

No.15/23/2013-DGAD
GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE
(DIRECTORATE GENERAL OF ANTI-DUMPING & ALLIED DUTIES)
Jeevan Tara Building, 4th Floor, 5, Parliament Street, New Delhi-110001
Dated the 18th June, 2015

NOTIFICATION

(FINAL FINDINGS)

Subject: Sunset Review (SSR) anti-dumping investigation concerning imports of Caustic Soda, originating in or exported from China PR and Korea RP.

A. BACKGROUND OF THE CASE

1. Whereas the Designated Authority (hereinafter also referred to as the Authority) had initiated the original investigation concerning imports of “Caustic Soda” (hereinafter also referred to as the subject goods), originating in or exported from the China PR and Korea RP (hereinafter also referred to as the subject countries) vide notification no.15/23/2013-DGAD dated 14th May, 2002. The Authority issued Final Findings vide Notification No. 14/10/2002- DGAD dated 4th August, 2003 recommending to the Central Government imposition of anti dumping duty on the imports of subject goods originating in or exported from the subject countries. Definitive anti dumping duties were imposed by the Central Government vide Notification No. 142/2003-Customs dated the 23rd September, 2003 on all imports of subject goods originating in or exported from the subject countries.
2. Whereas, in terms of the Act, the anti dumping duty imposed shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition.
3. And, notwithstanding the above provision, the Authority is required to review, on the basis of a duly substantiated request made by or on behalf of the domestic industry within a reasonable period of time prior to the date of the expiry of the measure as to whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury.
4. Whereas, sunset review of the anti dumping duty so imposed against the subject countries was initiated by the Authority and the final findings recommending extension of the revised duty were issued vide Notification No. 15/11/2007- DGAD dated 21st November, 2008. Antidumping duty was extended by the Central Government on the subject goods originating in or exported from the subject countries vide Customs Notification No. 137/2008 dated 26th December, 2008.
5. Whereas, the Authority conducted a midterm review investigation against the imports of the subject goods from Korea RP, Saudi Arabia and the USA and the revised anti dumping duties were recommended vide Final Findings Notification No. 15/2/2010-DGAD dated 7th July, 2011. The revised definitive anti dumping duties were imposed by

the Central Government vide Notification No. 95/2011-Customs dated 3rd October, 2011.

6. Whereas, M/s Alkali Manufacturers' Association of India (AMAI) (hereinafter also referred to as the applicants or the petitioners or the domestic industry) on behalf of the manufacturers of Caustic Soda representing the Domestic Industry in India approached the Authority with a duly substantiated application requesting for sunset review of the anti dumping duties earlier imposed on imports of Caustic Soda originating in or exported from China PR and Korea RP and seeking continuation of anti dumping duty on the imports originating in or exported from the subject countries. The request was based on the grounds that dumping has continued in spite of imposition of anti dumping duty on the imports of the subject goods from the subject countries and the domestic industry continues to suffer injury on account of dumping from the subject countries as the form and quantum of anti dumping duty in force has been insufficient. The applicants further argued that expiry of the measure against the subject countries likely to result in continuation or recurrence of dumping and injury to the domestic industry.
7. In view of the duly substantiated application with prima facie evidence of dumping and injury filed on behalf of the domestic industry and in accordance with section 9A(5) of the Act, read with Rule 23 of the Anti-dumping Rules, the Authority initiated a sunset review investigation vide Notification No. 15/23/2013-DGAD dated 19th December, 2013 to review the need for continued imposition of the anti-dumping duties in respect of the subject goods, originating in or exported from the subject countries, and to examine whether the expiry of the said duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry.
8. The scope of the present review covers all aspects of the previous investigations concerning imports of the subject goods, originating in or exported from the subject countries.

B. PROCEDURE

9. The procedure described below has been followed in this investigation:
 - i. The Authority notified the Embassies of the subject countries in India about the receipt of application alleging dumping of the subject goods originating in or exported from the subject countries before proceeding to initiate the investigation in accordance with the Antidumping Rules.
 - ii. The Authority issued a public notice No. 15/23/2013-DGAD dated 19th December, 2013 published in the Gazette of India, Extraordinary, initiating sunset review of anti dumping investigations concerning imports of the subject goods, originating in or exported from the subject countries.
 - iii. The Authority forwarded a letter along with copy of the public notice to all the known exporters and other interested parties/industry associations (whose details were made available by the domestic industry) and gave them opportunity to make their views known in writing within the prescribed time limits in accordance with the anti-dumping rules.

- iv. The Authority provided copies of the non-confidential version of the application to the known exporters of the subject countries and the embassies of the subject countries in accordance with Rules 6(3) supra. A copy of the non- confidential version of the application was also made available in the public file and provided to other interested parties, wherever requested.
- v. Copies of the letter and the exporter questionnaires sent to the exporters/ producers in the subject country were also sent to the embassies of the subject countries in India along with a list of known exporters /producers with a request to advise the known exporters / producers from the subject countries as also other exporters / producers from the subject countries to respond to the questionnaires within the prescribed time limit from the date of issue of the letter in accordance with the Rules 6(2) & 6(4):
- vi. The Authority sent exporter's questionnaires to elicit relevant information to the following known exporters in the subject countries in accordance with the Anti-dumping Rules:
 - i. Hanwha Chemical Corporation, Korea RP
 - ii. DC Chemicals Limited, Korea RP
 - iii. Shanghai Chlor Alkali, China PR
- vii. Response to the exporter's questionnaire was received from following producers/ exporters/traders from China PR and Korea RP:
 - a. Tianjin Dagu International Corp, China PR (exporter)
 - b. Tricon Energy Ltd, USA (exporter)
 - c. Tricon Overseas Inc., USA (exporter)
 - d. Tianjin Dagu Chemical Company Limited, China PR (exporter)
 - e. Hanwha Corporation, Korea RP (exporter)
 - f. Shanghai Chlor-Alkali Chemical Co. Ltd, China PR (exporter)
 - g. Hanwha Chemical Corporation, Korea RP (producer)
- viii. The Authority forwarded a copy of the public notice to the following known importers/consumers (whose names and addresses were made available to the Authority by the applicants) of subject goods in India and advised them to make their views known in writing within forty days from the date of issue of the letter in accordance with Rule 6(4):
 - i. Abhay Chemicals Limited, Gujarat
 - ii. Albright Wilson Chemicals Limited, Mumbai
 - iii. Arvind Mills Limited, Gujarat
 - iv. Birla Cellulose Limited, Gujarat
 - v. Central Pulp Mills Limited, New Delhi
 - vi. Deepak Nitrite Limited, Gujarat
 - vii. Godrej Soaps Limited, Mumbai

- viii. Gujarat Narmada Fertilizer & Chemicals Limited, Gujarat
- ix. Gujarat State Fertilizer & Chemicals Limited, Gujarat
- x. India Farmer Fertilizer Coop. Limited, Kasturinagar
- xi. Indian Oil Corporation Limited, Gujarat
- xii. Jaysynth Dyechem Limited, Mumbai
- xiii. Link Pharma Ltd., Gujarat
- xiv. Meghmani Organics Limited, Gujarat
- xv. Narmada Chemature Petrochemicals Ltd., Gujarat
- xvi. Nirma Limited, Gujarat
- xvii. All India Biotech Association, New Delhi
- xviii. All India Distillers Association, New Delhi
- xix. All India Flat Glass Mfrs, New Delhi
- xx. All India Food Preservers Association, New Delhi
- xxi. All India Moder Textile, Tamil Nadu
- xxii. All India Plastics Manufacturers Association, Mumbai
- xxiii. All India Strach Manufacturers Association Pvt. Ltd., Mumbai
- xxiv. Chemicals and Petrochemicals, New Delhi
- xxv. Compound Livestock Feed Manufacturers Association of India, Mumbai
- xxvi. Confederation of Indian Alcoholic Beverage Cos., New Delhi
- xxvii. Federation of Indian Mineral Industries, New Delhi
- xxviii. Fertilizer Association of India, New Delhi
- xxix. Indian Drug Manufacturers Association, Mumbai
- xxx. Indian Paper Manufacturers Association, New Delhi
- xxxi. Indian Soap and Toiletries Association, Mumbai
- xxxii. Indian Sugar Mills Association, New Delhi
- xxxiii. Organization of Pharmaceutical Producers of India, Mumbai
- xxxiv. Soybean Processers Association of India, Indore
- xxxv. Pab Chemicals (P) Limited, Gujarat
- xxxvi. Rama News Print and Papers, Gujarat
- xxxvii. Sabero Organics Limited, Mumbai
- xxxviii. Torrent Gujarat Biotech Limited, Gujarat
- xxxix. Transpek Silox Industries Limited, Gujarat
- xl. National Aluminium Company Limited, Orissa
- xli. Cyanides & Chemicals Company, Mumbai
- xlii. Hitsu Industries Limited, Gujarat
- xliii. Adani Exports Limited, Gujarat
- xliv. Adani Wilmar Limited, Gujarat
- xlv. Libra Foams, Gautam Buddh Nagar (UP)
- xlvi. Shri Ramchandra Straw Products Ltd, Moradabad (UP)
- xlvii. Bilag Industries Pvt. Ltd. Gujarat
- xlviii. Daurala Organics Limited, New Delhi
- xlix. CJ Shah & Co., Mumbai
 - 1. Harish Kr. & Company, Mumbai
 - li. Hindustan Link & Resins Limited, Gujarat

iii. Hindustan Lever Limited, Mumbai
iii. All India Federation of Master Printers, New Delhi

ix. No questionnaire response was received from any importer. However, submissions were received from Sandeep Organics Pvt. Ltd., Mumbai.

x. The Period of Investigation (POI) for the purpose of the present review investigation is 1st October, 2012 to 30th September, 2013. The examination of trends in the context of injury analysis covered the financial years 2010- 2011, 2011- 2012 and 2012- 2013 and the POI.

xi. Transaction wise import data was procured from the Directorate General of Commercial Intelligence and Statistics (DGCI&S). It was, however, found that the volume of imports reported in DGCI&S is lower by 15 % than the volume of imports reported in IBIS, the source adopted by the petitioner. Volume and value of imports reported in IBIS has, therefore, been adopted for the present determination.

xii. Exporters, producers, importers and other interested parties who have neither responded to the Authority nor supplied information relevant to this investigation have been treated as non-cooperating interested parties by the Authority.

xiii. The Authority made available non-confidential version of the evidence presented by interested parties in the form of a public file kept open for inspection by the interested parties as per the Rules.

xiv. The Authority has examined the information furnished by the domestic producers to the extent considered necessary on the basis of guidelines laid down in Annexure III of the Rules and worked out the cost of production and the non-injurious price of the subject goods in India so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.

xv. In accordance with the Rules, the Authority provided opportunity to all interested parties to present their views orally in a public hearing held on 15th September, 2014. All the interested parties attending the hearing were requested to file written submissions/rejoinders of the views expressed orally.

xvi. The submissions made by the interested parties during the course of this investigation have been examined and addressed in this investigation to the extent found relevant.

xvii. Verification of the information and data submitted by the domestic industry and the responding exporters was carried out to the extent deemed necessary.

xviii. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.

xix. Wherever an interested party has refused access to or has otherwise not provided necessary information during the course of the present investigation or has significantly impeded the investigation, the Authority has recorded its views/observations on the basis of the 'facts available' and treated such parties as non-

cooperative.

- xx. The Central Government, at the request of the Authority, extended the time to complete the investigation up to 18.06.2015.
- xxi. A Disclosure Statement containing the essential facts in this investigation which would have formed the basis of the Final Findings was issued to the interested parties on 11.06.2015. The post Disclosure Statement submissions received have been considered, to the extent found relevant, in this Final Findings Notification.
- xxii. ***in this Final Findings Notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- xxiii. The exchange rate for the POI has been taken by the Authority as Rs.57.14 = 1US\$.

C. SCOPE OF PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

Submissions made by the Domestic Industry

10. Following are the submissions made by the domestic industry with regard to the product under consideration (PUC) and the like article:

- i. The product under consideration herein is Caustic Soda of all types. Caustic Soda is chemically known as NaOH or Sodium Hydroxide. Caustic Soda is a soapy, strongly alkaline odourless liquid widely used in diverse industrial sectors, either as a raw material or as an auxiliary chemical. Caustic Soda is produced in two forms- lye and solids. Solids can be in the form of flakes, prills, granules or any other form.
- ii. Since the present investigation is a sunset review investigation for continued imposition of anti dumping duty, the product under consideration is the same as in the original investigation and earlier conducted sunset review investigation.
- iii. Caustic Soda is mainly used in the manufacture of pulp and paper, newsprint, viscose yarn, staple fibre, aluminium, cotton, textiles, toilet and laundry soaps, detergents, dyestuffs, drugs and pharmaceuticals, petroleum refining etc.
- iv. There is no difference in Caustic Soda produced by the Indian Industry and exported from subject countries. They are comparable in terms of characteristics such as physical & chemical characteristics, manufacturing process and technology, functions and uses, product specifications, pricing, distribution & marketing and tariff classification of the goods.
- v. Although Caustic Soda is being produced world over through three technologies or processes, this does not result in the difference in the product in terms of its physical & chemical properties, product specifications, marketing, pricing, consumer perceptions, tariff classification, etc.
- vi. There is no significant difference in the technology employed by the domestic industry and producers in subject countries. However, every manufacturer fine tunes its production process on the basis of necessities and available facilities. Further, the membrane technology is the latest technology and most of the plants in India are having this process. The domestic industry has, therefore, a comparable technology.

Submissions by producers/exporters/importers/other interested parties

11. No relevant submission has been made by the producers/exporters/ importers/other interested parties with regard to the scope of the product under consideration and the like article.

Examination by the Authority

12. The product under consideration in the original investigation, previous sunset review as well as the present SSR investigation is Caustic Soda of all types and forms. The product is generally known as Caustic Soda. Caustic Soda is chemically known as NaOH. Caustic Soda is a soapy, strongly alkaline odourless liquid widely used in diverse industrial sectors, either as a raw material or as an auxiliary chemical. Caustic Soda is produced in two forms- lye and solids. Solids can be in the form of flakes, prills, granules or any other form.

13. In the previous sunset review investigation conducted on the subject goods, the Authority had defined the product under consideration and its scope as under:

"The product under consideration in the present case is Caustic Soda, which is chemically known as NaOH. Being a sunset review investigation, product under consideration in the present application is the same as has been in the original investigation. In the final findings of the original investigation, the Designated Authority had defined the product under consideration as follows:

The product under consideration in the present investigation is Sodium Hydroxide (chemical nomenclature of NaOH), commonly known as Caustic Soda originating in or exported from Korea ROK and China PR. Caustic Soda is an inorganic, soapy, strongly alkaline and odourless chemical.

Caustic Soda is classified under Chapter 28 of the Customs Tariff Act, 1975 under Customs head 2815.11 and 2815.12. As per ITC 8-digit classification, the product is classified under the Custom Heading 2815.1101, 28151102 and 2815.1200.

Caustic Soda is produced in two forms, i.e. lye and solids by three technology processes, i.e. mercury cell process, diaphragm process and membrane process. Liquid form can be converted into solid and the solid form can be reconverted in liquid with ease and without any change in the chemical properties of the product. The solid form has ease of storage and transportation whereas the liquid form has easy solubility. For end use both the forms are substitutable and interchangeable. The domestic industry produces caustic soda in two forms and are comparable with the imports from subject countries, therefore, is being treated as like article within meaning of 2(d) of the Rules."

14. The Authority notes that subject goods produced by the domestic industry and the subject goods imported into India from the subject countries are like articles within the meaning of the Anti dumping Rules. There is no known difference between the subject goods imported from the subject countries and that produced by the domestic industry. The subject goods produced by the domestic industry and imported from the subject countries are comparable in terms of essential product characteristics such as physical & chemical characteristics, manufacturing process & technology, function & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods; that the consumers can use and are using the two interchangeably and that the two are

technically and commercially substitutable. After examination, the Authority concludes that the subject goods produced by the domestic industry are like article to that imported from the subject countries.

D. DOMESTIC INDUSTRY AND STANDING

Submissions by producers/exporters/importers/other interested parties

15. The following are the submissions made by the producers/exporters/other interested parties with regard to scope of the domestic industry and standing:

- i. As per the Initiation Notification, the domestic industry comprises two producers, i.e., DCM Shriram Consolidated Limited, New Delhi and Gujarat Alkalies & Chemicals Limited, Vadodara. However, the non-confidential version of the petition provides information for four domestic industry members as opposed to two.
- ii. At the public hearing the Designated Authority clarified that the domestic industry is defined as per the Initiation Notification and not as per petition.
- iii. Since the domestic industry differs for initiation and the petition the requirement of adequacy and accuracy as under Rule 5 which is necessary herein has been diluted. Thus, the initiation itself is without the authority of law as there is *prima facie* violation of a mandatory requirement (Rule 5) under the Anti-dumping rules.
- iv. Alternatively, it may be argued that injury figures for two domestic industry members were presented in an application and analyzed. In that case, the application circulated for the interested parties is the wrong application which is a clear violation of Rule 6 of the anti dumping rules.
- v. The Designated Authority must examine whether Rule 5(3)(a) has been violated to the extent that the accuracy and adequacy has been examined in view of the named constituents forming part of the Domestic Industry before the Authority.
- vi. The Authority must examine whether Rule 6 has been violated to the extent that the injury parameters were examined for the wrongly named constituents forming part of the Domestic Industry and an incorrect version of the petition was circulated to the interested parties.
- vii. DCW, Reliance and Chemplast Sanmar are only Indian producers capable of supplying in bulk quantities through rail. All of them together can only meet 1/4th or 1, 20,000 MT of the total requirements of the three consumers on the east coast.

Submissions by the Domestic Industry

16. The following are the submissions made by the domestic industry with regard to scope of the domestic industry and standing:

- i. The scope of domestic industry and standing are not relevant in a sunset review. Nevertheless, the petitioners command major proportion in Indian production in the POI and, therefore, constitute domestic industry.
- ii. The petition has been filed by Alkali Manufacturers' Association of India (AMAI). The productions of the petitioner companies (member of AMAI) constitute a major

proportion, i.e., 42.44% (excluding captive consumption) share of Indian production. Thus, the petitioner companies constitute domestic industry within the meaning of the Rules.

- iii. The petition clearly states the names of all four companies, namely, DCW Limited, SIEL Chemical Complex, DCM Shriram Consolidated Limited and Gujarat Alkalies & Chemicals Limited. All of them have provided information in the present case and the same has been referred to by Designated Authority in the notice of initiation. The reference in para 6 of the notice of initiation is only a typographical error.
- iv. Rule 5 is not applicable at the stage of review as evidently provided in Rule 23.
- v. The Authority has given no clarification to the tune that domestic industry comprised two producers. The Authority merely asked the interested parties to clarify the basis of their statement.
- vi. With regard to the argument of Indian producers meeting 1/4th of the requirement of three consumers on the East, it is clear that this is a false argument. Material has been supplied to Aluminium Industry by 15 producers in the country. Further, combined production of these companies is 1,360,686 MT as against requirements of 447,516 MT by the Aluminum industry.

Examination by Authority

17. The Authority notes that Rule 2(b) of the Anti-dumping Rules provides as follows:

“(b) “domestic industry” means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are relate to the exporters or importers of the alleged dumped article or are themselves importers thereof in such case the term ‘domestic industry’ may be construed as referring to the rest of the producers”

18. The Authority notes that the application has been filed by Alkali Manufacturers' Association of India (AMAI) and is supported by four companies namely, DCW Limited, SIEL Chemical Complex, DCM Shriram Consolidated Limited and Gujarat Alkalies & Chemicals Limited.

19. As regards the contention that the petition is made by two producers instead of four, the Authority notes that the application has been filed by Alkali Manufacturers' Association of India on behalf of the domestic producers. The Authority further notes that the facts of the case and information on record clearly establish that the petition was filed by four domestic producers. The non-confidential version of the petition provides information for four domestic industry members as opposed to two and this non confidential version of the petition was placed in the public file and accessed by the opposing interested parties. This fact has already been acknowledged by the opposing interested parties. The initiation was based on the production data of four domestic producers though in the initiation notification the names of only two major producers, who account for major percentage of the total production of the four producers, are mentioned. The Authority forwarded a copy of the

public notice to these known domestic producers of subject goods in India alongwith prescribed proforma and advised them to provide relevant information for injury determination and make their views known in writing in the prescribed time limit. While these companies have supported the petition, they have also provided information relevant to injury determination. Accordingly costing information for four producers has been filed and it suffices the standing requirement and constitutes the domestic industry at the stage of initiation. The information furnished by all the four domestic producers has been verified by the Authority to the extent considered relevant.

20. The Authority notes that the domestic industry is the same for the initiation and the petition. Therefore, there is perfect conformity as concerns the Rules including Rule 5. At the stage of initiation, the Authority is required to *prima facie* satisfy itself with regard to the need for initiation. The Authority may not have all the information at the stage of initiation as would be required for a final determination. The purpose of initiation is to provide opportunity to all interested parties to provide relevant information. The Authority can make determination only after opportunity for providing information and defending interests has been provided to all interested parties.
21. As regards the argument on demand-supply imbalance within the Country on regional basis, the Authority notes that the purpose of anti dumping duty is to address unfair dumping of the goods. Its purpose is not to be used as a protectionist measure for the domestic industry but rather to restrict the imports and rectify the injury caused to the domestic industry.
22. The imports information procured by the Authority from DGCI&S shows 27973 MT of Caustic Soda by M/s. Hindalco Ltd. Further, it is noted that following domestic producers of Caustic Soda are group companies of M/s. Hindalco Ltd. Imports made by Hindalco is quite significant in relation to production of some of these companies. Moreover, these companies have given no plausible reasons for import of Caustic Soda when these companies are producing and selling Caustic Soda in the market. The Authority has, therefore, considered these companies as ineligible domestic industry within the meaning of Rule 2(b) of the Anti dumping rules.
23. Indian production, production of the participating companies and the share of participating companies in Indian production are given in the Table below:

Production details of Caustic Soda in India

Particulars	Units	2010-11	2011-12	2012-13	POI
Total Indian Industry Production (As per Annual Report of the Association - AMAI)	MT	24,02,325	25,03,623	24,87,993	25,26,029
Participating Companies' Production					
SIEL	MT	60,830	61,959	66,755	65,784
DSCL, Jhagadia	MT	1,32,758	1,27,506	1,34,850	1,45,177
DSCL, Kota	MT	77,010	1,08,796	1,12,348	1,12,987
GACL, Baroda	MT	1,69,924	1,58,515	1,58,331	1,53,199
GACL, Dahej	MT	2,38,643	2,18,666	2,00,920	2,05,001
DCW	MT	81,684	90,569	72,526	76,820

Particulars	Units	2010-11	2011-12	2012-13	POI
Total		7,60,850	7,66,012	7,45,730	7,58,967
Share of Participating Companies	%	31.67	30.60	29.97	30.05

24. The following Table gives the details of Indian production, production of eligible companies and production of participating companies:

Particulars	Including captive consumption (in MT)	Excluding captive consumption (in MT)
Gross Indian production	2,526,029	2,393,514
Production of ineligible companies (Aditya Birla Chemical, Jharkhand, ABCIL, Renukoot, Aditya Birla Novo Ltd, Varaval, Grasim India Ltd, Nagda, Grasim Industries Ltd, Vilayat, Aditya Birla Chemical, Karwar)	605,050	605,050
Production of eligible companies	1,920,979	1,788,465
Production of participating companies (excluding Brine consumption)	758,967	758,967
Share of participating companies in:		
Gross Indian production	30.05 %	31.71 %
Production of eligible companies	39.51 %	42.44 %

25. It is thus seen that the production of the participating companies constitutes a major share in Indian production in all situations.

26. Having regard to the Rules and considering the production of the participating companies in various situations, the Authority concludes that the share of the participating companies constitutes a major proportion in Indian production. The participating companies, therefore, constitute domestic industry within the meaning of the Rules.

E. CONFIDENTIALITY

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

27. The exporters/importers/other interested parties have contended as follows:

- i. The present petition should be terminated on the grounds of excessive confidentiality.
- ii. The cost related information has not been disclosed in summarized form. No indexed or ranged figures have been provided as part of the costing section of the petition.

Submissions by the Domestic Industry

28. The Domestic Industry has made the following submissions:

- i. The questionnaire responses coming from the same law firms show discrepancy in suppression and disclosure of relevant information. This is an extreme example of the manner in which confidentiality is being claimed by the exporters. The responses from some exporters have no satisfactory reasons for resorting to confidentiality in relation to substantial information.

ii. The non confidential version of the petition contains all information required to be disclosed as per the practices followed by the Authority. In fact, the exporters have not filed sufficient information in the non-confidential version and the present attempt is only to justify their own suppression of information. Even information such as volume and value of exports to India has been claimed confidential, which has no legal or factual basis

Examination by the Authority

29. 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.

30. The Authority examined the confidentiality claims of the interested parties. The Authority considers that any information which is by nature confidential (for example, because its disclosure would be of significant competitive advantage to a competitor or because its disclosure would have a significantly adverse effect upon a person supplying the information or upon a person from whom that person acquired the information), or which is provided on a confidential basis by parties to an investigation shall, upon good cause shown, should be treated as such by the authority. Such information can not be disclosed without specific permission of the party submitting it.

31. The Authority has considered the claims of confidentiality made by the petitioners and the opposing interested parties and on being satisfied about the same, the authority has allowed the claim on confidentiality. The Authority made available to all interested parties the public file containing non-confidential version of evidences submitted by various interested parties for inspection, upon request as per Rule 6(7).

F. MISCELLANEOUS SUBMISSIONS

Miscellaneous submissions made by the producers/exporters/importers and other interested parties

32. The following miscellaneous submissions have been made by producers/exporters/importers/other interested parties:

- i. Rule 6 has been violated to the extent that the injury parameters were examined for the wrongly named constituents forming part of the domestic industry and an incorrect version of the petition was circulated to the interested parties.
- ii. As per Rule 23(3), Rule 11 and the Initiation Notification the causal link analysis is intrinsic to any injury analysis and cannot be precluded at any level of investigation.
- iii. The tender information for NALCO shows that the tender prices for all producers are at the same level as the imported material.
- iv. The petition of domestic industry hasn't 'duly substantiated' the need for a sunset review.
- v. The cost for Caustic Soda must be allocated on a turnover basis (including captive transfer) rather than loading of all costs on caustic soda.
- vi. The Authority should assess the domestic industry's records to determine whether chlorine's turnover and value justifies its treatment as a by-product rather than co-product.
- vii. The competitive advantage of exporters cannot be termed as dumping. Even if duties are levied, there will inevitably be imports due to inherent drawback in the supply capabilities of the domestic industry.
- viii. Domestic industry has been treating Chlorine as a by-product rather than co-product. As a result, the cost of producing ECU is loaded completely onto Caustic Soda.
- ix. The premise for such treatment of chlorine is that the chlorine demand in India is poor. However, market for chlorine has evolved as GACL and DCM Shriram Consolidated have downstream integration for chlorine since they both manufacture Poly Vinyl Chloride.

Miscellaneous submissions made by the domestic industry

33. The following miscellaneous submissions have been made by the domestic industry:

- i. None of the exporters' questionnaire has provided transaction wise details of exports to third countries as required by the Authority. In this light, all questionnaire responses are grossly deficient and are required to be rejected.
- ii. Rule 6 is applicable for investigation phase and not initiation phase. Various provisions under Rule 6 are applied only when the case has been initiated.
- iii. With regard to the causal link analysis, the Authority is required to focus only on changes that have occurred since imposition of anti dumping duty and is not required to repeat the entire exercise.
- iv. The claim of respondents about tender information for NALCO displaying same level of prices for all producers as imported level establishes that the domestic industry is forced to offer a price in competition to imports.

- v. As regards the contention of interested parties that the need for sunset review is not duly substantiated in the petition, it is submitted that the Authority has held in the initiation notice that it has decided to initiate as the domestic industry approached with duly substantiated application. The Authority has considered the *prima facie* evidence given by the applicants and considered the initiation for sunset review proceedings to be appropriate.
- vi. The domestic industry has adopted appropriate methodology in their cost records which may be accepted by the Authority.
- vii. With regard to the argument about assessing domestic industry's records about chlorine turnover, the Authority may do what is considered relevant and necessary. The domestic industry has provided all relevant information and shall provide information required by the Authority.
- viii. Dumping is not about competitive advantages. Dumping margin is the difference between normal value and export price. If the exporters have lower freight cost, it should imply higher ex-factory realization to the exporters, which should imply lower dumping. The market share of imports was as low as 3% during 2004-05 and 2005-06 and increased to 14% in 2009-10 and declined below 8% in 2010-11. Market share of imports is once again 14% in current year, which clearly shows that the increase in imports is because of dumping practices.
- ix. Chlorine is a by-product for the participating companies and, therefore, is required to be treated accordingly.
- x. With regard to the argument about downstream integration, it is submitted that this argument further establishes that Chlorine is a by-product for the participating companies and, therefore, is required to be treated accordingly. As regards changing situations, GACL does not produce PVC resin, while DCM Shriram although produces Chlorine, but captively consumes 75%. The rest is sold in the market. Further DCM has two plants (at Kota and Jhagaria). PVC is produced only at Kota. At Jhagaria, the company sells chlorine produced by the company.

Examination by the Authority

34. The Authority has carefully examined the submissions made by various interested parties and holds as follows:

- a. Rule 6 of the Rules is applicable after the investigation has been initiated and not at the stage of initiation. At the stage of initiation, the Authority is required to only *prima facie* satisfy itself that there was sufficient evidence to justify initiation of investigations.
- b. As regards examination of causal link, the Authority notes that the provisions relating to causal link are applicable on *mutatis mutandis* basis and the same has been considered in the present determination.
- c. As regards tender prices of various suppliers in supplies to NALCO, the Authority notes that the same in fact shows competition between the domestic producers and foreign producers. In a situation where NALCO places orders on the basis of lowest

price, in case a foreign producer-exporter is quoting lower price, the domestic industry is likely to lose the orders.

- d. As regards merits in the petition for initiation, the Authority has initiated the investigations only after *prima facie* satisfying itself that the petition contained sufficient evidence to justify initiation.
- e. As regards allocation of costs between caustic and chlorine, it is clarified that the Authority has proceeded based on records maintained by the company. Annexure-II to the Rules provides that the Authority shall consider records maintained by the company with regard to product under consideration. The same has, therefore, been followed in the present case.
- f. As regards advantages and disadvantages of competitiveness, the Authority notes that the same is a matter of dumping investigation. As far as injury to the domestic industry is concerned, the Authority has considered the domestic industry as it exists. The Authority notes that the treatment of chlorine as joint or by product is not based on demand for chlorine but based on relative value of the two products.

G. ASSESSMENT OF DUMPING – METHODOLOGY AND PARAMETERS

Normal Value, Export Price and Determination of Dumping Margin

Submissions by the Domestic Industry

35. Following are the submissions made by the domestic industry:

- i) China is a non-market economy. No country has granted market economy country status to China. None of the Chinese producers can satisfy market economy status. However, even the prices in China as reported in Harriman Chemsult establish dumping. Petitioners have made efforts to get information on prices at which Caustic Soda is being sold by the exporters and producers in Korea RP. Since Harriman Chemsult reports prices in China and Korea RP, it is a good indicator for prices prevailing in the domestic market of these countries. These prices reported by them have been taken to be normal value in these countries.
- ii) The net export price has been determined as per established rules after making adjustments towards the expenses such as ocean freight, document charges, port charges, marine insurance, commission, inland freight, VAT difference in case of China only.
- iii) For the purpose of calculating dumping margin, fair comparison is made between the export price and normal value. The normal value and export price have been determined at ex-factory level and pertain to the same period. There are no known differences in the conditions and terms of sales. Both prices are free of taxes. Foreign producers are selling the goods in both the markets at the same level of trade. Thus, the comparison made is a fair comparison.
- iv) Dumping has continued even after the imposition of dumping. Even in the previous investigation by the Authority significant dumping of the product in India had been noted.

v) As regards the issue of calculating individual margins is concerned, it is submitted that as far as Hanwha is concerned, the Authority should hold that Hanwha has resorted to significant suppression of facts and grossly misleading information between the present investigation and sunset review of PVC Suspension Resin. Hanwha Chemicals should not be entitled to individual dumping margin as they contended at the time of public hearing that they are the producer and Hanwha Corporation is the exporter while Tricon Energy is the one who eventually ships the goods to India, being the exporter. However, this claim is totally contrary to the claim of Hanwha made at the time of PVC Suspension Resin sunset review investigation, wherein Hanwha Corporation claimed that it is only a commissioning agent. The Designated Authority is required to co-relate all records for PVC Suspension Resin sunset review case and in case of significant contradiction, the Authority should reject the entire response.

Submissions by producers/importers/exporters and other interested parties:

36. Following are the submissions made by the producers/exporters/importers/ and other interested parties in this regard:

- i. Since the exporters have submitted all the relevant information in the prescribed form, the Authority is requested to calculate individual dumping margins for all cooperative trade channels and accordingly recommend duty rates in this behalf.
- ii. It is not clear what kind of adjustment has been made as regards the benefits which accrue to the exporters in the subject countries. The Applicants must disclose the nature of benefits and the kind of adjustment made thereto.
- iii. The import data relied upon by Applicants is inconsistent since the Applicants have relied upon Chinese Customs data for exports from China. Such data should not be accepted as the sanctity of such customs data is beyond the verification of the exporters or even the Authority.

Examination by Authority

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

- (i) *The comparable price, in the ordinary course of trade, for the like article, when meant for consumption in the exporting country or territory as determined in accordance with the rules made under subsection (6), or*
- (ii) *When there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either:*
 - (a) *Comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or*

(b) The cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section(6):

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

38. As regards the submission that there should be individual dumping/injury margin determinations for all cooperating trade channels, the Authority notes that the dumping margin and injury margin determinations in the present investigation are consistent with the established practice of the DGAD and the Rules in this regard.

39. As regards the contention that a small volume of imports from China PR and Korea RP cannot injure the domestic industry, the Authority notes that injury analysis has been made having regard to the Rules. Further, the present investigation is a sunset review investigation and the Authority is required to examine likelihood of dumping and injury also, in addition to the actual dumping and injury during the relevant period.

40. As regards the adjustments claimed by the domestic industry, the Authority notes that it is consistent with established practice.

41. The Authority sent questionnaires to the known exporters/producers from the subject countries, advising them to provide information in the form and manner prescribed. The following producers/exporters from subject countries have filed exporter's questionnaire response:

- i. M/s Hanwha Chemical Corporation, Korea RP (producer)
- ii. M/s Hanwha Corporation, Korea RP (exporter) and
- iii. M/s Tricon Energy Limited, USA (exporter)
- iv. M/s Tianjin Dagu Chemical Company Limited, China PR (producer) and M/s Tricon Overseas Inc, USA (exporter),
- v. M/s Shanghai Chlor-Alkali Chemical Co. Ltd, China PR (exporter) and
- vi. M/s Tianjin Dagu International Corp., China PR (exporter)

Determination of Normal Value for Korea RP

M/s. Hanwha Chemical Corporation (HCC), Korea RP (Producer)

42. M/s Hanwha Chemical Corporation (HCC) has responded and provided the information in prescribed format. The cost of production of the respondent has been compared with the transaction wise domestic sales and it was found that more than 80 % sales are profitable. Therefore, the Authority determines normal value on the basis of all the domestic sales as reported in the Appendix-1. The adjustments on account of Inland freight, insurance, and interest, etc. as claimed have been allowed. Accordingly, the normal value worked out on the

basis of domestic selling price is indicated in the Dumping Margin Table below.

Normal Value for non-cooperative producers/exporters from Korea RP

43. The Authority notes that no other producer/exporter from Korea RP has submitted exporter's questionnaire response. Therefore, normal value as determined for the cooperating producer from Korea RP has been adopted for the non cooperative producers/Exporters from Korea RP. Accordingly, the normal value so determined is as indicated in the Dumping Margin Table below.

Determination of Normal Value for China PR

44. The Authority notes that in the past three years, China PR has been treated as a non market economy country in anti-dumping investigations by India subject to rebuttal of the presumption by the exporting country or individual exporters/producers in terms of the AD Rules.

45. As per Paragraph 8 of Annexure I of the AD Rules, the presumption of a non-market economy may be rebutted, if the exporter(s)/producer(s) from China PR provide information and sufficient evidence on the basis of the criteria specified in sub paragraph (3) of Paragraph 8 and establish the facts to the contrary. The co-operating exporters/producers of the subject goods from China PR are required to furnish necessary information/sufficient evidence as mentioned in sub paragraph (3) of paragraph 8 in response to the Market Economy Treatment questionnaire to enable the Authority to consider the following criteria as to whether:

- The decisions of concerned firms in China PR regarding prices, costs and inputs, including raw materials, cost of technology, labour, output, sales and investment are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values;
- The production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts;
- Such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms; and
- The exchange rate conversions are carried out at the market rate.

46. The Authority sent copies of exporter's questionnaire and questionnaire on market economy treatment (MET) to exporters in China PR. However, no producer/exporter has claimed MET. In view of the above the Authority considers it appropriate to proceed with para-7 of Annexure I to the Rules for determination of normal value in case of China PR which provides as under:

“In case of imports from non-market economy countries, normal value shall be determined on the basis if the price or constructed value in the market economy third country, or the price from such a third country to other countries, including India or where it is not possible, or on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted if necessary, to include a reasonable profit margin. An appropriate market economy third country shall be selected by the designated authority in a reasonable manner, keeping in view the level of development of the country concerned and the product in question, and due account shall be taken of any reliable information made available at the time of selection. Accounts shall be taken within time limits, where appropriate, of the investigation made in any similar matter in respect of any other market economy third country. The parties to the investigation shall be informed without any unreasonable delay the aforesaid selection of the market economy third country and shall be given a reasonable period of time to offer their comments.”

47. In view of the above, the Authority has determined normal value having regard to para-7 of Annexure-I for the purpose of present investigation. The normal value for the subject goods imported from China PR into India has been constructed considering optimum consumption of major raw materials as per information provided by the domestic industry, international prices for raw material, conversion cost, interest, SGA etc. at the levels allowed for the domestic industry along with a reasonable profit on the cost of production. Accordingly, the normal value so determined is as indicated in the Dumping Margin Table below.

Determination of Export Price for Korea RP

M/s Hanwha Chemical Corporation (HCC) and Tricon Energy Ltd., USA (exporters)

48. The Authority notes that M/s Hanwha Chemical Corporation (HCC) has exported the subject goods through Tricon Energy Ltd., USA which has submitted the exporters' questionnaire response. The export chain to India consisted of HCC, Korea RP – Hanwha Corporation, Korea RP – Tricon Energy Ltd., USA – Indian customers. All export transactions for quantity *** DMT have been made through Hanwha Corporation and finally through Tricon Energy Ltd. which has raised invoices on the customers in India. The adjustments claimed by the producer and exporter are being considered for determination of net export price, i.e, international freight, interest, clearing & handling charges, insurance of HCC and bank charges, commission, LC fees, SGA and profit of Tricon. The net export price for HCC (Producer) and Tricon (Exporter) determined is as indicated in the Dumping Margin Table below.

Non-Cooperative exporters from Korea RP

49. The Authority notes that no other exporter/producer from subject countries has responded to the Authority in the present investigation. Therefore, the Authority proceeds to determine the

net export price based on facts available. Accordingly, the export price so determined is as indicated in the Dumping Margin Table below.

Determination of Export Price for China PR

M/s Tianjin Dagu Chemical Company Limited, China PR (producer), M/s Tianjin Dagu International Corp., China PR and M/s Tricon Overseas Inc, USA (exporter) and Tricon Energy Ltd., USA (exporters)

50.The exporter M/s Tricon Energy Ltd. has provided the export-wise transaction details of the exports made to India for the subject goods procured from China PR. The export chain to India consisted of Tianjin Dagu, China PR – Tianjin Dagu International, China PR – Tricon Overseas, USA/Tricon Energy Ltd., USA – Indian customers. For determination of export price, all transactions of export and procured from China originating from Tianjin Dagu have been taken into consideration. However, the exports to India by the Tricon Energy were made on CFR basis. To determine the ex-factory export price, the expenses incurred on account of bank charges & credit cost of M/s Tianjin Dagu Chemical Company Limited, International freight, commission, Discount, LC charges, insurance, SGA, profit of Tricon have been adjusted from the sale price from M/s Tricon. Accordingly, the export price so determined is as indicated in the Dumping Margin Table below.

M/s Shanghai Chlor-Alkali Chemical Co. Ltd, China PR (Producer/Exporter) and M/s Tricon Overseas Inc, USA (exporter).

51.The exporter M/s Tricon Energy Ltd. has provided the export-wise transaction details of the exports made to India for the subject goods procured from China PR from Shanghai Chlor-Alkali or other participating companies. For determination of export price, all transactions of export and procured from China have been taken into consideration. However, the exports to India by the Tricon Energy were made on CFR basis. To determine the ex-factory export price, the expenses incurred on account of bank charges & credit cost of M/s Shanghai Chlor-Alkali Chemical Co. Ltd, International freight, insurance, SGA, profit of M/s Tricon have been adjusted from the sale price from M/s Tricon Overseas Inc. Accordingly, the export price so determined is as indicated in the Dumping Margin Table below.

Non-Cooperative exporters from China PR

52.The Authority notes that no other exporter/producer from subject countries has responded to the Authority in the present investigation. Therefore, the Authority proceeds to determine the net export price based on the lowest export price of cooperative producer, i.e, M/s Tianjin Dagu Chemical Company Limited. Accordingly, the export price so determined is as indicated in the Dumping Margin Table below.

53.Considering the Normal Values and the Export prices as determined as above, the Dumping Margin for the producers/exporters from the subject countries is determined as follows:

Dumping Margin Table

Country	Producers/ Exporters	Normal Value USD/DMT	Net Export Price USD/DMT	Dumping Margin USD/DMT	Dumping Margin (%)	Dumping Margin Range (%)
Korea RP	Hanwha Chemical Corporation (Producer) - Hanwha Corporation & Tricon Energy Ltd. (Exporter)	***	***	***	***	(0-10)
	Any other combination	***	***	***	***	0-10
China PR	Shanghai Chlor Alkali (Producer) & Tricon Overseas (Exporter)	***	***	***	***	(0-10)
	Tianjin Dagu (Producer) & Tricon Energy Ltd. or Tricon Overseas (Exporter)	***	***	***	***	(0-10)
	Any other combination	***	***	***	***	35-45

H. ASSESSMENT OF INJURY AND CAUSAL LINK

Submissions by the domestic industry

54. The domestic industry has made the following submissions with regard to the injury and causal link:

- i. Since petitioner companies are multi product companies, petitioners have provided relevant information with respect to the like article to the extent feasible.
- ii. Imports have significantly increased from the base year and have remained significant throughout the injury period. Imports from other countries attracting anti dumping have increased up to 2012-13 and has then declined in the POI.
- iii. Imports in relation to production and consumption have increased. Should the present anti dumping duties cease, there would be further increase in the volume of dumped imports.
- iv. The landed price of imports has been below the selling price of the domestic industry. The imports were undercutting the prices of the domestic industry in the market.
- v. A comparison between landed price of imports, cost of sales and selling price show that the imports are likely to depress the domestic prices during the period of investigation.
- vi. Performance of the Domestic industry in terms of profits, return on investments, cash flow, inventories etc. has remained positive till 2012-13. However, there is decline once again in investigation period with the reduction in the import prices in this period.

- vii. Production, sales, capacity utilization has shown some improvement.
- viii. Even after minor improvements, the situation of the domestic industry is clearly fragile and deteriorated in the present investigation period.
- ix. As far as the contention of petition being erroneous is concerned, it is submitted that this is a mere assumption by the exporter. The petition makes it evident that the injury information is based on four companies.
- x. As regards the contention that domestic industry has not suffered any injury on volume parameters in the injury period, it is submitted that in the majority of the past cases, the Authority has found that domestic industry in those cases have suffered adverse price effect of dumped imports on the domestic industry. Given the nature of the industry, the effect of dumped imports is normally on the prices at which the domestic industry sells the product in the market.
- xi. The decline in profitability coincides with and has moved in tandem with the import price from subject countries and other countries into India.
- xii. There is no 'phenomenal' increase in profitability. Further the return on investment of the industry in the period of investigation was below the reasonable levels considered by the Authority.
- xiii. While the causal link is not required to be established at the stage of sunset review, the increase in profits and ROI with the increase in the import prices up to 2012-13 and decline in profits and ROI in the POI with the decline in the imports prices clearly establishes that the selling prices of the domestic industry are directly impacted by the dumped goods.
- xiv. Contrary to the arguments of the interested parties, the petition includes only those companies' who are one of the low cost producers of the product under consideration.
- xv. As regards the contention about from other sources such as Qatar and Pakistan, the domestic industry submits that import prices from Qatar were not so low and therefore the domestic industry did not file petition in respect of Qatar. As regards Pakistan, import volume from Pakistan was below de-minimus limit in that period.
- xvi. As regards the contention that petitioning industry is located at west coast of India while the alumina industry is located on the east coast leading to hardships during transportation of raw materials, the Authority should consider the domestic industry as it exists and not under ideal conditions. Further, it has been a standing contention of the domestic industry that injury margin should be determined by including the incidence of inland freight. There is no justification by the interested parties or the Designated Authority as to why the non-injurious price at the ex-factory level should be compared with the landed price of imports which is at various ports in the country. The purpose of injury margin is to determine the extent of injury suffered by the domestic industry. The quantum of freight borne by domestic industry is directly relevant for the purpose.
- xvii. As regards the history of Caustic consumption in India, majority of demand of Aluminium industry in the country is met by Indian Industry. In fact, there have been instances in the past where the foreign producers took orders from Aluminium industry, then declined supplies and eventually the domestic industry came to the rescue of the Aluminium industry.

Submissions by producers/exporters/importers other interested parties

55. The foreign producers/exporters/importers/other interested parties have made the following submissions with regard to the injury and causal link:

- i. The domestic industry has not suffered any injury on volume parameters in the period of investigation and the injury period.
- ii. As per anti dumping rules, a causal link analysis is intrinsic to any injury analysis and cannot be precluded at any level of investigation, be it an original investigation or a review.
- iii. The volume parameters such as production, capacity utilization and sales have not witnessed any deterioration in the injury period and the domestic industry cannot claim injury on these parameters.
- iv. The domestic industry has not suffered any material injury on account of market share as the decline in market share is negligible. The market share lost by the domestic industry has no correlation to the subject imports.
- v. The inventory buildup of the domestic industry is unrelated to domestic sales and the impact of subject imports.
- vi. The domestic industry has been able to increase its prices at a faster rate than cost. There is no price suppression or depression over the injury period.
- vii. The profitability of Domestic Industry has witnessed phenomenal increase during the injury period. The profits of the domestic industry are completely unaffected by the subject imports and any injury claimed to be suffered in this behalf cannot be attributed to the subject imports.
- viii. AMAI has only put forward those producers whose figures best establish injury and maximize duty in this behalf.
- ix. The petition submitted by the petitioners is an erroneous petition as it is based on injury figures of four companies while the initiation notification suggests only two companies.
- x. There are imports from Qatar and Pakistan which are above de minimis in the period of investigation and which is dumping at prices comparable with the range of subject countries' imports.
- xi. The import is due to the fact that caustic soda from other countries is more viable. The Indian Caustic Soda comes from the West Coast where the petitioning industry is located, while Alumina industry accounting for more than 20% of the caustic soda consumption in India is located on the East Coast.
- xii. The transportation from West Coast to East Coast causes hardships and increase in the cost of raw materials to Alumina manufacturers. The Domestic producers are unable to supply in the lot sizes required by the Alumina users.

Examination by the Authority

56. The Authority has taken note of various submissions of the interested parties on consequent injury to the domestic industry and has analyzed the same considering the facts available on record and applicable as per law. While issues concerning the facts and figures are addressed

ipso facto in the injury analysis, the specific submissions are examined and addressed below.

57. As regards the submission that the initiation is erroneous as names of only two companies have been provided, the Authority notes that the initiation is based on the petition which clearly provides the names of four companies.
58. As regards the contention that AMAI has only put forward those producers whose figures best establish injury and maximize duty in this behalf, the Authority notes no such discrepancy. Production of the petitioning companies constitutes a major proportion in Indian production and therefore the Authority is required to carry out injury analysis on the basis of defined domestic industry. There is no information on record to show that performance of other domestic producers not forming part of the domestic industry is significantly better as compared to the performance of the domestic industry considered by the Authority.
59. As regards the contention that location of petitioning industry on West Coast and Alumina Industry on the East Coast is causing escalating problems, prompting the imports from subject countries, the Authority notes that there has been no structural change either in the producing industry or in the consuming industry. Domestic Industry is required to be considered as it exists and not in ideal conditions.
60. In consideration of the various submissions made by the domestic industry in this regard, the Authority proceeds to examine the current injury, if any, to the domestic industry before proceeding to examine the likelihood aspects of dumping and injury on account of imports from the subject countries.
61. Rule 11 of Antidumping Rules read with Annexure-II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, “.... *taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles....*”. In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.
62. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, stock, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the rules supra.
63. The present investigation is a sunset review of anti-dumping duties in force. Rule 23 provides that provisions of Rule 11 shall apply, mutatis mutandis in case of a review as well. The Authority has, therefore, determined injury to the domestic industry considering, mutatis mutandis, the provisions of Rule 11 read with Annexure II. Since the anti- dumping duties are in force on imports of the product under consideration, the Authority considers whether the existing anti-dumping duties on the imports of subject goods from subject countries are required to be considered while examining injury to the domestic industry. The Authority has examined whether the existing antidumping measure is sufficient or not to counteract the dumping which is causing injury.

64. According to Section 9(A)(5) of the Customs Tariff Act, anti-dumping duty imposed shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition, provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury, it may, from time to time, extend the period of such imposition for a further period of five years and such further period shall commence from the date of order of such extension.

65. For the purpose of current injury analysis, the Authority has examined the volume and price effects of dumped imports of the subject goods on the domestic industry and its effect on the prices and profitability to examine the existence of injury and causal links between the dumping and injury, if any. The Authority has examined injury to the domestic industry by considering information relating to DCM Shriram Consolidated Limited, Gujarat Alkalies & Chemicals Ltd, DCW Limited and SIEL Chemical Complex, constituting domestic industry under the Rules. Accordingly, the volume and price effect of dumped imports have been examined as follows.

VOLUME EFFECT:

Volume effect of dumped imports and impact on domestic industry

Demand and Market Share

66. The Authority has determined demand or apparent consumption of the product in the Country as the sum of domestic sales of the Indian producers and imports from all sources. The demand so assessed can be seen in the table given below. The Authority notes that demand for the product in the country increased over the injury period.

Demand

Particulars	Unit	2010-11	2011-12	2012-13	POI
Demand in India					
Sales of Domestic Industry (including captive consumption)	MT	6,90,107	7,05,003	6,87,327	7,01,086
<i>Trend</i>	<i>Indexed</i>	100	102	100	102
Sales of other Indian producers	MT	15,22,461	15,82,304	16,01,148	16,24,070
<i>Trend</i>	<i>Indexed</i>	100	104	105	107
Imports from Subject Countries	MT	63,105	92,384	88,886	88,154
<i>Trend</i>	<i>Indexed</i>	100	146	141	140
Imports from Other Countries attracting ADD	MT	1,16,588	95,627	2,39,151	1,71,922
Imports from Other Countries	MT	7,742	31,376	38,656	44,220
Total Demand	MT	24,00,003	25,06,694	26,55,168	26,29,453
<i>Trend</i>	<i>Indexed</i>	100	104	111	110

Market Share in Demand

67. Considering imports from various sources and sales of the Indian Producers, market share of

subject imports in demand in India was examined. Factual position is as follows:

Particulars	Unit	2010-11	2011-12	2012-13	POI
Domestic Industry	%	29	28	26	27
Other Indian Producers	%	63	63	60	62
Subject Countries	%	3	4	3	3
Imports from countries attracting ADD	%	5	4	9	7
Imports from Other countries	%	0	1	1	2
Total Share of Demand	%	100	100	100	100

68. It is seen from the above that the demand for the product increased by 10% during POI as compared to the base year but marginally declined during the POI. While the share of imports from subject countries were almost stagnant during the injury period and the POI, the share of domestic industry has declined marginally from 29% in the base year to 27% in the POI. The imports from other countries have increased by 2% during the POI as compared to the base year, similarly imports from countries attracting ADD also increased by 2% during POI as compared to the base year.

Import Volume & market share

69. The Authority has examined the volume of imports of the subject goods as provided by the petitioner (which is based on secondary source import data i.e IBIS). Transaction wise imports data was procured from the Directorate General of Commercial Intelligence and Statistics (DGCI&S). It is however found that the volume of imports reported in DGCI&S is lower than the volume of imports reported in IBIS. The per/unit value in both the sources is almost same. Therefore the volume and value of imports reported in IBIS has therefore been adopted. The import volumes from subject countries are found to be above the de-minimis levels as can be seen from the table below.

70. Imports volume from subject country and other countries has been as under:-

Particulars	Unit	2010-11	2011-12	2012-13	POI
Imports Volume					
Imports from Subject Countries	MT	63,105	92,384	88,886	88,154
<i>Trend</i>	<i>Indexed</i>	100	146	141	140
China PR	MT	39,515	60,465	46,727	55,651
<i>Trend</i>	<i>Indexed</i>	100	153	118	141
Korea RP	MT	23,590	31,920	42,160	32,503
<i>Trend</i>	<i>Indexed</i>	100	135	179	138
Other countries attracting ADD	MT	1,16,588	95,627	2,39,151	1,71,922
<i>Trend</i>	<i>Indexed</i>	100	82	205	147
Other Countries	MT	7,742	31,376	38,656	44,220
Total Imports	MT	1,87,435	2,19,387	3,66,693	3,04,296

Particulars	Unit	2010-11	2011-12	2012-13	POI
<i>Trend</i>	<i>Indexed</i>	100	117	196	162
Share in Imports					
Subject Countries	%	34	42	24	29
Other Countries attracting ADD	%	62	44	65	56
Other Countries	%	4	14	11	15

71. It is observed from the above table that imports from subject countries and countries attracting ADD have increased in POI as compared to the base year. Imports from other countries have also increased significantly during POI as compared to the base year.

Share of imports in relation to production

72. Authority notes that the imports from subject countries have remain static in relation to the production of the domestic industry, as is evident from the following table:

Particulars	Unit	2010-11	2011-12	2012-13	POI
Imports from Subject Countries	MT	63,105	92,384	88,886	88,154
Production of domestic industry (excluding Brine consumption)	MT	7,60,850	7,66,012	7,45,730	7,58,967
Dumped Imports in relation to production of domestic industry.	%	8	12	12	12

PRICE EFFECT

Price effect to dumped imports and impact on domestic industry

73. The impact of dumped imports on the prices of the domestic industry has been examined with reference to price undercutting, price underselling, price suppression and price depression. For the purpose of this analysis the cost of production, net sales realization (NSR) and the non-injurious price (NIP) of the domestic industry have been compared with landed value of imports from the subject countries. A comparison for subject goods during the period of investigation was made between the landed value of the dumped imports and the domestic selling price in the domestic market. In determining the net sales realization of the domestic industry, taxes, rebates, discounts and commission incurred by the domestic industry have been adjusted. The price underselling is an important indicator of assessment of injury. Thus, the Authority has worked out the non-injurious price and compared the same with the landed value to arrive at the price underselling. The non-injurious price has been evaluated for the domestic industry in terms of the principles by appropriately considering the cost of production for the product under consideration during the POI. The position is as follows.

Price Undercutting

74. The Authority considered whether there has been significant price undercutting by the imports, when compared with the price of like product 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 details of price undercutting analysis are as follows:

Particulars	Unit	2010-11	2011-12	2012-13	POI
Caustic Soda Lye					
NSR of Domestic industry	Rs/MT	***	***	***	***
China PR		***	***	***	***
Landed Value of imports	Rs/MT	***	***	***	***
Price Undercutting amount	Rs/MT	***	***	***	***
Price Undercutting	%	***	***	***	***
Price Undercutting range	% Range	5-15	Negative	0-10	Negative
Korea RP					
Landed Value of imports	Rs/MT	***	***	***	***
Price Undercutting amount	Rs/MT	***	***	***	***
Price Undercutting	%	***	***	***	***
Price Undercutting range	% Range	Negative	Negative	Negative	Negative
Subject Countries					
Landed Value of imports	Rs/MT	***	***	***	***
Price Undercutting amount	Rs/MT	***	***	***	***
Price Undercutting	%	***	***	***	***
Price Undercutting range	% Range	0-10	Negative	0-10	Negative

Particulars	Unit	2010-11	2011-12	2012-13	POI
Caustic Soda Flakes					
Net Sales Realization of Domestic Industry	Rs/MT	***	***	***	***
China PR		***	***	***	***
Landed Value of imports	Rs/MT	***	***	***	***
Price Undercutting amount	Rs/MT	***	***	***	***

Particulars	Unit	2010-11	2011-12	2012-13	POI
Price Undercutting	%	***	***	***	***
Price Undercutting range	% Range	Negative	Negative	10-20	0-10
Subject Countries					
Landed Value of imports	Rs/MT	***	***	***	***
Price Undercutting amount	Rs/MT	***	***	***	***
Price Undercutting	%	***	***	***	***
Price Undercutting range	% Range	Negative	Negative	10-20	0-10

Particulars	Unit	2010-11	2011-12	2012-13	POI
Caustic Soda (Lye & Flakes)					
Net Sales Realization of Domestic Industry	Rs/MT	13,690	21,929	27,728	25,706
China PR					
Landed Value of imports	Rs/MT	***	***	***	***
Price Undercutting amount	Rs/MT	***	***	***	***
Price Undercutting	%	***	***	***	***
Price Undercutting range	% Range	5-15	Negative	0-10	Negative
Korea RP					
Landed Value of imports	Rs/MT	***	***	***	***
Price Undercutting amount	Rs/MT	***	***	***	***
Price Undercutting	%	***	***	***	***
Price Undercutting range	% Range	Negative	Negative	Negative	Negative
Subject Countries					
Landed Value of imports	Rs/MT	***	***	***	***
Price Undercutting amount	Rs/MT	***	***	***	***
Price Undercutting	%	***	***	***	***
Price Undercutting range	% Range	0-10	Negative	Negative	Negative

75. The Authority notes from the above table that the landed price of imports of Caustic Soda considering both the Grade (Lye & Flake/Solid) were above the net selling price of the domestic industry. The domestic industry contended that the Authority should include freight and commission to determine price undercutting, as the imports are also inclusive of these expenses. However, the Authority has proceeded with its consistent practice and concludes that the landed price of imports from subject countries is above the selling price of the domestic industry.

Price Underselling

76. Authority notes that the price underselling is an important indicator of assessment of injury. Non injurious price has been worked out and compared with the landed value of the subject goods to arrive at the extent of price underselling. The non-injurious price has been determined considering the cost of production of the domestic industry for the product under consideration during the POI, in accordance with Annexure III of the Anti-dumping Rules. The NIP for both countries has been considered on the basis of weighted average of Lay and Flake of respective export quantity. The analysis of data given with Table below shows that the landed value of subject imports was above the non-injurious price, resulting in negative underselling.

Particulars	UOM	China PR	Korea PR
POI			
Non-Injurious Price of Domestic Industry	US\$/MT	***	***
Landed value without ADD	US\$/MT	***	***
Price Underselling without ADD	US\$/MT	***	***
Price Underselling without ADD	%	***	***
Price Underselling without ADD	Range %	Negative	Negative

Price Suppression and Depression

77. The Authority examined whether the effect of the imports was to depress the prices of the like article in India, or prevent price increases which would have otherwise occurred. The detailed analysis can be seen from the table below.

Particulars	Unit	2010-11	2011-12	2012-13	POI
Lye					
Cost of Sales	Rs/MT	***	***	***	***
Trend	Indexed	100	144	168	162
Net Selling Price	Rs/MT	***	***	***	***
Trend	Indexed	100	160	203	188
Landed Value	Rs/MT	***	***	***	***
Trend	Indexed	100	180	206	204
Flakes/Solid					
Cost of Sales	Rs/MT	***	***	***	***

Particulars	Unit	2010-11	2011-12	2012-13	POI
Trend	Indexed	100	142	156	146
Net Selling Price	Rs/MT	***	***	***	***
Trend	Indexed	100	153	190	176
Landed Value	Rs/MT	***	***	***	***
Trend	Indexed	100	132	125	137

78. The Authority notes from the above table that in the case of Lye the cost of sales has increased from 100 to 162, whereas the selling price increased from 100 to 188 and landed price increased from 100 to 204, which indicates that there is no price suppression. In the case of Flake/Solid the cost of sales has increased from 100 to 146, whereas the selling price increased from 100 to 176 and landed price increased from 100 to 137, which indicates that there is price suppression.

Examination of other economic parameters of the domestic industry

79. Annexure II to the Anti- dumping Rules requires that a determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of like product. The 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. An examination of performance of the domestic industry reveals that the domestic industry has suffered material injury. The various injury parameters relating to the domestic industry are discussed below.

Production, capacity and capacity utilization

80. The capacity, production, capacity utilization and sales volumes of the domestic industry has been as under:

Particulars	Unit	2010-11	2011-12	2012-13	POI
Installed Capacity	MT	8,82,820	8,82,820	8,82,820	8,82,820
Production (including Brine)	MT	7,67,406	7,72,521	7,51,212	7,64,581
Capacity utilization	%	86.93	87.51	85.09	86.61
Total sales	MT	6,74,436	6,83,393	6,67,864	6,87,659
Lye sales	MT	4,87,315	5,16,706	5,00,033	5,18,213
Flakes/Solid sales	MT	1,87,121	1,66,687	1,67,831	1,69,446

81. The Authority notes from the above table that the capacity for the product under consideration has remained at the same level. Production, capacity utilisation and sales of the domestic industry have remained more or less at the same level over the injury period.

Profit/loss, return on investment and cash flow

82. The return on investment, profit/loss before and after interest and cash profit are as shown in the table below:

Particulars	Unit	2010-11	2011-12	2012-13	POI
Profit before tax	Rs./MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	486	981	785
Cash Profit	Rs.Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	216	358	308
PBIT	Rs.Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	357	651	533
Return on capital employed	%	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	339	631	539

83. The Authority notes that profits of the domestic industry improved significantly till 2012-13 and then strongly declined in the POI. Cash profits and return on capital employed followed the same trend as that of profits. The domestic industry has contended that the return on capital employed in the POI was below reasonable levels. However, the Authority notes that the profit in absolute term is significant during POI as compared to the base year.

Inventories

84. The inventories with the domestic industry moved as shown in the table below. It is seen that the inventory levels with the domestic industry increased over the injury period, even though there was a decline in the POI.

Particulars	Unit	2010-11	2011-12	2012-13	POI
Average Stock	MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	106	201	165

Employment and wages

85. The employment and wages with the domestic industry as shown in the table below. It is seen that wages have shown normal wage growth and the employment has declined slightly.

Particulars	Unit	2010-11	2011-12	2012-13	POI
Employment	No.	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	98	98	99
Wages	Rs. Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	104	104	123

Productivity

86. The productivity of the domestic industry as shown in the table below. The Authority notes that productivity of the domestic industry during POI has moved in tandem with the production over the injury period and has remained at similar levels over the injury period.

Particulars	Unit	2010-11	2011-12	2012-13	POI
Productivity per day	MT/Nos	***	***	***	***
Trend	Indexed	100	104	101	103
Productivity per employee	MT/Day	***	***	***	***
Trend	Indexed	100	101	98	100

Magnitude of Dumping Margin

87. The Authority notes that the dumping margin of the imports of the subject goods from the subject countries is negative.

Growth

88. The growth of the domestic industry has shown positive on price parameters up to 2012-13 and declined in POI, whereas the volume parameters have remained more or less at similar levels during the injury investigation period.

Particular	Unit	2010-11	2011-12	2012-13	POI
Growth Compared to Previous Year					
Production	%	-	0.67	(2.76)	1.78
Domestic Sales Volume Lye	%	-	5.42	(3.07)	3.69
Average Stock Lye	%	-	(11.33)	153.81	(20.89)
Cost of sales domestic Lye	%	-	44.03	16.60	(3.55)
Selling price domestic Lye	%	-	60.02	26.59	(7.39)
Domestic Sales Volume Flakes	%	-	(10.18)	(4.67)	0.14
Average Stock Flakes	%	-	5.42	22.91	(11.19)
Cost of sales domestic Flakes	%	-	42.26	9.51	(6.13)
Selling price domestic Flakes	%	-	53.27	23.69	(7.23)
Return on capital employed (NFA basis)	%	-	7.30	9.01	(2.96)

Ability to raise Capital Investment

89. The ability to raise capital investment by the domestic industry in the event of dumping has been considered irrelevant since the domestic industry constituents are multi-product companies.

Overall assessment of Injury

90. The Authority notes that the volume of imports has declined in the injury period both in absolute terms and in relation to production and consumption in India. With regard to the effect of the imports on prices, the landed price of imports of the responding exporters and

non cooperative exporters were above the selling price of domestic industry and Non-injurious price, showing negative price undercutting and price under selling.

Magnitude of Injury and Injury Margin

91. The Authority has demined the non-injurious price of the subject goods produced by the domestic industry in terms of Annexure III to the AD Rules. The Non-injurious price so determined has been compared with the landed value of the exports from the subject countries for determination of injury margin during the POI which is as follows:

Injury Margin Table

Country	Producers/ Exporters	Non- Injurious Price USD/DMT	Landed Price USD/DMT	Injury Margin USD/D MT	Injury Margin (%)	Injury Margin Range (%)
Korea RP	Hanwha Chemical Corporation (Producer) - Hanwha Corporation & Tricon Energy Ltd. (Exporter)	***	***	***	***	(5-15)
	Any other combination	***	***	***	***	
China PR	Shanghai Chlor Alkali (Producer) & Tricon Overseas (Exporter)	***	***	***	***	(0-10)
	Tianjin Dagu (Producer) & Tricon Energy Ltd. Or Tricon Overseas (Exporter)	***	***	***	***	
	Any other combination	***	***	***	***	10-20

Causal Link

92. The Rules mandates the Authority to examine the causal links between the dumped imports and the injury caused to the domestic industry on account of the dumped imports. The Authority has examined whether the following known factors could have caused injury to the domestic industry as follows:

i. Volume and Value of Imports not sold at dumped prices: The Authority notes that imports from a number of other major sources are attracting anti dumping duties. Imports from Iran were earlier attracting anti dumping duty. The Authority, however, did not conduct sunset review investigations presuming that the volume of imports from Iran was low and was unlikely to increase significantly. It is however seen that the volume of imports from Iran are now quite significant. The domestic industry contended that imports from Iran are also at dumped prices and anti dumping duty should be clamped again on imports from Iran. The Authority notes that the present investigation is a sunset review and the Authority is required to focus on likelihood of dumping & injury. Dumping from other sources cannot be addressed in the present petition.

ii. Contraction in Demand:- The Authority notes that there is no contraction in demand

as the demand of the subject goods in the country has consistently grown throughout the injury period.

iii. Pattern of consumption: - It is noted that there is no change in the pattern consumption of the subject goods causing injury to the domestic industry.

iv. Conditions of competition: - The Authority notes that the investigation has not shown that conditions of competition or trade restrictive practices are responsible for the claimed injury to the domestic industry.

v. Developments in technology: - The Authority notes that the investigation has not shown that there was any significant change in technology which could have caused injury to the domestic industry.

vi. Export performance of the domestic industry: - The Authority notes that the petitioner companies are exporting some volumes. However, the injury information provided is for domestic operations only.

vii. Performance of other products of domestic industry: The Authority noted separate records are maintained by Domestic Industry for product under consideration. The performance of other products did not cause any impact over injury to the domestic industry.

Conclusion on material injury and causal link

93. The Authority concludes that the dumped imports of the subject goods from the subject countries are not undercutting the prices of domestic industry.

I. Likelihood of continuation/recurrence of dumping and injury

Submissions by the domestic industry

94. Following are the submissions made by the domestic industry:

- i. The product has a very long history of continued and renewed dumping in the country for more than a decade. The price of the product is determined by the supplier with imports being on spot basis. In the face of significant global surpluses there is increased dumping in the market. Under the circumstances the product is being sourced from countries not attracting anti dumping duties.
- ii. The domestic industry has faced continued dumping whenever the international markets have faced trouble for some reasons. There has been significant surge in imports even after imposition of duties.
- iii. The previous investigations established significant dumping margins. The dumping margin for the current investigation is also substantially high.
- iv. After the initial drop in 2002 the volume of imports increased to such a significant degree that the Safeguard duties had to be applied in the year 2009-10. Subsequent to stabilization thereafter there is a significant increase now which is likely to continue in

the event of cessation given the huge surplus capacities available with the subject countries.

- v. China and Korea as per data procured from Harriman Chemsult have surplus capacities.
- vi. The excess capacities in relation to demand in the subject countries built by the producers are indicative of their export orientation. This may lead to intensified exports into India in the event of cessation of duty.
- vii. In case of both China and Korea dumping margin and injury margin determined in respect of exports of product under consideration from subject countries to third countries have been found to be very significant. The share of dumped imports is also significant.
- viii. The injury suffered by domestic industry from dumped imports since a long time clearly establishes that the domestic industry is vulnerable to injury from dumped imports.
- ix. As regards the contention that increase in imports has no correlation to dumping or injury it is submitted that the claim of petitioners with regard to capacities in the exporting country is based on Harriman Chemsult data. The claims of imports and exports from the exporting countries are based on customs data of the exporting countries. Thus, the petitioner has duly substantiated its claims. Moreover, it is not the argument of the exporter that any of the data provided by the petitioner is not factually correct.
- x. As regards the contention that there is no evidence with regard to channelization of exports to India upon removal of duties, the petitioner submits that the claim of the petitioner is based on simple business proposition that the producers want to optimize their production and are always looking for market opportunities. Should the domestic industry not offer prices matching the import prices, there would be flood of imports in the Indian market. This is clearly established by the trend of imports in the most recent period.
- xi. The petitioners agrees with the argument that it makes no commercial sense to increase sales to a market of a lower realization when there are global demands with higher realization available to Chinese and Korean producers. However, the facts are very different from the argument. Whether the subject exporters are getting better price in third countries can be verified from transaction wise details of exports from China and Korea to third countries. The Designated Authority has prescribed these requirements in the questionnaire meant for sunset review. None of the exporters have provided this information to the Designated Authority as they are afraid that this information would show that their exports to a number of third countries were at a price lower than export price to India.
- xii. With regard to the contention that domestic industry has had bullish performance which is far from vulnerable, it is submitted that reduction in import price in present POI, price undercutting, decline in profits & return on investment in the present POI, surplus capacities in the exporting countries, current pattern of exports from subject countries to other countries collectively show that the domestic industry is vulnerable to significant injury. This is further established by the post period of investigation which clearly shows significant increase in imports from subject countries and other countries.
- xiii. With regard to the contention that the prices of imports from subject countries are at same level as that from other countries, it is submitted that this contention only further

establishes that the exporters do not have a choice but to follow prices from other countries. Under such competitive market conditions, whosoever gives lower price, gets the order.

Submissions by producers/exporters/importers/other interested parties

95. The following are the submissions made by the producers/exporters/importers/other interested parties with regard to likelihood of dumping and injury:

- a. The claim of applicants is that there is a long history of dumping in the product and if duties are removed, this dumping and injury will continue. Likelihood examination cannot be based on such conjecture and speculation.
- b. The cooperating exporters in the present investigation have consistently had a history of “no dumping” whereby this parameter ought to be rejected.
- c. The claim of applicants that there has been an increase in the volumes of imports since the original levy whereby there is likelihood and injury is without any actual correlation to dumping or injury.
- d. The overall imports depiction by the applicants is an attempt to mislead the authority. There is a clear reduction in volumes from 2006-07 and even the recent increase is commensurate to the increase in demand.
- e. The applicants have no evidence or actual source to substantiate their claim of freely disposable present and potential capacities with the producers/exporters in the subject countries. Even if there are surplus capacities there is no evidence to indicate that a removal of duties will imply channelization of surplus capacities towards exports to India.
- f. Exporters’ sales to India have remained at a non-dumped fair price throughout the history of present investigation even though exporters enjoyed nil-duty margins.
- g. The claim of applicants about significant exports from subject countries and their dumping in third countries is without any source or evidence and therefore speculative and worthy of outright rejection.
- h. As regards vulnerability of domestic industry, there appears to be no volume injury being suffered by the domestic industry. Profitability is high, prices are moving at a better rate than costs and the subject imports have had no impact on the performance of the domestic industry as per the analysis presented above. It is wrongful to claim that the domestic industry is vulnerable when it has in fact had a bullish performance in the last few years.

Examination by the Authority

96. The present investigation is a sunset review of anti-dumping duties imposed on the imports of subject goods from China PR and Korea RP. Under the Rules, the Authority is required to determine whether continued imposition of anti-dumping duty is warranted. This also requires examination of whether the duty imposed is serving the intended purpose of

eliminating injurious dumping. As far as likelihood analysis is concerned, the domestic industry has based its argument of likelihood of dumping and consequent injury on the ground of surplus capacities in relation to demand in the subject countries indicating their export orientation and price attractiveness of the Indian market.

Surplus capacity in China PR and Korea RP

97. It is seen from the data/evidence procured by the domestic industry from an independent source Harriman Chemsult Ltd., 2010 that there are huge surplus capacity of Caustic Soda in China PR and Korea RP in comparison to the demand in India.

Price attractiveness of Indian market

98. The Authority notes that in respect of the responding producers/exporters from Korea RP and China PR, the dumping and injury margin in the POI is negative. The Authority has noted that in respect of the responding producers/exporters from Korea RP, the duty in the previous investigation was nil. Therefore, the question of determining the likelihood to continue the old duty does not arise. However, there are continued dumped imports from sources other than responding producers/exporters from Korea RP in the POI and the dumping margin is substantial in respect of other sources. The Authority has carried out the likelihood analysis in respect of Korea RP to see whether revocation of duty is likely to lead to continued dumping of the product. However, it is also seen that as per the World Trade Atlas data the average export price from Korea RP to economies similar to India like Thailand, Singapore, Indonesia, Saudi Arabia, South Africa, etc. is far below the average export price to India. Therefore, there is likelihood that exports from sources other than responding producers/exporters from Korea RP will be diverted to India at dumped prices. As far as China is concerned, the Authority notes that with respect to the responding producers/exporters, the dumping and injury margin in the POI is negative and these producers/exporters had not responded in the previous investigation. However, there are continued dumped imports from sources other than the responding producers/exporters from China in the POI and the dumping margin as well as the injury margin is substantial in respect of other sources. The World Trade Atlas data shows that exports from China to various countries globally during the period of investigation was at an average price of US\$ *** per kg, which was below the average export price from China to India (US\$ ***). The data also shows that the exports from China to most of the countries which have economies similar to India like Philippines, Singapore, Indonesia, Thailand, etc. was at even further lower price in comparison to the average export price to India. Therefore, there is likelihood that exports from sources other than responding producers/exporters from China PR will be diverted to India at dumped prices.

J. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES

99. The Authority notes that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping measures would not restrict

imports from the subject country/territory in any way, and, therefore, would not affect the availability of the product to the consumers.

100. It is recognized that the imposition of anti-dumping duties might affect the price levels of the product manufactured using the subject goods and consequently might have some influence on relative competitiveness of this product. However, fair competition in the Indian market will not be reduced by the anti-dumping measures, particularly if the levy of the anti-dumping duty is restricted to an amount necessary to redress the injury to the domestic industry. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by dumping practices, would prevent the decline in the performance of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.

K. POST DISCLOSURE STATEMENT COMMENTS

(A) Post Disclosure comments of the opposing interested parties

101. The Authority notes that post Disclosure Statement submissions made by the opposing interested parties are repetitive in nature and have already been dealt with in the Final Findings. The opposite interested parties have, in brief, filed the following post Disclosure Statement submissions:

- i. The non-confidential petition made available in the present investigation had not disclosed any cost related information in summarized form. No indexed or ranged figures had been provided as part of the costing section of the Petition.
- ii. Since NALCO is a government company, the selection of tenders is based on rules and norms of international competitive bidding, whereby the pertinent commercial and technical parameters shall be relevant in NALCO's final decision. Thus any conclusion on this issue without having detailed facts on the injury to the Domestic Industry specifically from Cooperating Exporters is premature.
- iii. The Authority has held that the treatment of chlorine as a joint or by-product is not based on demand but on the relative value of the two products. Accordingly, the price offered by the producers on sales of chlorine is relatively lower. If there was a high demand for chlorine in India, it would command a higher price whereby its 'relative value' would also be higher. In fact, the relative value of chlorine is generally higher worldwide due to higher demand whereby it is considered a co-product in most companies globally. Nevertheless Annexure III of the Anti-dumping Rules should be followed to adjust the prices of chlorine for caustic soda.
- iv. The cooperating exporters have remained cooperative and have not dumped the subject goods in India. Accordingly, the Cooperating Exporters request the Authority to maintain their nil margin of duty in the present sunset review.
- v. The cooperating exporters submit that the Domestic Industry has not suffered any injury on price or volume parameters in the period of investigation and the injury period, particularly from exports made by the cooperating exporters.

- vi. As regards causal link is concerned, since the cooperating exporters are neither dumping nor causing injury to the Domestic Industry either in the POI or post POI, there is clearly a break in the causal link. As regards the causal link analysis is concerned, the Hon'ble Designated Authority should follow the practice in analyzing the applicable factors or parameters within the facts of this case and accordingly conclude whether the causal link effect has been rightly dealt with.
- vii. As regards the cooperating exporters are concerned, it has already been submitted that they have not been dumping or injuring the Domestic Industry not only in this investigation but also in the previously concluded investigations concerning the subject goods. Therefore, the Authority has rightly come to the conclusion as regards the assessment for likelihood analysis.

(B) Post Disclosure Comments of the Domestic Industry

102. The Authority notes that most of the post Disclosure Statement submissions made by the domestic industry are repetitive in nature and have already been dealt with elsewhere in the Final Findings. Following are, in brief, the post Disclosure Statement submissions made by the domestic industry:

- i. Product under consideration continues to be exported to India below its normal value resulting in dumping from the subject country.
- ii. Both dumping margin and injury margin are significant and positive, implying likelihood of intensified dumping and consequent injury to the domestic industry.
- iii. The anti dumping duty on Caustic Soda is required to be extended further for a period of five years.
- iv. The Authority has found that the dumping margin and injury margin in respect of exports made by the participating exporters are negative. Petitioners strongly dispute the conclusion drawn in the disclosure statement and request the Authority to examine the issue again. It is evident that cumulative exports made by Tricon during this period is far higher than the cumulating exports of the goods produced by the participating producers. Possibly, Tricon has supplied caustic soda in India which was produced in non subject countries. Very likely, Tricon has bought material from the cooperating producers and sold the same to third countries. It is, thus, very much feasible for Tricon to claim any price based on several purchases made by Tricon. Under these circumstances, selling price of Tricon becomes entirely immaterial in deciding dumping margin. It is the selling price of the participating producers which alone should have formed the basis for determination of dumping margin and injury margin.
- v. The petitioners request the Authority to consider highest cost of production in India for determining normal value, considering non cooperation from the foreign producers. If lowest import price reported in India can be adopted for determining export price, highest cost of production in India should be adopted for determining normal value.
- vi. The Authority has not adopted lowest import price reported in India for the purpose of determining export price for non cooperating exporters. The export price of non cooperating exporters is not reflected in the export price of participating/cooperative exporters. The export price of non cooperating exporters is reflected in the Indian import data. Therefore, lowest import price reported in the Indian import data should be adopted

for the purpose of determining export price and dumping margin for non cooperating exporters. This was the methodology adopted by the Authority in the past in a number of cases, including Nylon Tyre Cord Fabric from China.

- vii. Wrong determination of Non-injurious Price: It would be inappropriate to ignore actual production and adopt any other production basis for determination of non injurious price. The Authority has wrongly considered power at cost of production.
- viii. Determination of injury margin - Fair comparison principles not followed- need for inclusion of taxes and duties for injury margin.
- ix. The anti dumping duty is required to be continued in fixed form and the duty expressed in US\$ terms.

(C) Examination by the Authority

103. The Authority notes that most of the post disclosure statement submissions made by the domestic industry and the opposing interested parties are repetitive in nature and have already been dealt with in the Disclosure Statement and again have been addressed in this Final Findings Notification under the appropriate headings. Nonetheless, the Authority has addressed these issues to the extent considered relevant as under:

- a. Complete information for the value chain has been provided by the responding exporters-producers. Further, since Tricon is only a trader, the normal value is required to be determined by considering the country of origin. Country of export cannot be considered for determination of normal value. If Tricon has exported goods produced by several producers in subject and non subject countries, the exporter is entitled to separate dumping margin for each chain, so long as the producers are unrelated. The Authority has determined weighted average dumping margin for an exporter for the goods produced by different producers only when such producers are related. However, if the producers are not related, the Authority has been determining separate dumping margin for each cooperating producer, even if the exporter is common for them. Moreover, the Authority has determined individual dumping margin, injury margin and anti dumping duty only for the value chain for which response has been filed. The anti dumping duty so determined has also been recommended only for that particular value chain.
- b. Further, with regard to the submission of the domestic Industry that Tricon had claimed any price based on several purchases made by them, the Authority notes that the subject goods purchased by Tricon from Hanwha have indeed have been exported to India. Therefore, the export price claimed by Tricon is based on actual data. Therefore, the apprehension of the domestic industry in this regard is misplaced. The Authority further notes that the dumping margin and the injury margin for Hanwha –Tricon combination have been determined correctly by taking into account only those subject goods purchased from Hanwha and exported to India by Tricon. The Authority further notes that for the purpose of calculating the net export price and dumping margin, the price at which the subject goods have been actually sold by Hanwha to Tricon for export to India have been considered. However, for the purpose of calculating landed value and injury margin, the Authority has considered the price at which the subject goods of Tricon purchased from Hanwha landed in India as per the consistent practice followed by the Authority. Therefore, this submission of the domestic industry does not have merit.
- c. As regards determination of normal value for the cooperative and non-cooperative producers, the Authority notes that it has been its consistent practice to determine normal value either on the basis of records maintained by the producers-exporters or on the basis

of constructed cost of production, by considering lowest cost of production in India. The Authority has followed its consistent practice in the present case as well. As far as the argument that the lowest import price reported in the Indian import data should be adopted for the purpose of determining export price and dumping margin for non-cooperating exporters as was done in NTCF, in this context, the Authority notes that in that case, it had followed that principle as the data of the cooperative exporters were admitted on the basis of table study instead of verification at their premises. Since, in the present case also, the Authority has admitted the data of the co-operative exporters based on table study, the Authority has accepted the submission of the domestic industry in this regard and accordingly determined the dumping margin and injury margin of the lowest import price reported in IBSI data. This is based on the logic that the similarity of the two situations is based on table study. If, however, actual site verification is done in a case and table study in another, the verified site data will prevail.

- d. As regards contentions of the domestic industry for inappropriate determination of non-injurious price, the Authority held that NIP has been correctly determined in terms of Annexure-III of the AD Rules.
- e. The Authority notes that the duties are in force on imports of Caustic Soda originating in, or exported from Saudi Arabia, USA and Iran vide Notification No. 49/2012-Customs dated 26th November, 2012. Further, duties are also in force on imports of Caustic Soda originating in, or exported from Thailand, Chinese Taipei and Norway vide Notification No. 79/2011-Customs dated 23rd August, 2011.

L. CONCLUSION

104. Having regard to the contentions raised, information provided and submissions made by the opposing interested parties and the domestic industry and facts available before the Authority as recorded in this final finding and on the basis of the above analysis of the state of continuation of dumping and consequent injury and likelihood of continuation/recurrence of dumping and injury, the Authority concludes that:

- (i) Product under consideration continues to be exported by non-cooperative producers and exporters from the subject countries to India below its normal value resulting in dumping and injury.
- (ii) Both dumping margin and injury margin are significant and positive, in respect of non-cooperative producers and exporters from the subject countries, implying likelihood of intensified dumping and consequent injury to the domestic industry.
- (iii) The anti-dumping duty on the subject goods originating in or exported from the non-cooperative producers and exporters from the subject countries to India is required to be extended/modified further for a period of five years after analysis of the latest data.

M. RECOMMENDATIONS

105. Having concluded as above, the Authority is of the view that the antidumping measure is required to be recommended to offset dumping of the subject goods originating in or exported from the subject countries and its consequential injury to the domestic industry.

106. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of 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, anti dumping duty equal to the amount indicated in the table below is recommended to be imposed concerning all imports of the subject goods, originating in or exported from the subject countries, by the Central Government.

DUTY TABLE

Sl. No	Sub-headin g	Description of goods	Specif icatio n	Country of Origin*	Country of Export	Producer	Exporter	Amo unt	Unit of Measu rement	Cur ren cy
1	281511 and 281512	Caustic Soda	Any grade	Korea RP	Korea RP	M/s Hanwha Chemical Corporation	Tricon Energy Limited, USA	Nil	Dry Metric Tonne	US \$
2	281511 and 281512	Caustic Soda	Any grade	Korea RP	Korea RP	Any combination other than Sl. No. 1		21.90	Dry Metric Tonne	US \$
3	281511 and 281512	Caustic Soda	Any grade	Korea RP	Any country other than Korea RP	Any Producer	Any Exporter	21.90	Dry Metric Tonne	US \$
4	281511 and 281512	Caustic Soda	Any grade	Any country other than subject countries and countries attracting anti dumping duty.	Korea RP	Any Producer	Any Exporter	21.90	Dry Metric Tonne	US Dollar
5	281511 and 281512	Caustic Soda	Any grade	China PR	China PR	M/s Shanghai Chlor-Alkali Chemical Co. Ltd	Tricon Overseas Inc., USA	Nil	Dry Metric Tonne	US \$
6	281511 and 281512	Caustic Soda	Any grade	China PR	China PR	M/s Tianjin Dagu Chemical Company Limited	Tricon Energy Ltd, USA	Nil	Dry Metric Tonne	US \$
7	281511 and 281512	Caustic Soda	Any grade	China PR	China PR	M/s Tianjin Dagu Chemical Company Limited	Tricon Overseas Inc., USA	Nil	Dry Metric Tonne	US \$
8	281511 and 281512	Caustic Soda	Any grade	China PR	China PR	Any combination other than Sl. No. 5, 6 and 7		48.39	Dry Metric Tonne	US \$
9	281511 and 281512	Caustic Soda	Any grade	China PR	Any country other than China PR	Any Producer	Any Exporter	48.39	Dry Metric Tonne	US \$

Sl. No	Sub-headin g	Description of goods	Specifi catio n	Country of Origin*	Country of Export	Producer	Exporter	Amo unt	Unit of Measu rement	Cur ren cy
10	281511 and 281512	Caustic Soda	Any grade	Any country other than subject countries and countries attracting anti dumping duty	China PR	Any Producer	Any Exporter	48.39	Dry Metric Tonne	US \$

**Note: Where there is overlapping of antidumping duty on the subject goods with respect to a subject country in different customs notifications, the duty applicable to that subject country shall be the one imposed under the customs notification in which the said country has been specifically mentioned under the Column “Country of Origin”*

N. FURTHER PROCEDURE

107. 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.

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

J. K. Dadoo
Designated Authority