



**ANTI-DUMPING INVESTIGATION**

-COPY OF-  
NOTIFICATION  
Dated 10<sup>th</sup> January, 2018

Ministry of Commerce & Industry  
Department of Commerce  
(Directorate General of Anti Dumping & Allied Duties)

**(Final Findings)**

**Subject: Anti-Dumping Investigation concerning imports of Caustic Soda originating in and exported from Japan and Qatar.**

**F. No. 14/31/2015-DGAD:** Whereas Alkali Manufacturers' Association of India (AMAI), on behalf of the domestic producers of caustic soda, along with 4 producers of the subject goods, i.e., M/s DCW Ltd, M/s Gujarat Alkalies & Chemicals Ltd., M/s Grasim Industries Ltd., and SIEL (hereinafter referred to as the "applicant" or "Domestic Industry") has filed an application before the Designated Authority (hereinafter also referred to as the Authority) in accordance with the Customs Tariff Act, 1975 as amended from time to time (hereinafter also referred to as the Act) and Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped articles and for Determination of injury) Rules, 1995 as amended from time to time (hereinafter also referred to as the Rules) for imposition of Anti-dumping duty on imports of "Caustic Soda" originating in or exported from Japan and Qatar (hereinafter also referred to as subject countries).

1. Whereas, the Authority, on the basis of sufficient evidence submitted by the applicant, issued a Notification No. 14/31/2015-DGAD dated 14<sup>th</sup> October, 2016, published in the Gazette of India, initiating the subject investigations in accordance with the Rule 5 of the above Rules to determine existence, degree and effect of the alleged dumping of the subject goods, originating in or exported from Japan and Qatar to recommend the amount of anti-dumping duty, which, if levied, would be adequate to remove the alleged injury to the Domestic Industry.

**A. PROCEDURE**

2. The procedure described herein below has been followed with regard to the subject investigation:
  - i. The Designated Authority, under the above Rules, received a written application from the Applicants on behalf of the domestic industries, alleging dumping of Caustic Soda originating in or exported from Japan and Qatar.

- ii. The Authority notified the Embassy of the subject countries in India about the receipt of the anti-dumping application before proceeding to initiate the investigations in accordance with sub-rule (5) of Rule 5 supra.
- iii. The Authority issued a notification dated 14<sup>th</sup> October, 2016, published in the Gazette of India Extraordinary, initiating anti-dumping investigation concerning imports of the subject goods from subject countries.
- iv. The Embassy of the subject countries in India was informed about the initiation of the investigations in accordance with Rule 6(2) of the Rules with a request to advise the exporters/producers from the subject countries to respond to the questionnaire within prescribed time limit.
- v. The Authority sent exporter's questionnaires to elicit relevant information to the following known producers/exporters in the subject countries in accordance with Rule 6(4) of the Rules:
  - i. Asahi Kasei Chemicals Corp.
  - ii. PECCO Ltd
  - iii. Asahi Glass Company Seimi Chemical Co. Ltd.
  - iv. Tokuyama Corp.
  - v. Qatar Vinyl Company Ltd. QSC
  - vi. Sannou Co. Ltd.
  - vii. TOSOH Organic Chemical Co. Ltd.
  - viii. Kaneka Corp.
- vi. In response to the above notification, following exporters/ producers have submitted exporter questionnaire responses.
  - i. M/S. Asahi Glass Co., Ltd, Japan
  - ii. M/s Hiranyavarnaam Chemicals & Alkalis Pte Ltd, Singapore
  - iii. M/s Mitsui & Co., Ltd., Japan
  - iv. M/s Tosoh Corporation, Japan
  - v. M/s Shin-Etsu Chemical Co., Ltd., Japan
  - vi. M/s Qatar Vinyl Company (Qvc)
  - vii. M/s Qatar Chemical And Petrochemical Marketing And Distribution Company (Muntajat)Q.J.S.C.
  - viii. M/s Tricon Overseas Inc., Panama
- vii. The Authority sent Importer's Questionnaires to the following known importers/ users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rules:
  - i. Abhay Chemicals Ltd.
  - ii. Arvind Mills Ltd.
  - iii. Central Pulp Mills Ltd.
  - iv. Godrej Sopas Ltd.
  - v. Gujrat State Fertilizer & Chemicals Ltd.
  - vi. Indian Oil Corp Ltd.
  - vii. Link Pharma Ltd.

- viii. Narmada Chemature Petrochemicals Ltd.
- ix. Pab Chemicals (p) Ltd.
- x. Rubamin Ltd.
- xi. Torrent Gujrat Biotech Ltd.
- xii. Birla Cellulose Ltd.
- xiii. Deepak Nitrite Ltd.
- xiv. Gujrat Narmada Fertilizer & chemicals Ltd.
- xv. Indian Farmer Fertilizer Corp. Ltd.
- xvi. Jaysynth Dyechem Ltd.
- xvii. Meghmani Organics Ltd.
- xviii. Nirma Ltd.
- xix. Rama News Prints & Papers Ltd.
- xx. Sabero Organics Ltd.
- xxi. Trranspek Silox Industries Ltd.
- xxii. National Aluminium Company Ltd.
- xxiii. Hitsu Industries Ltd.
- xxiv. Adani Wilmar Ltd.
- xxv. Shri Ramchandra Straw Products Ltd.
- xxvi. Daurate Organics Ltd
- xxvii. Harish Kr. & Company
- xxviii. Hindustan Lever Ltd.
- xxix. Cyanides & Chemicals Company
- xxx. Adani Exporters Ltd.
- xxxi. Libra Foams
- xxxii. Bilag Industries Pvt Ltd.
- xxxiii. CJ Shah & Co.
- xxxiv. Hindustan Link & Resins Ltd.
- xxxv. Alkalies Manufacturers Association of India

viii. The following importers/users have submitted importers questionnaire responses:

- i. Nalco
  - ii. Vedanta Ltd.
- ix. 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 Rule 6 (7).
  - x. Further information was sought from the applicant and other interested parties to the extent deemed necessary. Verification of the data provided by the Domestic Industry was conducted to the extent considered necessary for the purpose of the investigation.
  - xi. Optimum cost of production and cost to make & sell the subject goods in India based on the information furnished by the Domestic Industry on the basis of Generally Accepted Accounting Principles (GAAP) was worked out so as to ascertain if antidumping duty lower than the dumping margin would be sufficient to remove injury to Domestic Industry. The NIP has been determined by the Authority in terms of the principles laid down under Annexure III to the Antidumping Rules.

- xii. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claims. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered 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 and the same were kept in the public file maintained by the Authority as per the Rules.
- xiii. The Authority held an oral hearing on 22<sup>nd</sup> August, 2017 to provide an opportunity to the interested parties to present relevant information orally in accordance with Rule 6 (6), which was attended by the representatives of Domestic Industry and the opposing interested parties. The representatives of Domestic Industry and the interested parties who presented their views orally at the time of oral hearing were advised to file written submissions of the views expressed orally.
- xiv. The last date for issue of Final finding was 13<sup>th</sup> October, 2017, however the same was extended for three months by Central Government in terms of Rule 17(1)(a) upto 13<sup>th</sup> January, 2018.
- xv. Due to change of the Designated Authority and in line with the judgment of the Hon'ble Supreme Court in the ATMA case, another oral hearing was conducted by the new Designated Authority on 30<sup>th</sup> October, 2017. The parties, who presented their views in the 2<sup>nd</sup> oral hearing, were requested to file written submissions of the views expressed orally, followed by rejoinder submissions.
- xvi. Verification of the information provided by the petitioner companies, to the extent deemed necessary, was carried out by the Authority. Only such verified information with necessary rectification, wherever applicable, has been relied upon for the purpose of present Final Findings.
- xvii. Investigation was carried out for the period starting from 1<sup>st</sup> April 2015 to 31<sup>st</sup> March 2016 (POI). The examination of trends, in the context of injury analysis, covered the period from April 2012-March 2013, April 2013-March 2014, April 2014-March 2015 and the Period of Investigation (POI).
- xviii. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods for the past three years, including the POI. The Authority has relied upon import data procured from DGCI&S in the present investigation.
- xix. The submissions made by the interested parties during the course of the present investigation and considered relevant by the Authority have been addressed in this Final Finding.
- xx. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded the findings on the basis of the facts available.
- xxi. A Disclosure Statement was issued on 26.12.2017 containing essential facts under consideration of the Designated Authority, giving time up to 04.1.2018 to furnish comments, if any, on Disclosure Statement. The Authority has considered post disclosure comments received from interested parties appropriately.

xxii. \*\*\*in this Final Findings represents information furnished by an interested party on confidential basis, and so considered by the Authority under the Rules.

xxiii. The exchange rate adopted for the present investigation is 1 US\$ = Rs. 65.91.

## **B. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE**

### **Views of the Domestic Industry**

3. The views of the Domestic Industry are as follows:

- i. The product under consideration in the present investigation is Sodium Hydroxide (chemical nomenclature NaOH), commonly known as Caustic Soda, in all forms.
- ii. Caustic soda is an inorganic, soapy, strongly alkaline and odorless chemical and finds application in various fields like manufacture of pulp and paper, newsprint, viscose yarn, staple fiber, aluminum, cotton, textiles, toilet and laundry soaps, detergent, dyestuffs, drugs and pharmaceuticals, petroleum refining etc. Caustic soda is produced in two forms, i.e., lye and solids by three technological processes, i.e., mercury cell process, diaphragm process and membrane process. The difference in these processes does not lead to a difference in product in terms of various characteristics. Liquid form can be converted into solid and 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 imports are predominantly in lye form with very small quantity of imports in flake form. However, both the forms are clearly substitutable and like articles. Therefore, the Authority has included all forms of caustic soda (both lye and flakes in the product under consideration.
- iii. Caustic soda is classified under Chapter 28 of the Customs Tariff Act, 1975 under Customs Head 2815.11 and 2815.12. As per ITC eight digit classifications, the product is classified under the Customs Heading 2815.1110, 2815.1120 and 2815.1200. The classification is however, indicative only and is in no way binding on the scope of the present investigation.
- iv. There is no difference in Caustic Soda produced by the Indian industry and the product exported from the subject country. Caustic Soda produced by the Indian industry and imported from the subject country is comparable in essential product characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. Consumers can use and are using the two interchangeably. The two are technically and commercially substitutable. Caustic Soda produced by the Domestic Industry should be treated as like article to the Caustic Soda imported from the subject country in accordance with the Anti-dumping Rules.

### **Views of the opposing interested parties**

4. None of the importers, consumers, exporters and any other interested party has filed any comment or submissions with regard to product under consideration, and like articles.

### **Examination by the Authority**

5. The Authority notes that there is no significant difference in subject goods produced by the Indian industry and imported from subject countries. Even though the product is produced through different process, the subject goods produced by the Indian industry and that imported from subject countries are comparable in terms of parameters such as physical & chemical characteristics, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably. None of the opposing interested parties has raised any objection in this regard. Subject goods produced by the petitioner companies are being treated as like articles to the subject goods imported from subject countries in accordance with the anti-dumping Rules.

## **C. SCOPE OF DOMESTIC INDUSTRY & STANDING**

### **Views of the Domestic Industry**

6. Following submissions have been made by the Domestic Industry with regard to scope and standing of the Domestic Industry:
  - i. The applicants have argued that the Domestic Industry's position has been clearly stated in the Initiation Notification that the present petition has been filed on behalf of Indian producers of the subject goods by AMAI. 4 major producers of the subject goods i.e., M/s Gujarat Alkalies and Chemicals Ltd., M/s DCW Ltd., M/s Grasim Industries Ltd, M/s SIEL, have furnished the necessary costing and financial information for analysis.
  - ii. None of the participating (petitioner) companies has imported the product nor are they related to any importer/exporter of the product under consideration from the subject countries. The production of the petitioner companies constitutes a major proportion in the Indian production. The participating companies therefore, have satisfied the requirement of standing and constitute Domestic Industry within the meaning of the Anti-dumping Rules.

### **Views of the opposing interested parties**

7. Following submissions have been made by the other interested parties with regard to standing and scope of Domestic Industry:
  - i. There appears to be certain lack of clarity with regard to the exact standing and composition of the Domestic Industry. While it is clear that the petition was filed by AMAI on behalf of producers, it is not clear which companies are presently being

examined in terms of injury and Domestic Industry parameters. In absence of any update it is assumed that there has been no change in the Domestic Industry participants since the filing of the Petition and the Domestic Industry therefore consists of GACL, DCW, Grasim and SIEL.

- ii. The Petitioners are involved in import of the product under consideration. As indicated by GACL's Annual Report in which they have explicitly stated that they had imported approximately \*\*\* MT of Caustic Soda Lye and traded the same to domestic consumers during the period 2015-16 (POI).
- iii. The fact that only 10 out of 34 producers is supporting the petition shows that rest of the industry does not see imports from Japan as a threat; and these producers have been able to increase their total share in total domestic production and consumption

### **Examination by the Authority**

8. The application for the investigation was filed by the Alkali Manufacturers' Association of India (AMAI), on behalf of the domestic producers of caustic soda. Initially 4 producers of the subject goods, i.e., M/s DCW Ltd, M/s Gujarat Alkalies & Chemicals Ltd., M/s Grasim Industries Ltd., and SIEL, commanding about 47.70% of domestic production of the subject goods participated as domestic producers for the purpose of injury investigation against alleged dumping from Japan and Qatar.
9. The petitioner companies have declared that they are not related either to any exporter or producer in the subject country or any importer of the subject goods in India of the PUC.
10. Interested parties have argued that one of the petitioner companies M/s GACL who has imported subject goods in the Period of Investigation, should be treated as ineligible in terms of Rule 2 (b). Examination of the facts has revealed that an insignificant quantity of imports were made but from China PR and Iran, who are not Subject Countries. It is thus considered appropriate to consider GACL as an eligible domestic producer in terms of AD Rules.
11. As regards the submission that only 10 out of 34 producers have submitted the application, the Authority notes that the petitioner has been filed by AMAI which is an association representing all the 34 domestic producers, out of which 10 producers have expressly supported the application and have provided data. This does not tantamount to mean that other producers are opposing the application. The production by the petitioner companies constitutes a "major proportion" of total Indian production.
12. After careful examination of the legal provisions and facts of the case, the Authority considers that the applicant is an eligible Domestic Industry in terms of Rule 2 (b) for both subject countries i.e. Japan and for Qatar. The production of the applicant accounts for major proportion of Indian production of the like article. The Authority, therefore, determines that the applicant constitutes eligible Domestic Industry within the meaning of Rule 2 (b) of the Anti-Dumping Rules and the application satisfies the criteria of standing in terms of Rule 5 (3) of the Rules supra.

## **D. MISCELLANEOUS ISSUES**

### **Views of the Domestic Industry**

13. The submissions of Domestic Industry are summarized as follows:
- i. The interested parties have changed their stance regarding withdrawal of petition against Japan, they raised the issue which the petitioner acknowledged and hence withdrew the petition against Japan. As regards to sunset review investigation, that issue is beyond the scope of the present investigations.
  - ii. The withdrawal of the application against Japan will not affect the position of petition in relation to Qatar. The application filed by the petitioner had separate information on Japan as well as Qatar. Terminating investigation against one of the subject countries cannot render the initiation invalid. The facts before the Authority at the time of initiation and at the stage of final findings can undergo change. No prejudice is caused to any party since the interested parties have been provided with information of both the countries separately and they have sufficient time to offer comment on injury to the Domestic Industry on account of Qatar itself. In some investigation, the Designated Authority may find some imports as undumped and exclude the same for injury analysis. The same however does not vitiate the initiation or investigation or determination.
  - iii. Neither Domestic Industry nor interested parties were given an opportunity to offer their views on proposed rejection, nor is the decision to reject the withdrawal consistent with the law. It is quite unclear whether the Designated Authority can accept or reject a submission/request without providing opportunity to interested parties and without issuing a show cause to the petitioner/Domestic Industry.
  - iv. Rule 14 has used the term “shall” and “immediately”, the said rule has laid no time frame within which the Domestic Industry can withdraw the petition. In fact, the petitions are routinely withdrawn after issuance of disclosure statement in Europe. Similarly, US law provides that a review request can be withdrawn by the petitioner after an exporter has filed questionnaire response, thus it cannot be said that a withdrawal of petition post oral hearing is belated stage. It cannot also be said that the oral hearing held is at a belated stage.
  - v. Multiple countries dumping the subject goods are on account of global demand supply gap and in fact shows that the state of the Domestic Industry is vulnerable to dumping. Further, the respondent should limit its arguments to facts and not conjecture. It need to specify what other factors are causing injury to the Domestic Industry and even assuming that there are other factors other than dumped imports it must be shown that the factor is such which breaks the causal link between dumping from subject country and injury caused to the Domestic Industry.

### **Views of the opposing interested parties**

14. The interested parties have raised several issues with respect to the present investigation, including methodologies of dumping determination adopted by the Domestic Industry in its petition and their injury claims. While the issues regarding



dumping and injury determination have been dealt in the appropriate places in this finding, the general issues raised by the parties to the investigation have been examined hereunder to the extent they are relevant. For the sake of brevity, the submissions of the parties and issues raised therein have been summarized as follows:

- i. One set of exporters demanded that the present investigation against Japan should be terminated as the Domestic Industry has withdrawn its application vide its letter dated 24<sup>th</sup> August, 2017 in respect of imports from Japan in terms of Rule 14 of Anti-dumping Rules.
- ii. Second set of exporters stated that withdrawal should not be allowed and that withdrawal has been made because Domestic Industry is fearful of negative dumping and negative injury.
- iii. Further, the sunset review initiation against Japan should not be initiated since fresh anti-dumping investigation was initiated on the imports of caustic soda from Japan based on application filed by the Domestic Industry and also keeping in view that in the MTR investigation against the imports of USA, Iran and Saudi Arabia, the Authority categorically note the exclusion of Japan as the country attracted “Nil” rate of duty in the earlier investigation. Thus it is clear that the DI as well as the Authority was of the opinion that there is no existing duty on Japan, now opposite stand cannot be taken by initiating review investigation against Japan.
- iv. DCW has withdrawn its application and support to the present investigation on imports from Qatar vide letter dated 14<sup>th</sup> December, 2016. Thus, Domestic Industry standing must be clarified. If there has been a change in the domestic producers that support the Petition, fresh data in the formats of Proforma IV-A and IV-B must be provided. Since a change in the Domestic Industry composition could potentially change the entire injury analysis, any such change must also be accompanied by a fresh hearing being held to allow the interested parties sufficient opportunity to defend their interests.
- v. The Petitioners have also included the landed price in US dollars, which is clearly not the currency in which any of the Indian buyers operate, it has done to demonstrate reduction in price.
- vi. The Petitioners have failed to provide sufficient information, or have provided inconsistent information and data with respect to Import of the product under consideration by Petitioners, Price Undercutting, and Injury Data.
- vii. With the removal of Japan from the scope of the investigation, the entire initiation is now rendered in fructuous since there was never an independent assessment conducted for Qatar at the time of initiation.

### **Examination by the Authority**

15. The miscellaneous submissions have been examined as under:

- i. Rule 14(a) of the Rules, 1995 states that:

*Termination of Investigation: The Designated Authority shall, by issue of a public notice, terminate an investigation immediately if-*

*(a) It receives in writing for doing so from or on behalf of the Domestic Industry affected, at whose instance the investigation was initiated;*

- ii. Here, plain reading of the rule, demonstrates that the Domestic Industry as a whole can request for termination of a particular investigation after the initiation of the investigation. However, in the present case, Association had filed a petition on behalf of 4 petitioner companies, who were declared as “Domestic Industry” as per Rule 2(b) and 5(3) of the Rules, by the Authority for initiating investigation against two countries. Subsequently, the Association requested for withdrawal of application against one of the subject country viz. Japan, but continue against the other country viz. Qatar. After that one of the petitioner company informed that they would like to withdraw the application against one of subject country viz. Qatar. It appears that these requests are being made without application of mind. After the initiation of the investigation it cannot be left to the whims and fancies of the applicant/s to pick and choose the investigating countries against which the investigation needs to be continued or terminated. Thus the withdrawal request by AMAI against Japan is considered as null and void. The Authority has decided to proceed with the investigation and conclude it on the basis of information available and verified to the extent possible.
- iii. As regards the issue of withdrawal of application by DCW against Qatar, the Authority notes that after the initiation of the anti-dumping investigation against multiple countries, the petitioner cannot start to behave erratically or be selective and choose to withdraw the application or support against a particular subject country which it had originally supported. They may decide to apply for termination of entire proceedings by withdrawing the whole application hence making their withdrawal look more credible rather than being selective and making their withdrawal look whimsical and biased. Standing of a petitioner is a basic requirement of any anti-dumping investigation, and they cannot get off the wagon midway. If any petitioner wants to withdraw the application, then as per Rule 14(a) of the Rules, the whole application needs to be withdrawn.
- iv. As regards the contention of the exporters that the present investigation against Japan should be terminated pursuant to the withdrawal of investigation against Japan by the Domestic Industry, the Authority observes that this contention is not correct as explained in para above. In any case, the Authority has already communicated its stand vide letter dated 1<sup>st</sup> September, 2017 that the termination of investigation against Japan at such belated stage of the investigation is unwarranted. The letter has been kept in the public file for inspection by all the interested parties in accordance with rule 6(7).
- v. As regards the contention regarding exclusion of Japan from the review investigation conducted separately by the Authority, the same has already been made clear by notifying SSR initiation notification 7/16/2017-DGAD dated 20<sup>th</sup> November, 2017 against Saudi Arabia and USA only.

- vi. As regards the contention that the petition filed by the Domestic Industry is based on incorrect data, the Authority observes that the assertion so made is not substantiated. In any case, it may be mentioned that the Authority had initiated the investigations after being fully satisfied about the evidence presented by the Domestic Industry was sufficient to justify the initiation of the investigation. The Authority also satisfied itself about the accuracy and the adequacy of the data/information which was necessary to initiate investigations in terms of Rule 5. Therefore, the Authority does not find any merit in the submission made by the interested parties.
- vii. As regards the issue of usage of US dollars, the Authority is of the view that landed price in US Dollars is in accordance with standard practice. US Dollar as a unit of measurement because it is universally accepted currency. There is no unfair advantage to the petitioner on account of such conversion. The Authority has relied upon DGCI&S data for the analysis.

#### **E. ISSUES RELATING TO CONFIDENTIALITY**

##### **Views of the Domestic Industry**

16. The submissions made by Domestic Industry are as follows:
- i. No submissions have been made by the Domestic Industry regarding Confidentiality.

##### **Views of the opposing interested parties**

17. The various submissions made by the producers/exporters/importers/other interested parties during the course of the present investigation with regard to confidentiality and considered relevant by the Authority are as follows:
- i. The petition suffers from excessive confidentiality. The petition provides absolutely no information with respect to consolidated injury data. The Petitioner has claimed excessive confidentiality over the IHS Chemical report that has been relied upon for computing the normal value for Japan
  - ii. The Petitioners have failed to observe the requirements regarding the treatment of confidential data.
  - iii. The Petitioners have provided no non-confidential summaries of essential data contained in the Petition, in particular with respect to costs of the Domestic Industry or the calculation of the normal value (Annexures 3.1A and 3.1B of the Petition), without justifying the impossibility of summarizing these data.
  - iv. The Petitioners failed to disclose the sources of most of the data contained in the Petition without any justification. The non-disclosure of sources also violates confidential treatment provisions. This also casts additional doubt on the accuracy of the data supporting the Petition. If the Petitioners had sufficient evidence of the existence of dumping, injury and causal link, they would have disclosed this evidence

in the non-confidential version of the Application.

**Examination by the Authority**

18. The Authority made available non confidential version of the information provided by various interested parties to all interested parties through the public file containing non-confidential version of evidences submitted by various interested parties for inspection as per Rule 6(7).
19. With regard to confidentiality of information Rule 7 of Anti-dumping Rules provides as follows:-

*“Confidential information”*

*(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.”*

20. The WTO Agreement on Anti-Dumping provides as follows with regard to confidentiality of information-

*“Article-6.5 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 28 shown, be treated as such by the authorities. Such information shall not be disclosed without specific permission of the party submitting it.*

*Article-6.5.1 The authorities shall require interested parties providing confidential information to furnish non confidential summaries thereof. These summaries shall be in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence. In exceptional circumstances, such parties may indicate that such information is not susceptible of summary. In such exceptional*

*circumstances, a statement of the reasons why summarization is not possible must be provided.*

*Article-6.5.2 If the authorities find that a request for confidentiality is not warranted and if the supplier of the information is either unwilling to make the information public or to authorize its disclosure in generalized or summary form, the authorities may disregard such information unless it can be demonstrated to their satisfaction from appropriate sources that the information is correct.*

*Footnote to Article 6.5.2 (footnote 18 of the WTO Agreement on Anti-Dumping) provides as follows:- Members agree that requests for confidentiality should not be arbitrarily rejected.”*

21. Information provided by the interested parties on confidential basis was examined with regard to the justification of their claims and the specific provisions of law as interpreted by the Hon'ble Supreme Court. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non confidential version of the information filed on confidential basis. The Authority made available the non-confidential version of the evidences submitted by various interested parties in the form of public file.

## **F. DETERMINATION OF NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN**

### **Normal Value**

22. The Provisions pertaining to normal value are given in Section 9A(1)(c) of the Act and Annexure-I to AD Rules.
23. The Authority examined the details of total domestic sales of the subject goods by the producers/exporters in the subject countries and the fact that they were representative when compared to the exports of the subject goods to India. It was examined whether the sales are under ordinary course of trade in terms of Para 2 of the Annexure I to the Anti-dumping Rules. Wherever the producers/exporters have provided transaction wise details of sales made in home market and same have been accepted by the Authority, the said information has been relied upon to determine the normal value of the subject goods sold in the home market.
24. The Authority sent questionnaires to the known exporters from the subject countries, advising them to provide information in the form and manner prescribed. The following producers from the subject countries have filed the prescribed questionnaire responses along with their exporters.
- i. M/S. Asahi Glass Co., Ltd, Japan

- ii. M/s Tosoh Corporation, Japan
- iii. M/s Shin-Etsu Chemical Co., Ltd., Japan
- iv. M/s Mitsui & Co., Ltd., Japan
- v. M/s Qatar Vinyl Company (QVC), Qatar
- vi. M/s Qatar Chemical And Petrochemical Marketing And Distribution Company (Muntajat)Q.J.S.C., Qatar
- vii. M/s Tricon Overseas Inc, Panama
- viii. M/s Hiranyavarnaam Chemicals & Alkalis Pte Ltd, Singapore

### **Views of the Domestic Industry**

25. The submissions made by Domestic Industry are as follows:
- i. Normal Value in case of Japan has been determined as per the rates of Caustic Soda published in IHS Chemical (Global Chlor-Alkali) monthly publication and Authority is requested to adopt the same.
  - ii. The average (of Lye and Flake) import price has been determined for the purpose of determination of volume and value of imports. The normal value and NEP has been determined at ex-factory level after being adjusted for Ocean Freight, Marine Insurance, Commission, Bank Charges, Port Expenses and Inland Freight Expenses
  - iii. The dumping margin is not only above de minimis but also quite significant and Domestic Industry has suffered material injury as a result of dumping.
  - iv. In absence of any evidence of prices of the product under consideration in the domestic market of the Qatar, at the time of initiation, the normal value has been constructed for all exporters/producers from Qatar on (a) Consumption factor of raw materials, utility and all other costs have been adopted on the basis of information/data of efficient producer of the Domestic Industry (b) Power rate for Qatar has been taken as per rate available at Qatar General Electricity & Water Corporation and (c) Profit has been taken @ 5% of ex-factory cost excluding interest.
  - v. It is a well-established principle that quantity and quality of evidence improves as an investigation progresses. Information sufficient for the purpose of initiation may not be sufficient for the purpose of determination. At the same time, information required for determination need not be insisted upon at the time of initiation.

### **Views of the opposing interested parties**

26. The various submissions made by the producers/exporters/importers/other interested parties during the course of the present investigation and considered relevant by the Authority are as follows:
- i. The Petitioners have failed to arrive at the export price in the present investigation in the manner prescribed under the law and have thus failed to establish the existence of dumping as required under Article 5.2(iii) of the Anti-Dumping Agreement: For calculating the dumping margin in case of Japan, third country exports from Japan are also considered. The construction of the export price is not allowed in any of the provisions of the AD Agreement.

- ii. The Petitioners have chosen the Indian Industry prices from raw materials and power consumption and adopted international prices for power rates for the construction of the cost in Qatar. The Petitioners have themselves admitted in their Annual Reports the high cost of production in India. Therefore, Petitioners have tried to artificially inflate the dumping margin by attributing the Domestic Industry's high cost of production to Qatar. The normal value and export price filed by the cooperating producers/exporters may be used to determine dumping margin
- iii. The Petitioners have not fulfilled their obligation to provide accurate and verifiable data on normal value at the time of initiation. At the time of initiation, the onus of proof lies squarely and solely on the Petitioner to prove that the allegations made against the subject countries were credible with respect to the calculated normal value. Merely because co-operating parties from the subject countries have provided their data for calculating the normal value, the Petitioners are not absolved of their obligation

### **Examination by the Authority**

27. The applicant had submitted evidence at the time of filing the application on the basis of DGCI&S data for imports and IHS Chemical publication data for calculation of normal value. The Authority examined the accuracy and adequacy of the evidence furnished in the application and prima facie concluded that there is sufficient evidence regarding dumping, injury and causal link for initiation of the subject investigations in accordance with the Rule 5 of the above Rules to determine existence, degree and effect of the alleged dumping of the subject goods, originating in or exported from Japan and Qatar.
28. The Authority notified all the interested parties and invited them to file response to enable the Authority to examine the facts/data and arrive at comprehensive conclusion. The specific responses from interested parties definitely improves the quantity and quality of evidence as investigation progresses.
29. The Authority has examined the questionnaire responses from the co-operative producers/exporters and after due verification and appropriate adjustments, the normal value and net-export price at ex-factory level and consequent dumping margin has been determined.

#### **I. JAPAN**

30. The Authority noted that three producers namely, M/S. Asahi Glass Co., M/s Tosoh Corporation and M/s Shin-Etsu Chemical Co., Ltd have filed the exporter questionnaire responses. The producers have exported the subject goods to India through unrelated exporter M/s Mitsui & Co., Ltd. The questionnaire responses are complete and accepted after due verification in a table study.

**a. M/s Asahi Glass Co., Ltd through Mitsui & Co., Ltd.**

**Normal Value**

31. During the POI, M/s Asahi Glass has sold subject goods in the domestic market to related and unrelated parties. It is noted that majority of the domestic sales have been made to non-affiliated parties during the POI. The domestic sales are in sufficient volumes when compared with exports to India. As profitable sales of M/s Asahi Glass were less than 80% of the total domestic sales, the Authority has considered only profitable domestic sales transactions for determination of the normal value. M/s Asahi Glass has claimed adjustment on account of inland freight and credit expense which Authority has accepted. Accordingly, normal value at ex-factory level for Asahi Glass has been determined for subject goods and the same is shown in the Dumping Margin Table below.

**Export Price**

32. During the POI M/s Asahi Glass Co., Ltd has exported the subject goods to India through M/s Mitsui & Co., Ltd. The sales to Mitsui & Co., Ltd are on FOB basis. The producer claimed adjustment of inland freight, surveyor fees and credit expense, and the same have been accepted after necessary verification of documents. The net ex-factory export price for the producer is as mentioned in table below.

Producer	Exporter	NV USD/MT	NEP USD/MT	Dumping Margin		
				USD/MT	%	Range
M/s Asahi Glass Co., Ltd	M/s Mitsui & Co., Ltd	***	***	***	***	1-10

**b. Tosoh Corporation (producer) through its exporter M/s Mitsui & Co., Ltd**

**Normal Value**

33. From the responses filed by M/s Tosoh Corporation, the Authority notes that it is a producer of the subject goods. In the domestic market, the Company sells the subject goods to both related and unrelated end-users. The questionnaire response filed by the producer/exporter was examined for domestic sales. The same was re-examined and the ordinary course of trade test was reapplied and it is found that more than 80% transactions of the total domestic sales are profit making. Therefore, the Authority has proceeded to determine the normal value based on all the sales transactions. The Company has claimed adjustments on account of price adjustments, inland freight, surveyor cost, storage cost, handling cost; insurance cost and credit cost. The Normal value of the producer determined is mentioned in the table below.



### **Export Price**

34. During the POI, M/s Tosoh Corporation., Ltd has exported the subject goods to India through M/s Mitsui & Co., Ltd. The sales to Mitsui & Co. Ltd are on FOB basis. The exporter claimed adjustment on account of overseas freight, clearance & handling charges, overseas insurance, brokerage and credit expense, and the same have been accepted after necessary verification of documents. The adjustments were also claimed by the producer on their exports are on account of price adjustments, inland freight, surveyor cost, storage cost, handling cost, insurance cost, others and credit cost. The Authority has not accepted the adjustment claimed under the heading “others” from the export price. The export price for the producer is as mentioned in table below.

Producer	Exporter	NV USD/MT	NEP USD/MT	Dumping Margin		
				USD/MT	%	Range
M/s Tosoh Corporation	M/s Mitsui & Co., Ltd	***	***	***	***	0-5

#### **c. Shin-Etsu Chemical Co., Ltd. through its exporter M/s Mitsui & Co., Ltd**

### **Normal value**

35. The questionnaire response filed by the producer/exporter has been examined for domestic sales and it is found that more than 80% transactions of the total domestic sales are profit making. Therefore, the Authority has proceeded to determine the normal value based on complete sales data. They have claimed adjustment on account of quantity adjustments, inland freight, inland insurance, storage cost, handling cost, credit cost and other costs. The Normal value of the Producer determined is mentioned in the table below.

### **Export price**

36. During the POI, M/s Shin-Etsu Chemical Co., Ltd., Ltd has exported the subject goods to India through M/s Mitsui & Co., Ltd. The sales to Mitsui & Co., Ltd are on FOB basis. The producer claimed adjustment of loading cost, clearance & surveyor fees and credit expense. It was also noted by the Authority that the producer has not claimed adjustment of inland freight (which is applicable for FOB transactions). Therefore, Authority has made appropriate adjustment for inland freight from the export price of the producer. The net ex-factory export price for the producer is as mentioned in table below.

Producer	Exporter	NV USD/MT	NEP USD/MT	Dumping Margin		
				USD/MT	%	Range
Shin-Etsu Chemical Co., Ltd.	M/s Mitsui & Co., Ltd	***	***	***	***	1-10

## **II. QATAR**

37. The Producer M/s. Qatar Vinyl Company Limited Q.S.C. ('QVC'), has filed a detailed response along with its related exporter Qatar Chemical And Petrochemical Marketing And Distribution Company (Muntajat) Q.J.S.C. Further, two unrelated exporters namely, Hiranyavarnaam Chemicals & Alkalis Pte Ltd, Singapore and M/s Tricon Overseas Inc., Panama, have also filed their detailed responses. The Authority has examined the responses filed and all the relevant appendices.

### **M/s Qatar Vinyl Company Limited Q.S.C. and M/s Qatar Chemical And Petrochemical Marketing And Distribution Company (Muntajat) Q.J.S.C**

#### **Normal value**

38. The response filed by producer and exporter was examined. The Authority notes that QVC is the sole producer of caustic soda in Qatar. The major quantity of domestic sales is through a related trader i.e. Qatar Chemical And Petrochemical Marketing And Distribution Company (Muntajat) Q.J.S.C. and a small quantity of sales is direct. A majority of domestic sales are made to affiliated end-users. QVC has submitted that the domestic market is peculiar and the prevailing domestic sales prices are not reflective of the global market condition as they are uncharacteristically inflated on account of certain special commercial considerations between QVC and its customers. As a result, QVC has submitted that normal value ought not to be calculated on the basis of domestic sales reported under Appendix 1.

39. The Authority examined the appendix 1 data provided by QVC and noted that the sales in the domestic market are made in the ordinary course of trade with significant profit margins. It is therefore decided to accept the domestic selling prices for normal value calculation after accepting due adjustments. The normal value determined is as mentioned in the table below

#### **Export price**

40. QVC exports goods to India only through Qatar Chemical And Petrochemical Marketing And Distribution Company (Muntajat) Q.J.S.C. Muntajat's export sales to India are made directly to customers in India and as well as through unrelated exporters namely M/s. Hiranyavarnaam Chemicals & Alkalis Pte Ltd, Singapore and M/s Tricon Overseas Inc., Panama.

41. For its direct sales to India, Muntajat has claimed adjustments on account of overseas freight, clearance & handling charges, overseas insurance, brokerage and credit expense, and the same have been accepted after necessary verification of documents. The export price determined is as mentioned in table below.

42. M/s. Hiranyavarnaam Chemicals & Alkalis Pte Ltd, Singapore has filed exporters' questionnaire response. They have given details in appendix-2 and the adjustments claimed by Hiranyavarnaam on their exports are on account of credit cost and bank charges. The export price for the exporters is as mentioned in table below.

43. M/s Tricon Overseas Inc, Panama has filed exporters questionnaire response. They have given details in appendix-2 and the adjustments claimed by Tricon on their exports are on account of commissions, courier fees, discount interest expense, interest expense, export LC fees and ocean cargo insurance. The export price for the exporters is as mentioned in table below.

Producer	Exporter	NV USD/MT	NEP USD/MT	Dumping Margin		
				USD/MT	%	Range
Qatar Vinyl Company Limited Q.S.C.	Qatar Chemical And Petrochemical Marketing And Distribution Company (Muntajat) Q.J.S.C	***	***	***	***	110-120
Qatar Vinyl Company Limited Q.S.C.	Qatar Chemical And Petrochemical Marketing And Distribution Company (Muntajat) Q.J.S.C. and Hiranyavarnaam Chemicals & Alkalis Pte Ltd	***	***	***	***	110-120
Qatar Vinyl Company Limited Q.S.C.	Qatar Chemical And Petrochemical Marketing And Distribution Company (Muntajat) Q.J.S.C. and M/s Tricon Overseas Inc	***	***	***	***	110-120

44. It is seen that the dumping margin is significantly positive for producer/exporter from Qatar. Whereas, the dumping margin for producers/exporters from Japan namely M/s Tosoh Corporation the dumping margin is below de minimus and for M/s Asahi Glass Co., Ltd and M/s Shin-Etsu Chemical Co., Ltd. the dumping margin is positive and above de minimus.

#### **G. METHODOLOGY FOR INJURY ASSESSMENT AND EXAMINATION OF INJURY AND CAUSAL LINK**

##### **Views of the Domestic Industry**

45. The following are the injury related submissions made by the Domestic Industry during the course of the present investigation and considered relevant by the Authority:

- i. The volume of imports from each of the subject countries is significant. It has increased by 76% in the POI as compared to the base year in case of Qatar. The volume of dumped imports from Qatar has increased significantly over the injury period as well as in relation to production and consumption. Imports from Japan were negligible

in the base year and then increased in 2013-14, imports from Japan witnessed huge surge in the POI.

- ii. The demand for the product under consideration has increased throughout the injury period.
- iii. The imports from Japan as well as Qatar are undercutting the prices of the Domestic Industry in the market. Presence of dumped imports from Qatar and Japan have gained market share in India, while Domestic Industry market share has declined.
- iv. Price undercutting should be determined only considering those import transactions whose landed price of imports is below selling price of the Domestic Industry. Petitioner has also calculated price undercutting considering only those transactions that were, in fact, undercutting the prices of the Domestic Industry.
- v. The imports are resulting in suppression of the prices in the market, the cost of production increased, selling price has declined in 2013-14 and then increased marginally upto POI. Also import price from Japan has declined over the period and import price from Qatar declined over the injury period with marginal increase in POI as compared to the previous year. Thus, dumped imports from Qatar and Japan has prevented price increase which otherwise would have occurred to a significant degree.
- vi. The capacity has increased over the injury period. Production volumes have also increased throughout the injury period. The capacity utilization has also increased. However, sales of the Domestic Industry have not increased in proportion and to the extent of increase in production. Sales have, in fact declined as compared to 2013-14. Resultantly, the level of inventories has remained significant.
- vii. The market share of the Domestic Industry has increased in 2013-14 and then declined upto POI when compared with previous year and base years and that of dumped imports from Qatar have increased with some decline in the POI as compared to the previous year. Market share of Japan has increased significantly in the POI. Market share of Japan and Qatar collectively has increased significantly.
- viii. Employment and wages paid have increased over the injury period. Productivity of the Domestic Industry has moved in tandem with production
- ix. Despite of positive growth in respect of Production, the Domestic Industry suffered negative growth in respect of sales, market share, profits, return on investment and cash flow. Cost of sales increased over the injury period. However, selling prices have declined in 2013-14 and then increased marginally upto POI. But increase in selling price thus, the Domestic Industry had negative growth in both cost of production and selling price. The negative growth in selling price is due to dumping.
- x. Growth of the Domestic Industry has become negative in terms of sales, market share, inventories, profits, ROI.
- xi. The imports are available at prices lower than the selling price of the Domestic Industry. Consequently, the consumers are increasingly switching over to imports.
- xii. Imports from Qatar and Japan are at dumped prices and are undercutting domestic selling prices and causing price depression. Resultantly, profitability of the Domestic Industry has declined. Margin of undercutting and injury margin is significant.
- xiii. The imports of product under consideration from other countries are either already attracting ADD or are low in volume, demand has increased, there has been no

material change in the pattern of consumption of the product under consideration and there is no trade restrictive practice which could have contributed to injury to the Domestic Industry. Performance of other products being produced and sold by the petitioner is not a possible cause of injury to the Domestic Industry and injury in export operations has not been attributed to domestic operations. The technology has also the production process for producing subject goods has not undergone any significant development.

- xiv. There is no de minimus level in relation to demand. The law recognizes the potential adverse effect that's country can have if its share is more than 3% in imports. In the instant case imports from Qatar is 11.68% which is significant.
- xv. It is not the prerogative of the Designated Authority to concern itself with the ability of the Domestic Industry to meet the domestic demand for subject goods as the imposition of Anti-dumping duty on the product under consideration does not restrict the entry of the goods in the Indian market, it just provides a level playing field to the imported goods and domestic like article
- xvi. The Domestic Industry bases its selling price on cost as well as landed price of imports. In the present situation when there are presence of dumped imports from various other sources as well, the profitability cannot be solely linked to one subject country. The fact that the imports are undercutting the prices of the Domestic Industry shows adverse effect of import price on the Domestic Industry
- xvii. Assuming that the average injury margin would be low, the petitioner requests the Authority to consider only those transactions that are below non injurious price for calculation of injury margin. Reference is made to WTO Report in the matter of European Communities – Anti-Dumping Duties on Malleable Cast Iron Tube or Pipe Fittings from Brazil wherein the panel held that transactions with positive undercutting needs to be worked out to evaluate price undercutting effect. Reference is also made to the Hon'ble Tribunal's order in the matter of Kothari Sugars & Chemicals Limited *versus* Designated Authority which allowed considering transactions above NIP to calculate injury margin
- xviii. EC determines two margins for injury, i.e., price undercutting and price underselling. Methodology that is applicable to calculation of one margin, i.e., price undercutting cannot be said to be non-applicable on other, i.e price underselling. Infact, the fact that anti-dumping measures gets applied on the basis of price undercutting margin in EU further strengthens the argument that there is no bar in considering only injurious transactions to determine injury margin. Above all, while price undercutting shows the extent to which the imports were undercutting (and caused injury), injury margin shows the extent the imports are likely to remain injurious. If the argument of the interested parties is accepted that negative price undercutting transactions can be eliminated for price undercutting, but not for injury margin, it shall imply that there can be situation where the price undercutting is more than injury margin. Such situation may be found even in those cases where the industry is suffering losses. Thus, if negative undercutting transactions are to be excluded for price undercutting purposes, the same must be excluded for injury margin purposes as well.

- xix. The assertion that the alumina industry being a major industrial consumer located in eastern part of India inflates the transport price of product under consideration is preposterous solely on the ground that even though major producers are located in west coast, the producers of Caustic Soda are spread throughout the country. Producers in the east have production capacity \*\*\* Lakh Metric Ton; hence the Alumina industry can easily get its demand fulfilled without incurring higher transportation cost

### **Views of the opposing interested parties**

46. The following are the injury related submissions made by the opposing interested parties during the course of the present investigation and considered relevant by the Authority :
- i. The Petitioners at the second public hearing have admitted that there is a negative injury margin in the present investigation, thus no duty can be applied in the present investigation.
  - ii. The *zeroing* methodology as suggested by the Petitioner has been repeatedly held to be inconsistent with the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (“**AD Agreement**”) while calculating the dumping margin in a number of Panel and Appellate body reports. based on the WTO report, the zeroing methodology that has been proposed by the Petitioner is not only devoid of any logic but is also arbitrary and inconsistent with the WTO findings with respect to zeroing. The Hon'ble Designated Authority should therefore include all the transactions of subject goods from the subject countries taken place during the POI to compute the injury margin rather than only selective few which would be extremely arbitrary and prejudicial against the exporters. The Hon'ble Designated Authority is requested to find that the new methodology proposed by the Petitioner cannot be upheld and is in violation to the WTO findings with respect to zeroing.
  - iii. There is no injury caused to the DI from subject imports from Qatar.
  - iv. The management of one of the Petitioners has cited high cost of production, purchase of new elements and imports from China and Iran as the difficulties faced by company in their Annual Report. While one other Petitioner has admitted that the Anti-Dumping duties that are currently imposed are sufficient to allow sustainable operation
  - v. There is no volume effect of the subject imports since the total imports from Japan as compared to total demand in the market is negligible and does not exceed 3%. Market share of the subject countries in total demand is also insignificant and does not exceed 5% throughout the POI.
  - vi. There is no price effect of the alleged dumped imports since the landed price of the product under consideration has no impact on the selling price of the Petitioners. The landed value of the subject goods from Japan would also be in the same range as in caustic soda from Chinese Taipei, where the Authority has determined that there was no price underselling. The NIP of the Domestic Industry would remain same as in case of Taipei since the constituent of the Domestic Industry is same, thus the negative

price underselling determined for Taipei will not change to a positive price underselling determination for Japan.

- vii. If the selling price and thus profit made by the Petitioners was dependent on price undercutting, the Petitioners should have made higher profits in 2013-14 compared to the base year when price undercutting was the highest.
- viii. It is a well-established practice that price undercutting and underselling are both calculated using Indian Rupees as the currency rather than dollars. The landed price has remained stable over the period of injury, even though there has been a substantial fluctuation in the exchange rate. However, in order to demonstrate an imagined reduction in price, the Petitioners have also included the landed price in US dollars, which is clearly not the currency in which any of the Indian buyers operate.
- ix. Domestic Industry is experiencing positive growth in most of the economic parameters i.e. production and sales, instalment of new production capacity every year, employment and productivity per head, profitability.
- x. In absence of price effect, volume effect and negative economic parameters, there cannot be material injury to the Domestic Industry. The main periods of decline in terms of injury parameters were prior to the period of investigation at a time when the Petitioners are not alleging the existence of dumping, and there has indeed been an improvement in parameters since then.
- xi. There is no threat of injury to the Domestic Industry. There cannot be simultaneous claims or determination of material injury as well as threat of material injury since claim of threat of material injury itself implies that there is no present material injury and vice versa. WTO panel and European Courts interpreted that the economic factors are all positive and on whole painted a picture of an industry in a situation of strength not of fragility or vulnerability, thus the claims of threat of injury must be rejected as per the interpretation by WTO panel and European Courts.
- xii. The Domestic Industry is operating at full capacity and is not able to cope with the growing demand. The unutilised production capacity of \*\*\*% is negligible and absolutely normal for such industry to carry out the necessary maintenance operations.
- xiii. The caustic soda industry is growing in India due to steady increase in demand. The company intends \*\*\*% capacity expansion of the caustic soda plant, the annual report also demonstrates that Indian caustic soda industry is experiencing positive growth for caustic soda which will continue in the coming years, also the other Indian producers not supporting the petition are experiencing positive performance , thus the Domestic Industry cannot suffer any injury.
- xiv. Injury, if any, is caused by the imports originating in other countries since despite of hefty ADD against 8 countries, imports have increased during the POI, while imports from countries not attracting AD have come down by 60% to reach a low level of 5,757 MT.
- xv. There is no causal link between dumping and the alleged injury. The Petitioner continues to be injured even after thirteen years of duty on almost all sources of caustic soda, it is obvious that the injury has nothing to do with allegedly dumped imports, but is rather a result of other extraneous factors such as the performance of

chlorine. The Petitioners are falsely accusing the subject countries for the injury suffered by them.

- xvi. There is no correlation between the losses suffered by the DI and the imports from Japan. The DI reported its worst profits in 2014-15 when imports in Japan were Nil.
- xvii. The DI suffers from structural problems. India has 34 companies out of which only 10 are petitioners rest of the producers managed to increase their market share, which clearly demonstrates that the majority of Indian producers of caustic soda do not see imports from Japan as threatening their business.
- xviii. There is a huge demand supply gap of about 1 million tonnes per annum, therefore, the users of PUC are left with no other option but to fulfil the gap by resorting to imports.
- xix. Demand fulfilled by import from Japan is very insignificant and accounts for only 2.5% of total demand.
- xx. The transportation of caustic soda from the west coast to the east coast of India causes unnecessary hardships and increase in the cost of raw materials to the alumina manufacturers. This results in the demand of caustic soda from other countries having lower cost of transportation along with supply of voluminous quantity leading to lower cost of raw materials (caustic soda) for the alumina industry. This, in turn, results in increase in demand from all viable sources, also due to the domestic producers' inability to supply in the lot sizes required by the alumina users.

#### **Examination by the Authority**

47. The impact of the dumped imports on the Domestic Industry is to be examine in terms of Para (iv) of Annexure-II of the AD Rules, which states as follows:

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

48. The injury analysis made by the Authority hereunder addresses the various submissions made by the interested parties during the course of the present investigations and considered relevant by the Authority.

49. For the examination of the impact of imports on the Domestic Industry in India, the Authority has considered such indices having a bearing on the state of the industry as production, capacity utilization, sales quantum, stock, profitability, net sales realization, the magnitude and margin of dumping etc. in accordance with Annexure II(iv) of the Rules supra. The Authority computed the non-injurious price in accordance with Annexure 3 to the Anti-dumping Rules and the established practices of the DGAD.



## I. Assessment of Demand

50. For the purpose of the present investigation, the Authority has defined demand or apparent consumption of the product in India as the sum of domestic sales of the applicant and imports from all sources. The demand so assessed is given in the table below:

SN	Particulars	Unit	2012-13	2013-14	2014-15	POI
1	Sales of Domestic Industry	MT	9,69,113	10,38,253	9,88,766	10,11,106
2	Sales of Other Producers	MT	15,58,513	15,79,744	18,25,113	18,54,952
3	Subject Countries	MT	31,591	68,120	57,003	1,54,768
(i)	Japan	MT	42	36,248	-	99,302
(ii)	Qatar	MT	31,549	31,872	57,003	55,466
4	Countries Attracting ADD	MT	2,57,624	2,34,759	3,33,855	3,14,362
5	Other Countries	MT	14,272	1,595	15,799	5,757
6	Demand/Consumption	MT	28,31,112	29,22,472	32,20,537	33,40,945

51. The Authority notes that the demand for the product under consideration has consistently increased over the entire injury period. The share of Indian producers in total domestic demand is 86% and market share of imports from subject countries is 4.6%. Another 9.4% share of domestic demand of subject goods is being imported from those countries against which antidumping duty is already in force.

## II. Volume Effect of Dumped Imports

### Import Volume and Market Share

52. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. For the purpose of injury analysis, the Authority has relied on the import data procured from DGCI&S. The volume of imports of the subject goods from the subject countries has been analyzed for 2012-13, 2013-14, 2014-15 and POI as under:

SN	Imports	Unit	2012-13	2013-14	2014-15	POI
1	Total Imports	MT	3,03,486	3,04,474	4,06,657	4,74,887
2	Subject Countries	MT	31,591	68,120	57,003	1,54,768
(i)	Japan	MT	42	36,248	0	99,302
(ii)	Qatar	MT	31,549	31,872	57,003	55,466
3	Countries Attracting ADD	MT	2,57,624	2,34,759	3,33,855	3,14,362
4	Other Countries	MT	14,272	1,595	15,799	5,757
Market Share in Imports						
1	Subject Countries	%	10	22	14	33
(i)	Japan	%	0	12	0	21
(ii)	Qatar	%	10	10	14	12
2	Countries Attracting ADD	%	85	77	82	66
3	Other Countries	%	5	1	4	1
4	Total	%	100	100	100	100

Imports in relation to						
1	- Production	%	2.93	5.95	4.57	11.62
2	- Demand	%	1.12	2.33	1.77	4.63

53. It is noted from the above table that imports of the subject goods from Japan have increased significantly in absolute terms in POI. Imports have gone up from zero in base year to 21% during POI. The imports from Qatar have shown a decline when compared to the previous year, while there is an increase when compared to the base year.

### **III. Price Effect of Dumped Imports on the Domestic Industry**

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

#### **a. Price Undercutting**

55. With regard to the effect of the dumped imports on prices, the Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared with the price of the like 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. In this regard, a comparison has been made between the landed value of the product and the average selling price of the Domestic Industry net of all rebates and taxes, at the same level of trade. The prices of the Domestic Industry were determined at the ex-factory level.

SN	Particulars	Unit	Japan	Qatar
1	Landed price of imports	Rs/MT	24,955	24,944
2	Net Selling Price	Rs/MT	***	***
3	Price Undercutting	Rs/MT	***	***
4	Price Undercutting (%)	%	***	***
5	Price Undercutting	Range	5-15	5-15

56. It is seen that landed prices of imports (as per DGCI&S) from the subject countries are below the net selling price of the Domestic Industry, resulting in positive price undercutting.

#### **b. Price Underselling**

57. The Authority has also examined price underselling suffered by the Domestic Industry on account of dumped imports from subject countries separately for lye and flakes form. The

weighted average non-injurious price estimated for the Domestic Industry has been compared with the landed price of imports from the subject country to examine the underselling effects of the dumped imports as follows

SN	Particulars	Unit	Japan	Qatar
1	Import Volume	MT	99,302	55,466
2	Non-Injurious Price	US\$ Per MT	***	***
3	Landed Price of Imports	US\$ Per MT	24,955	24,944
4	Price Underselling	US\$ Per MT	(***)	(***)
5	Price Underselling	%	(***)	(***)
6	Price Underselling	Range	(5)-5	(5)-5

58. It is noted from the above table that the price underselling effect is negative both for Qatar and Japan indicating that the prices at which the imports from the subject countries are landing in India (as per DGCI&S data) is higher than the non-injurious price of the Domestic Industry.

**c. Price Suppression and Depression**

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

SN	Particulars	Unit	2012-13	2013-14	2014-15	POI
1	Landed Price of Imports	Rs/MT	25,392	25,235	23,721	24,953
2	Trend	Indexed	100	99	93	98
3	Landed Price - Countries attracting ADD	Rs/MT	26,751	25,320	24,672	25,568
4	Trend	Indexed	100	95	92	96
5	Cost of Sales	Rs/MT	***	***	***	***
6	Trend	Indexed	100	100	113	112
7	Selling Price	Rs/MT	***	***	***	***
8	Trend	Indexed	100	92	98	100

60. From the above Table, it is clear that the landed value of imports from the subject countries decreased marginally when compared to the base year. The selling price has remained at the same level when compared to the base year as well as previous year; however, there is a decline during 2013-14. The cost of sales increased during the injury period and especially when compared to base year. Thus, the above data demonstrates that despite the increase in cost of sales, the Domestic Industry is unable to increase the selling price, indicating that the prices of the Domestic Industry are suppressed and depressed. However, it is noted that the selling price is always above the cost of sales throughout the injury period and POI, which indicates that in spite of low value imports, the domestic industry is able to realise a higher selling price.

#### **IV. Economic Parameters of the Domestic Industry**

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

##### **a. Market share:**

63. The details of imports, domestic sales and the market share of the Domestic Industry in total demand in India is as below:

SN	Particulars	Unit	2012-13	2013-14	2014-15	POI
1	Total Demand/Consumption	MT	28,31,112	29,22,472	32,20,537	33,40,945
2	Sales of Domestic Industry	MT	9,69,113	10,38,253	9,88,766	10,11,106
3	Sales of Other Producers	MT	15,58,513	15,79,744	18,25,113	18,54,952
4	Subject Countries	MT	31,591	68,120	57,003	1,54,768
5	<b>Share</b>					
5a	Of Domestic Industry	%	34.23	35.53	30.70	30.26
5b	Of Other Producers	%	55.05	54.06	56.67	55.52
5c	Of Subject countries - Imports	%	1.12	2.33	1.77	4.63
(i)	Japan	%	0.00	1.24	-	2.97
(ii)	Qatar	%	1.11	1.09	1.77	1.66

64. The Authority notes that the market share of the Domestic Industry has declined in POI as compared to base year, whereas imports from subject countries have increased. However, the share of other Indian producers in total demand is quite significant hence it is difficult to relate the impact of imports on domestic industry, which is less than 5% of total demand in domestic market.

##### **b. Production, Capacity, Sales and Capacity Utilization**

SN	Particulars	UOM	2012- 13	2013-14	2014-15	POI
1	Installed capacity	MT	1,206,050	1,297,543	1,410,650	1,445,800
2	Production	MT	1,076,792	1,144,178	1,247,463	1,331,558
3	Capacity Utilization	%	89.28	88.18	88.43	92.10
4	Domestic Sales	MT	969,113	1,038,253	988,766	1,011,106

65. From the above information, the Authority notes that the capacity of the Domestic Industry has increased during the injury period and POI keeping in line with the increasing demand in the domestic market. Further, both sales and capacity utilization have also increased during the POI as compared to the base year which could again be on the similar rationale.

**c. Inventories:**

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

SN	Particulars	UOM	2012- 13	2013-14	2014-15	POI
1	Opening	MT	***	***	***	***
2	Closing	MT	***	***	***	***
3	Average	MT	***	***	***	***
4	Trend	Indexed	100	126	127	90

67. It is noted that inventories with the Domestic Industry have declined in POI as compared to base year which could indicate better status for the domestic industry though inventories are not conclusive indicator of the injury to the domestic industry.

**d. Profits and actual and potential effects on the cash flow**

68. The data relating to profit, cash profits and return on investment is shown in the following table:

SN	Particulars	Unit	2012-13	2013-14	2014-15	POI
1	Cost of Sales	Rs/MT	***	***	***	***
2	Trend	Indexed	100	100	113	112
3	Selling Price	Rs/MT	***	***	***	***
4	Trend	Indexed	100	92	98	100
5	Profit/Loss	Rs/MT	***	***	***	***
6	Trend	Indexed	100	63	42	57
7	ROI	%	***	***	***	***
8	Trend	Indexed	100	58	41	58
9	Cash profit	Rs lacs	***	***	***	***
10	Trend	Indexed	100	79	57	72

69. With regard to Profit/Loss and cash flow, it is noted that the profitability of Domestic Industry in terms of profit before tax, cash profit and ROI has declined over the injury period and during POI as compared to the base year.

**e. Employment, wages and productivity**

70. The data relating to employment, wages and productivity show as follows:

SN	Particulars	UOM	2012- 13	2013-14	2014-15	POI
1	Employees	Nos.	***	***	***	***
1a	Trend	Indexed	100	105	105	106
2	Productivity per employee	MT	***	***	***	***
2a	Trend	Indexed	100	101	110	117
3	Wages	Rs. Lacs	***	***	***	***
3a	Trend	Indexed	100	122	136	151

71. It is noted that there was increase in the number of employees which could be to some extent on account of increase in production capacities and the production of the Domestic Industry. The increase in productivity per employee indicates better efficiencies and increase in wages could be in response to the progressive state of normal market conditions with time.

**f. Magnitude of Dumping:**

72. Magnitude of dumping is an indicator of the extent to which the dumped imports are entering the domestic market thereby affecting Domestic Industry. The above analysis shows that the dumping margin is significantly positive for producer/exporter from Qatar. Whereas, the dumping margin for producers/exporters from Japan namely M/s Tosoh Corporation the dumping margin is below de minimus and for M/s Asahi Glass Co., Ltd and M/s Shin-Etsu Chemical Co., Ltd. the dumping margin is positive and above de minimus.

**g. Growth**

73. The Domestic Industry has shown positive growth in terms of volume parameters during POI, however growth in terms of price parameters have remained adverse.

**h. Ability to raise capital investment**

74. The Authority notes that the Domestic Industry enhanced capacities during period of investigation and made fresh investments. The petitioner has stated that due to imports from the subject countries they were unable to tap the full potential of increased capacities. However, it is observed that their capacity utilisation is above 92% and with the present analysis it cannot be concluded that their ability to raise capital investments has been affected.

**i. Factors Affecting Domestic Price**

75. The examination indicates that there is a healthy demand in India for the subject goods. The dumped import prices from subject countries are directly affecting the prices of the Domestic Industry in the domestic market. It is also noted that the landed value of subject goods from subject countries (as per DGCI&S data) are below non-injurious price of the Domestic Industry. Further, landed value from subject countries had suppressed / depressed the prices of the Domestic Industry. The petitioner has further stated that the imports of the product under consideration from countries other than subject countries where there is no ADD, are not injuring the Domestic Industry. Demand for the product is showing an increasing trend and, therefore, could not have been a factor responsible for price depression and suppression faced by the Domestic Industry. The petitioner has claimed that the dumped goods from subject countries are responsible for the depressed and suppressed prices of the Domestic Industry. However, it cannot be directly inferred because the market share of other producers is quite significant and the share of imports is comparatively very small.

## **V. OTHER KNOWN FACTORS & CAUSAL LINK**

76. Having examined the existence/absence of injury, volume and price effects of dumped imports on the prices of the domestic industry, in terms of its price undercutting, price suppression and depression effects, other indicative parameters listed under the Indian Rules and Agreement on Anti-Dumping have been examined by the Authority to see whether any other factor, other than the dumped imports could have contributed to injury to the domestic industry, as follows:

- a) Imports from third countries-The imports of the product under consideration from China PR, Korea RP, Iran, Saudi Arabia & USA are already attracting antidumping duties. The present analysis has been done for imports from the subject countries only.
- b) Trend in Demand-The demand has increased over the injury period. The change in demand is not causing injury to the Domestic Industry.
- c) Performance of other products-Performance of other products being produced and sold by the Domestic Industry has no impact over the reported performance of the subject product. Further, injury, if any, due to other factors has been segregated by the Petitioner.
- d) Changes in the pattern of consumption: - The pattern of consumption with regard to the product under consideration has not undergone any change. Therefore, changes in the pattern of consumption cannot be considered to have caused injury to the Domestic Industry.
- e) Trade restrictive practices of and competition between the foreign and domestic producers: - There is no trade restrictive practice, which could have contributed to the injury to the Domestic Industry.
- f) Developments in technology: - Technology for production of the product concerned has not undergone any change. Thus, developments in technology cannot be regarded as a factor causing injury to the domestic injury.
- g) Export performance: - The claimed injury to the Domestic Industry is solely on account of domestic operations. The Domestic Industry has made some exports throughout the injury period. However, this factor cannot be said to have caused injury to the Domestic Injury.
- h) Productivity: - The claimed injury to the Domestic Industry is not due to deterioration in productivity of the Domestic Industry.

## **H. MAGNITUDE OF INJURY AND INJURY MARGIN**

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

SN	Producer	Exporter	Landed value	NIP	Injury Margin		
			USD /MT	USD /MT	USD /MT	%	Range
<b>Japan</b>							
1	M/s Asahi Glass Co., Ltd	M/s Mitsui & Co., Ltd	***	***	(***)	(***)	(5)-5
2	M/s Tosoh Corporation	M/s Mitsui & Co., Ltd	***	***	***	***	0-5
3	Shin-Etsu Chemical Co., Ltd.	M/s Mitsui & Co., Ltd	***	***	***	***	0-5
<b>Qatar</b>							
4	Qatar Vinyl Company Limited Q.S.C.	Qatar Chemical And Petrochemical Marketing And Distribution Company (Muntajat) Q.J.S.C	***	***	***	***	0-5
5	Qatar Vinyl Company Limited Q.S.C.	Qatar Chemical And Petrochemical Marketing And Distribution Company (Muntajat) Q.J.S.C. and trader Hiranyavarnaam Chemicals & Alkalis Pte Ltd	***	***	(***)	(***)	(5)-5
6	Qatar Vinyl Company Limited Q.S.C.	Qatar Chemical And Petrochemical Marketing And Distribution Company (Muntajat) Q.J.S.C. and M/s Tricon Overseas Inc	***	***	(***)	(***)	(10)-(1)

## **I. POST DISCLOSURE COMMENTS**

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

### **Submissions made by the Domestic industry**

79. The Domestic Industry made the following submissions:

- i. The Authority is requested to disclose the non-confidential version of the verification report of the exporters/producers from subject country to offer meaningful comments on the dumping margin calculated.
- ii. It is submitted that the petitioner did not request the termination of the investigation against Japan. The interested parties had pointed out that the initiation against Japan was bad in law as duties were continuing against Japan at



nil rate in a previously concluded investigation. Considering the argument, the petitioners applied for termination of investigation against Japan. The interested parties have changed their stance regarding withdrawal of petition against Japan. However, the Authority has rejected the request.

- iii. It is submitted that the dumping margin determined for Japan is too low as compared to the calculations based on the prices that are published in the IHS Chemical. There does not appear to be any justifiable reason for the difference in the dumping margin calculation done by the petitioner based on IHS Chemical prices and that determined by the Authority based on the responses of the exporters. The responding exporters from Japan represents the major producers of subject goods in Japan, and the prices that are published in the IHS Chemical should ideally represent the prices prevailing in the subject country. Thus, it appears that there is some suppression of facts by the exporters.
- iv. It is submitted that the NIP determined is too low leading to insufficient injury margin.
  - a. Under Annexure-III, only inefficient utilization of raw materials or utilities is required to be normated. Bonafide changes in the raw materials are not required to be changed. Only when the Authority finds that the consumption is a result of inefficient utilization of inputs, that the Authority may normate the same.
  - b. The actual cost of production must be determined and not a notional lower cost of production in order to determine a price which can be compared with the import price in order to assess injury margin.
  - c. Capital employed should be determined considering present value of fixed assets, or at the least gross value of fixed assets, in fact, the most appropriate value for the purpose is present value of the investments.
- v. It is submitted that price undercutting and injury margin should be calculated considering only injurious transactions i.e. considering those import transactions whose landed price of imports is below selling price of the domestic industry as was determined by the petitioner. The principle is also applied in the WTO Report in the matter of European Communities - Anti-Dumping Duties on Malleable Cast Iron Tube or Pipe Fittings from Brazil.
- vi. It is submitted that the Domestic industry is suffering material injury on account of dumped imports as apparent from the disclosure issued.
- vii. Fixed form of anti dumping duty is required to be imposed for a period of five years expressed in US/MT. It is neither feasible nor practicable for the port authorities to verify the import price thus the duty should be imposed in a manner where it does not become futile.

**Submissions made by the opposing interested parties**

80. The submissions of various opposing interested parties are summarized as follows:

- i. It is submitted that there are serious inconsistencies in the Petition concerning excessive confidentiality and the data provided to the extent that no meaningful analysis could be carried out.
- ii. It is submitted that the Authority had calculated the normal value for Producer i.e. M/s Qatar Vinyl Company (QVC) based on the domestic sales to calculate a skewed and inflated dumping margin which is erroneous and not factual and has disregarded the request of the producer as to why domestic sales are not in the ordinary course of trade and should not be considered for determining the normal value. There are no reasons provided as to why the same has been accepted irrespective of appreciating and considering the particular market situation.
- iii. M/s Tosoh Corporation has disputed the calculation of cost of production which has led to failure in ordinary course of trade test. The Authority should re-examine the detailed cost calculations as per the details given by the producer. Further, the adjustments for calculation of Net Export Price at ex-factory level may also be re-looked and the adjustment claimed by the Exporter be accepted.
- iv. It is submitted that there is negative price underselling from Qatar, hence there cannot be price injury without price underselling. Further it is submitted that there is no dumping and injury to the Domestic Industry from the exports being made from Qatar especially the cooperating channel.
- v. It is submitted that all the exporters and the producers involved in the trade channel from Japan have duly participated and furnished all the requisite data, there is no dumping and injury from the Cooperating Exporter and producers. Therefore, the Authority is requested not to levy any duties for exports of product under consideration from the cooperative Exporter and Producers.
- vi. It is submitted that there is lack of causality in injury in terms of analysis of economic parameters during the injury period and the imports made from Japan during the same period.
- vii. The rate of 22% on return on capital employed is not based on any logical basis.

#### **Examination by the Authority**

81. It is noted that the issues raised at post disclosure stage have already been examined by the Authority in above relevant paragraphs, however for the sake of the clarity of the submissions they are addressed as below:

- i. The information provided by the interested parties on confidential basis was examined with regard to the justification of their claims and the specific provisions of law as interpreted by the Hon'ble Supreme Court. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties.
- ii. The issue of withdrawal of petition and termination of investigation has been dealt with in detail in relevant paras above.

- iii. The Authority has not relied on the information from IHS in view of the detailed information/data given by the co-operative producer/exporter and the same has been accepted after due verification.
- iv. As regards the calculation of NIP, the Authority reiterates that NIP and cost of production has been determined as per the Rules and the practices followed in the Directorate.
- v. The undercutting and underselling has been calculated based on DGCI&S data and the petitioners demand to calculate the same only on the basis of injurious transactions is not accepted.
- vi. The Authority has accepted the domestic sales of M/s Qatar Vinyl Company (QVC), as the transactions are made in the ordinary course of trade though with significant profit margins. The request of the exporter in this regard seeking rejection of their normal value is unusual and hence rejected.
- vii. The Authority has re-examined and re-calculated the cost of production of M/s Tosoh Corporation, Japan and finds that more than 80% of domestic sales transactions are profit making and hence has determined the normal value based all sales transactions.
- viii. As regards the calculation of Net Export Price of M/s Tosoh Corporation, Japan it is noted that the same have been clearly mentioned in the above relevant para that adjustment claimed by the exporter and accepted by the Authority after necessary verification of documents were on account of overseas freight, clearance & handling charges, overseas insurance, brokerage and credit expense. However, the adjustments claimed by the exporter but not accepted by the Authority were on account of surveyor cost, storage cost, handling cost, insurance cost, others and credit cost. It is on the basis of comparison of adjustments sought and accepted for other producers/exporters from Japan.
- ix. The analysis of underselling on the basis of DGCI&S data indicates that it is negative. However, the data submitted by co-operating producer/exporter from Qatar indicates a significant dumping margin but insignificant injury margin in one channel and negative injury margin in case of exports through unrelated traders.
- x. As regards the economic factors of the domestic industry, it is noted that the same has been carefully examined by the Authority in the relevant paras of the finding.

## **J. CONCLUSIONS**

82. After examining the issues raised and submissions made by the interested parties and facts made available before the Authority as recorded in this finding, the Authority concludes that:
- i. The product under consideration has been exported to India from Qatar at significantly dumped prices as compared to its normal value, however, the same are not causing material injury to the domestic industry.
  - ii. The product under consideration has been exported to India by M/s Asahi Glass Co., Ltd Japan at prices which are at dumped prices however, the same are not causing material injury to the domestic industry.

- iii. The product under consideration has been exported to India by M/s Tosoh Corporation Japan at prices which are marginally lower than the normal value of the producer and dumping margin is below de minimus. Further, the material injury caused to the domestic industry on account of M/s Tosoh Corporation is insignificant.
- iv. The product under consideration has been exported to India by M/s Shin-Etsu Chemical Co., Ltd Japan at prices which are marginally lower than the normal value of the producer, however, the dumping margin and injury margin are insignificant and hence could not be held responsible for causing the material injury to the domestic industry.
- v. The injury analysis indicates that the domestic industry is not suffering from injury and the alleged dumped imports from the subject countries are not resulting in material injury to the Domestic Industry.

#### **K. RECOMMENDATION**

83. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the exporters, importers and other interested parties to provide positive information on the aspects of dumping, injury and causal link. Having initiated and conducted the investigation into dumping, injury and the causal link thereof in terms of the AD Rules it is established that the alleged dumped imports are not causing material injury to the Domestic Industry. The Authority is of the view that imposition of antidumping duty is not warranted in the present investigation. Therefore, the Authority considers it appropriate to recommend termination of investigation in terms of Rule 14(b) of the Rules.

**(Sunil Kumar)**

**Additional Secretary & Designated Authority**