

81. Magnitude of dumping as an indicator of the extent to which the dumped imports can cause injury to the domestic industry shows that the dumping margin determined against the subject countries are above de minimis and significant.

x. Growth

82. It is noted that there has been significant growth in the import volumes of the subject goods from the subject countries. The growth of the domestic industry in terms of sales and production was positive. However, selling price and profitability has shown a negative growth.

xi. Ability to raise funds

83. The domestic industry invested huge amounts in the product under consideration. The domestic industry contended that the investment decisions are reflective of long term business decisions of the industry and not reflective of the adverse effect of dumped imports.

L. Conclusion on material injury

84. In view of the above, the Authority concludes that the dumped imports of the subject goods from the subject countries have increased significantly in absolute terms as also in relation to production and consumption of the subject goods in India. Imports of the subject goods from subject countries are significantly undercutting the prices of domestic industry. Imports are causing significant price suppression. The performance of the domestic industry has deteriorated in terms of profit, cash flow as reflected in cash profits, return on investment and inventories, which is significant and material. Even though performance improved in terms of production, capacity utilization and domestic sales, the deterioration in performance on account of profit, cash profits and return on investment far outweigh the positive developments in production, capacity utilization and domestic sales. Thus, the Authority concludes that the domestic industry has suffered material injury.

M. Other Known Factors & Causal Link

85. Having examined the existence of material injury, volume and price effects of the 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 Indian Rules and Agreement on Anti-Dumping, the Authority has examined as under to see whether any other factor, other than the dumped imports could have contributed to injury to the domestic industry:

(a) Volume and prices of imports from third countries

86. The Authority notes that during the POI, imports of the subject goods from countries other than the subject countries and the countries already attracting anti dumping duty have been insignificant in volume. Therefore, the imports from other countries cannot be considered to have caused injury to the domestic industry. It is further noted that interested parties have argued that injury suffered by domestic industry from other dumped imports should be segregated. The Authority notes that the Rules require the Authority to segregate injurious effects of known factors other than dumped imports.

Imports from countries already attracting duties are also dumped imports and hence no segregation is required.

(b) Contraction of demand and changes in the pattern of consumption

87. The Authority notes that the demand for the subject goods has shown a growth of about 26% during the POI as compared to base period. There is also no indication of any change in the consumption pattern. The Authority notes that the injury to the domestic industry is due to excessive capacity. The Authority, however, notes that the domestic industry is unable to utilize its capacity to the extent of available demand due to dumped imports.

(c) Developments in technology:

88. The Authority notes that none of the interested parties has furnished any evidence to demonstrate significant changes in the technology that could have caused injury to the domestic industry.

(d) Trade restrictive practices of and competition between the foreign and domestic producers

89. The Authority notes that the subject goods are freely importable. The applicants are the major producers of the subject goods and account for significant domestic production and sales. Further, there is no perceptible competition among the domestic producers, except that is obvious of a market economy.

(e) Export performance of the domestic industry:

90. The table below summarizes the performance of the domestic industry in respect of exports made by them.

SN	Particulars	Unit	2008-09	2009-10	2010-11	POI	POI-Annualized
1	Export sales	MT	79,776	174,424	117,830	191,991	153,593

91. The Authority notes that export sales have increased from the base year and, therefore, possible decline in exports cannot be a plausible factor of injury to the domestic industry. As regards export profitability, profitability of the domestic industry has been considered only for domestic operations for the present purposes. The domestic industry contended that it is forced to undertake exports in view of significant imports of the product in the country at dumping prices.

(f) Productivity of the Domestic Industry

92. It is noted that the productivity of the domestic industry in terms of production per day and production per employee has improved in POI as compared to base

year. Possible decline in productivity cannot, therefore, be a factor causing injury to the domestic industry.

93. It is, thus, noted that listed known other factors do not show injury to the domestic industry. The Authority examined whether the dumping of the product has caused injury to the domestic industry. The following parameters show that injury to the domestic industry has been caused by dumped imports:
- a) The volume of dumped imports from the subject countries increased significantly resulting in increase in the share of dumped imports in demand of the product in India. Consequently, the domestic industry was prevented from recovering its market share position to the earlier levels.
 - b) The imports were significantly undercutting the prices of the domestic industry. Resultantly, the imports were resulting in price suppression being faced by the domestic industry.
 - c) Performance of the domestic industry with regard to profits, cash flow and return on investments deteriorated as a result of price suppression. Thus, dumping of the product has led to deterioration in performance of the domestic industry in terms of profits, cash flow and return on investments.
 - d) The domestic industry is faced with significant increase in inventories.
94. The Authority, therefore, concludes that the domestic industry suffered material injury due to dumped imports.

Threat of material injury

95. In addition to the material injury, the domestic industry contended that the dumped imports are threatening injury to the domestic industry. The claim of the domestic industry with regard to threat of injury was, therefore, examined in the light of the legal provisions. The followings are relevant in this regard: -
- i. The rate of increase in dumped imports from subject countries is quite significant.
 - ii. Domestic industry contended that capacity with the producers in Turkey and Russia are significant. Questionnaire responses filed by the responding exporters were examined in detail. It is noted that one of the exporters has high capacity utilization and very low unutilized capacities.
 - iii. The import prices are significantly lower than selling price in India. The price difference is therefore likely to increase demand for imports.
 - iv. The domestic industry contended that subject exporters are holding significant freely disposable production capacities 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.
96. It is, thus, seen that the dumped imports are threatening injury to the domestic industry.

N. Indian industry's interest & other issues:

97. The Authority recognizes that the imposition of anti-dumping duties might affect the price levels of the product in India. However, fair competition in the Indian market will not be reduced by the imposition of anti-dumping measures. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by dumping practices, prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods. 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 duties, therefore, would not affect the availability of the product to the consumers. The Authority notes that the imposition of the anti-dumping measures would not restrict imports from the subject country in any way, and therefore, would not affect the availability of the product to the consumers. The consumers could still maintain two or even more sources of supply.

O. Magnitude of Injury and Injury Margin

Injury Margin

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

Particulars	Unit	Turkey							Russia
		ETI Soda	ETI to Vincom to India	Weighted average	Soda Sanayii	Soda Sanayii to Vincom to India	Weighted average	Non Cooperative	
Landed price of imports	USD/MT	***	***	***	***	***	***	***	***
NIP	USD/MT	***	***	***	***	***	***	***	***
Injury Margin	USD/MT	***	***	***	***	***	***	***	***
Injury Margin	%	***	***	***	***	***	***	***	***
Injury Margin % Range		20-30	30-40	20-30	15-25	5-15	10-15	40-50	5-15

P. Post Disclosure Statement submissions

Post Disclosure Statement submissions by the Domestic Industry

99. Following are the submissions made by the domestic industry post issuance of the disclosure statement:

- i. Questionnaire responses filed by the responding exporters remained grossly inadequate to entitle them for individual dumping margin.
- ii. Information filed by the exporters after initial questionnaire responses have been clearly filed only on confidential basis in violation of Rule 7 and trade notice.
- iii. Normal value in respect of responding exporters are grossly low.
- iv. Trading sales made by producers/exporters cannot be considered for determination of normal value.
- v. Sales made to affiliated parties were at prices materially different from selling price to unaffiliated parties. Thus, these sales are clearly not in the ordinary course of trade and therefore are required to be excluded from the determination of normal value.
- vi. For each of the responding producers, there are two channels of sales. The Designated Authority should recommend weighted average dumping margin and weighted average anti dumping duty for the two producers.
- vii. ETI's claim of price adjustment in inventory carrying cost in domestic sales is inadmissible. On the contrary, this price adjustment should be made from export price given that the exporters are largely export oriented.
- viii. It is not clear whether the claim of export price corroborates well with the import price reported in the Indian Customs data. Considering these prices reported in Indian customs data, it is evident that the margin of dumping is much higher than the dumping margin determined
- ix. The petitioners have come to know about the nature of price adjustment claimed for the first time through the disclosure statement. It seems that that no price adjustment seems to have been carried out on account of a number of expenses normally associated with exports to India.
- x. The non injurious price determined is too low. Raw materials and utilities costs should not be considered at the best achieved levels in the past. Captive input should be considered at their market values Actual raw material and utilities consumption needs to be considered. Actual cost of production needs to be determined. Capital employed should be determined considering present value of fixed assets, or at the least gross value of fixed assets.
- xi. Freight should be added to the NIP before comparing with landed price of imports.
- xii. Anti dumping duty should be in fixed quantum, expressed in US\$.

Post Disclosure Statement submissions by other Interested Parties

100. Submissions made by the producers/exporters/importers/and other interested parties post issuance of the disclosure statement are as under:

- i. Two days are not adequate for Turkish side to thoroughly investigate and comment on the decisions of DGAD.

- ii. Leaving just one working day for the DA to review the comments and issue the final findings would tantamount to a mockery of the quasi-judicial adjudication process.
- iii. Information relating to Tata Chemicals Ltd relied upon not provided. If public domain figures are available for Tata Chemicals, it is the Authority's obligation to take such information on record as "best information available".
- iv. Authority should thoroughly investigate the profit, production, sales and capacity data for TCL before arriving at a final decision and demonstrate what figures it has obtained regarding TCL.
- v. The Authority could have compelled the association to get the full data particularly in view of the fact that the applicants are not the individual members of the Association but the Association itself.
- vi. Authority has completely ignored all the relevant issues raised with regard to confidentiality without responding to them.
- vii. The initiation was improper and without substantiation and based on data for an incomplete period of investigation.
- viii. If more than 80% sales are profitable then all domestic sales should be considered for normal value calculation. The normal value ought to be calculated using all domestic sales of ETI Soda, Turkey.
- ix. Depreciation on bulk carrier trucks are designated specifically to the service to domestic customers which need to be allocated to the domestic sales.
- x. Sales below cost test should be calculated either by considering the direct selling expenses adjustment in Appendix-8 of the Exporter or just simply by using the gross prices instead of ex-factory prices while performing cost test.
- xi. Recommendation of weighted average duties to unrelated cooperative producers and exporters is unprecedented, arbitrary and without the authority of law.
- xii. Dense and Light soda ash cannot be treated as like articles with one another.
- xiii. Principle of non-attribution does not permit the Authority to equate imports from sources that are being investigated for alleged dumping and imports from sources that are already facing anti-dumping duty.
- xiv. There is no dumping from Turkey, however, data on record indicates substantial dumping from Russia. Therefore, the conditions of competition are different for Russia and Turkey whereby cumulatively assessing imports from these countries is incorrect.
- xv. Fall in profits might be due to the rise in costs because of the fresh investments. Injurious effects of investment-related cost/expense should be segregated from the injury caused by alleged dumped imports.
- xvi. How the domestic producers could increase their prices when in fact their costs were decreasing significantly although there was any price undercutting or prices suppression effect from Turkey.
- xvii. Normal value and export price determination for Russia not disclosed. Dumping margin for Turkish non-cooperative exporters has not been disclosed.

- xviii. Reasons for allowing 22% return on capital employed not disclosed.
- xix. Both injury and threat of injury cannot be determined in the same investigation by the DGAD.
- xx. Market share, sales and capacity utilization has improved. The trend showing decline in profitability is due to the fact that base year – 2008-09 was an exceptionally good year for domestic industry, when it earned record profits.
- xxi. Interpretation that the term ‘alleged’ itself implies that the test of relationship with exporters under Rule 2(b) is with respect to the alleged, i.e., the subject imports originating from the subject countries under the investigation, is incorrect.
- xxii. The delay of 69 days in providing revised updated information by the applicants must be treated fatal to investigation
- xxiii. Saint Gobain Glass India Ltd argued that authorization was filed on behalf of TPM, Solicitors & Consultants, whereas, updated petition was filed by TPM Consultants.
- xxiv. The Authority has failed to offer a proper analysis to determine whether sales to the affiliated customers are made during the ordinary course of trade or not. Authority should take due account of differences in price comparability while including affiliated party sales. Exclusion of sales to affiliated parties mean largest soda ash consumer in turkey has been omitted from this investigation. Authority should consider the quantity sold to the affiliated companies and other relevant factors along with the price.
- xxv. Inventory carrying cost adjustment should be considered while calculating the normal value. Net financial income should be adjusted from unit cost.

Examination by the Authority

101. Submissions made by the interested parties have been examined by the Authority. The Authority finds that submissions are repetitive and have been adequately dealt with under relevant heads in this Notification. Still, the Authority has examined submissions to the extent found relevant to the present investigation hereunder:

- i. With regard to the argument that time given for responding to the disclosure statement is inadequate, the Authority notes that the disclosure statement contained the essential facts based on the submissions made by the other interested parties upto the issuance of the disclosure statement. No new facts had been put forward. In any case majority of the post public hearing submissions were repetitions of their submissions made earlier which had already been dealt with in the disclosure statement. Thus, the time given was adequate. However, the Authority has again examined all these submissions in the final findings adequately.
- ii. With regard to the argument of the interested parties on data for TCL, the Authority has analysed the information as available in the Cost Compliance

- Report submitted to the Ministry of Corporate Affairs. Such information is not available in public domain and therefore the same cannot be disclosed.
- iii. With regard to the argument on confidentiality, the Authority notes that confidentiality was allowed only on being satisfied of the confidentiality claims made by the parties claiming the same.
 - iv. With regard to the argument that all domestic sales should be considered for normal value calculation of ETI Soda, the Authority notes that though it had taken all domestic sales for the calculation of normal value; it was erroneously stated in the disclosure statement as "profitable sales" instead of "total sales".
 - v. With regard to the argument that depreciation on bulk carrier trucks should be adjusted to the domestic sales, the Authority notes that it has allowed adjustments pertaining to freight as claimed in Appendix 1.
 - vi. With regard to the argument that individual dumping margin and duty should be recommended, the Authority is of the opinion that imposition of weighted average duty for both the producer/exporter and the trader/exporter is a fair system to prevent evasion of duty.
 - vii. With regard to the submission that the trend showing decline in profitability is due to the fact that base year – 2008-09 was an exceptionally good year, the Authority finds no merit in the same as the final finding on the subject goods with the same set of Applicants, as notified earlier, shows that the profitability declined in 2008-09 as compared to 2006-07.
 - viii. With regard to the argument on the exclusion of affiliated sales, the Authority notes that Soda Sanayii has made sales to its affiliated customer at prices 21% less than the prices to non-affiliated customers. Further, the exporter has not been able to establish with sufficient evidence that the sales made were in the ordinary course of trade.
 - ix. With regard to the argument that TPM Consultants is not an authorized entity to file submissions, the Authority notes that TPM Solicitors & Consultants are represented by the same person. (Not clear)
 - x. With regard to the argument that inventory carrying cost adjustment should be considered, the Authority notes that it has followed the past established practices of the DGAD and has allowed only such adjustments that are allowed.
 - xi. With regard to the argument that the export prices do not corroborate with the CIF prices, the Authority notes that it has taken the export prices as verified.
 - xii. With regard to the argument that the price adjustments have not been done on various accounts, the Authority notes that it has followed the past established practices of the DGAD and has accordingly allowed the adjustments.
 - xiii. With regard to the argument that NIP determined is too low, the Authority notes that the Non injurious price has been determined in accordance with the principles laid down in the Anti dumping Rules.

Conclusion

102. After examining the submissions made by the interested parties and issues raised therein; and considering the facts available on record, the Authority concludes that the product under consideration has been exported to India from the subject countries below its associated normal value, thus, resulting in dumping of the product. The domestic industry has suffered material injury in respect of the subject goods. The material injury has been caused by the dumped imports from the subject countries.

Recommendations

103. 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 aspects of dumping, injury and the causal link. Having initiated and conducted investigation into dumping, injury and the causal link thereof in terms of the AD Rules and having established positive dumping margins as well as material injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of definitive anti dumping duty is required to offset dumping and consequent injury. Therefore, the Authority considers it necessary and recommends imposition of definitive anti-dumping duty on imports of the subject goods from the subject countries in the form and manner described hereunder.

104. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of definitive anti-dumping duty equal to the lesser of the margin of dumping and the margin of injury, so as to remove the injury to the domestic industry. Accordingly, definitive antidumping duty as per amount specified in the table below is recommended to be imposed from the date of the Notification to be issued by the Central Government, on all imports of the subject goods originating in or exported from Turkey and Russia.

Duty Table

S N	Sub- heading	Description of goods	Country of origin	Country of exports	Producer	Exporter	Amount	Unit of measu re ment	Curr- ency
1	2	3	4	5	6	7	8	9	10
1	283620	Disodium Carbonate (Soda ash)	Russia	Russia	Any	Any	35.99	MT	US\$
2	283620	Disodium Carbonate (Soda ash)	Russia	Any country other than those subject to antidumping duties	Any	Any	35.99	MT	US\$
3	283620	Disodium Carbonate (Soda ash)	Any country other than those subject to antidumping duties	Russia	Any	Any	35.99	MT	US\$

4	283620	Disodium Carbonate (Soda ash)	Turkey	Turkey	Soda Sanayii A.S	Soda Sanayii A.S	18.39	MT	US\$
5	283620	Disodium Carbonate (Soda ash)	Turkey	Turkey	Soda Sanayii A.S	Vincom Commodities Limited, UK	18.39	MT	US\$
6	283620	Disodium Carbonate (Soda ash)	Turkey	Turkey	ETI Soda	ETI Soda	21.00	MT	US\$
7	283620	Disodium Carbonate (Soda ash)	Turkey	Turkey	ETI Soda	Vincom Commodities Limited,UK	21.00	MT	US\$
8	283620	Disodium Carbonate (Soda ash)	Turkey	Turkey	Any combination other than mentioned in Sl. No. 4 to 7 above		75.16	MT	US\$
9	283620	Disodium Carbonate (Soda ash)	Turkey	Any country other than those subject to antidumping duties	Any	Any	75.16	MT	US\$
10	283620	Disodium Carbonate (Soda ash)	Any country other than those subject to antidumping duties	Turkey	Any	Any	75.16	MT	US\$

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

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

(J S Deepak)
The Designated Authority

