MINISTRY OF FINANCE

(Department of Revenue)

(OFFICE OF THE DIRECTOR GENERAL OF SAFEGUARDS)

NOTIFICATION

New Delhi, the 15th October, 2009

Sub: Safeguard investigation concerning imports of Caustic Soda into India- Preliminary Findings

GSR - Having regard to the Custom Tariff Act, 1975 and the Custom Tariff (Identification and Assessment of Safeguard duty) Rules, 1997 thereof.

PROCEDURE

1. An application was filed under Rule 5 of the Customs Tariff (Identification and Assessment of Safeguard Duty) Rules, 1997[hereinafter referred to as "Safeguard Rules"] by Alkali Manufacturers Association of India (AMAI) for imposition of Safeguard Duty on imports of Caustic Soda into India alleging that increased imports of Caustic Soda was causing and/or threatening to cause serious injury to the domestic producers of Caustic Soda in India. Having satisfied that the requirements of Rule 5 were met with, safeguard investigation against imports of Caustic Soda were initiated vide notice of initiation dated 20th August, 2009 and published in the Gazette of India, Extraordinary on the same day.

2. A copy of the notice was sent to the governments of major exporting countries through their embassies in New Delhi. A copy of initiation notice was also sent to all known interested parties listed below:

3. Domestic Producers

SN	NAME OF UNIT	FACTORY ADDRESS
1	Aditya Birla Chemicals (India) Ltd. (formerly Bihar Caustic & Chemicals Ltd.)	Ghanshyam Kunj, Garhwa Road, P.O. Rehla - 822 124 Distt. Palamau (Jharkhand) Ph.: 06584-262211 / 21 / 262488 Fax: 06584-262205 Email: shyam.gupta@adityabirla.com ajay.todi@adityabirla.com
2	Aditya Birla NUVO Ltd.	Indian Rayon Compound, Veraval - 362 266 (Gujarat) Ph.: 02876-245711 (EPABX)

		Fax: 02876-243220/243558 E-mail: irilveraval@adityabirla.com ajay.todi@adityabirla.com
3	Atul Ltd.	P. O. Atul - 396 020 Distt. Valsad (Guj.) Ph.: 02632-233261 - 65 Fax: 02632-233619 / 375 E-mail : vasudev_koppaka@atul.co.in; pradip_pisharody@atul.co.in
4	Century Rayon (A Div.of Century Txls & Inds. Ltd.)	Murbad Road, P.B. No.22, Shahad – 421 103 Distt. Thane, Maharashtra Ph.: 0251-2733670 / 79 Fax: 0251-2730064 E-mail: cenray@cenrayon.com saluthra@cenrayon.com
5	Chemfab Alkalis Ltd.	Gnanananda Place, Kalapet Puducherry - 605 014 Ph.: 0413-2655111 Fax: 0413-2655125 E-mail: chemfabalkalis@drraoholdings.com
6	Chemplast Sanmar Ltd. (Caustic Chlor Divn.)	Factory – I: Plant-III, Mettur Dam - 636 402 Distt. Salem (Tamil Nadu) Ph.: 04298-230381 - 85 Fax: 04298-230394 E-mail: sp1@sanmargroup.com Factory – II: Melavanjore Village Karaikal, Union Territory of Puducherry – 611 002 Ph:04365-256475 / 76

		Fax: 04365-256473 E-mail: vr13@sanmargroup.com
7	DCM Shriram Consolidated Ltd. (Kota & Jhagadia)	1. Shriram Vinyl & Chemical Inds. Shriram Nagar, Kota - 324 004 (Rajasthan) Ph.: 0744–2480991-98, 0744–2480011-17 / 2480907-08 Fax: 0744-2481131 E-mail: tejkrishen@dscl.com 2. Shriram Alkali & Chemicals 749, G.I.D.C. Industrial Estate Jhagadia – 393 110 Distt. Bharuch (Gujarat) Ph.: 02645-226021-23 / 224026-27 Fax: 02645-226037 E-mail: scmittal@dscl.com
8	DCW Ltd.	P.O.Sahupuram – 628 229, Thoothukudi Distt. Tamil Nadu Ph:04639-280231 / 439 / 014 / 281288 Fax: 04639-280611 E-mail: ttn_dcwshpm@sancharnet.in;
9	Durgapur Chemicals Ltd.	Hanemann Sarani Distt. Burdwan Durgapur-713 215 West Bengal Ph.: 0343-2556668 / 2555762 Fax: 0343-2556667 Email: dcldgp@sancharnet.in akupadhyay@durgachem.com
10	GHCL Ltd.	Village Sutrapada Taluka Veraval Distt. Junagadh - 362 265 (Guj) Ph.: 02876-283401 - 3 / 283409-10 /

		283551 - 3 / 280206 Fax: 02876-283483 / 283480 E-Mail : tej@ghcl.co.in
11	Grasim Industries Ltd. Chemical Division	P.O. Birlagram Nagda - 456 331 (M.P.) Ph.: 07366-246760-66 Fax: 07366-246176 / 246097 E-mail: ajay.todi@adityabirla.com ; Kailash.jhanwar@adityabirla.com
12	Gujarat Alkalies & Chemicals Ltd.	(1) Baroda Unit: P.O. Petrochemicals - 391 346 Distt. Vadodara (Gujarat) Ph.: 0265-2232681 / 701 / 183 / 2230085 / 3061200 / 6540463 Fax: 0265-2232130 / 2230032 E-mail: general@gacl.co.in marketing@gacl.co.in (2) Dahej Unit: P.O. Dahej, Taluka Vagra Dist. Bharuch –392 130 (Gujarat) Ph: 02641-256315 - 17 Fax:02641-256220 Email: mktdahej@gacl.co.in
13	Gujarat Flouro Chemicals Ltd.	12/A, G.I.D.C. Dahej Industrial Estate, Vagra Taluka, Bharuch Distt. – 392 130 (Gujarat) Ph.: 02641-308062 Fax: 02641-308012 E-mail: jsbedi@gfl.co.in
14	Hindustan Heavy Chemicals	19, Barrackpore Trunk Road, Khardah P.O. Balaram

	(Prop. Kesoram Industries Ltd.)	Dharma Sopan Kolkata-700116 Ph.: 033-25532879/5183, 25839545 / 77 Fax: 033-25533860, 25839218 E-mail: hhcl_fac@vsnl.net hhc_ho@vsnl.net factory@hhckil.com
15	Hindustan Organic Chemicals Ltd.	Harchandrai House, 81, Maharshi Karve Road, Mumbai – 400 002 Ph.: 022-22014269 - 71 Fax: 022-22059533 E-mail: ravimadangeri@hoclindia.com
16	Hindustan Paper Corporation Ltd.	Factory – I: Nagaon Paper Mill, P.O. Kagaznagar Dist.Morigaon – 782 413(Assam) Ph.: 03678-245900 – 10 Fax: 03678-245911 – 13 E-mail: himanish@hindpaper.in adhikari@hindpaper.in Factory – II: Cachar Paper Mill, P.O. Panchgram - 788 802 Distt. Hailakandi (Assam) Ph.: 03845-273080 / 273086 / 273214-6 Fax: 03845-273130 E-mail: kacharya@hindpaper.in
17	HJI – Division of Orient Paper Mills (Prop: Orient Paper & Inds. Ltd.)	P.O. Amlai Paper Mills Distt. Annupur - 484 117 (M.P.)

		Ph.: 07652-286563 / 178 / 179 Fax: 07652-286290 E-mail: hjigmmco@sancharnet.in hukum_113@rediffmail.com
18	Jayshree Chemicals Ltd.	P.O. Jayshree Distt. Ganjam - 761 025 (Orissa) Ph.: 06811-254319 / 20 / 36 / 254170 Fax: 06811-254384 E-mail: jclgm@jayshreechemicals.com
19	Kanoria Chemicals & Industries Ltd.	Chlor-Alkali (Works): - Renukoot P.O. Renukoot - 231 217 Distt. Sonebhadra (U.P.) Ph.: 05446-252044 / 55 / 75 Fax: 05446-252088 Email: renukoot@kanoriachem.com
20	Lords Chloro Alkali Ltd.	Sp-460, Matsya Industrial Area Alwar - 301 030 (Rajasthan) Ph.: 0144-3202817 / 19 / 2881056 Fax: 0144-2881360 E-mail: jagtar.singh@lordschloro.com
21	Meghmani Finechem Ltd.	CH 1 & 2, GIDC Dahej, P.O. Dahej – 392 130 Distt. Bharuch, Gujarat Ph.: 02642-238025 Fax: 02642-238026 E-mail: mhania@meghmani.com dhruv.joshi@meghmani.com
22	Nirma Ltd.	Chemical Complex Village: Kalatalav Taluka & Distt. Bhavnagar – 364 313 Ph.: 0278-2885301 - 4

		Fax: 0278-2885309 - 19 Email: nirma_kalatalav@nirma.co.in
23	NRC Ltd.	Mohone - 421 102 Near Kalyan Distt. Thane (Maharashtra) Ph.: 0251-2270312-5 (9251 from Mumbai) Fax: 0251-2270316 (9251 from Mumbai) E-mail: nrcworks@vsnl.com; nrcworks@bom7.vsnl.net.in; dbsjindani@hotmail.com
24	Punjab Alkalies & Chemicals Ltd.	Nangal-Una Road Nayanangal – 140 126 Distt. Ropar (Punjab) Ph.: 01887-220750-53 Fax: 01887-220742 E-mail: paclngl@sify.com
25	Reliance Industries Ltd.	P.O.Dahej, Taluka Vagra Distt. Bharuch – 392 130 Gujarat Ph:02641-282301 Fax: 02641-283081 E-mail: chappidi.babu@ril.com Jyotindra.m.shah@ril.com
26	Saurashtra Chemicals Ltd.	P.O. Birlasagar Porbandar - 360 576 (Guj) Ph.: 0286-2242479-81 (3 lines) 0286-2205242 (Sales Deptt.) Fax: 0286-2245431 E-mail: gmmrkt@saukemindia.com sales@saukemindia.com
27	SIEL Chemical Complex (A Unit of Mawana Sugars Ltd. –	Charatrampur, Village Khadauli, Sardargarh, P.O. Rajpura, Dist. Patiala, Punjab–140 401

	Formerly known as Siel Ltd.)	Ph.: 01762-228540 - 48 Fax : 01762-225403 E-mail: info@sielchemical.com
28	Solaris Chemtech Industries Ltd. (Chlor-Alkali & Phosphates Business)	Unit: Karwar, Binaga Karwar – 581307 Distt. Uttar Kannada Karnataka Ph: 08382-230535 / 230638 Fax:08382-230468 E-Mail: umesh.shenoy@solarischemtech.com
29	Sree Rayalaseema Alkalies & Allied Chemicals Ltd.	Gondiparla Kurnool - 518 004 (A.P.) Ph.: 08518-280006-8, 280053 Fax: 08518-280098 E-mail: sraacmktg@tgvmail.net sraacengg@yahoo.co.in sraaclab@rediffmail.com
30	Tamilnadu Petroproducts Ltd.– (Heavy Chemicals Div.) (Formerly : SPIC Ltd.)	Manali Express Highway, Manali Chennai - 600 068, Tamil Nadu Ph.: 044-25941870 Fax: 044-25941332 Email: tplisd@sancharnet.in ravindran@tnpetro.com
31	Tata Chemicals Ltd.	Mithapur - 361 345 Distt. Okhamandal, Jamnagar (Gujarat) Ph.: 02892-665991-98 Fax: 02892-223361
32	The Andhra Sugars Ltd. (Kovvur/Saggonda)	Saggonda – 534 318 Dist. West Godavari (A.P) Ph.: 08811-253418 / 28 Fax: 08813-231218

		E-mail: info.kvr@theandhrasugars.com
33	The Travancore Cochin Chemicals Ltd.	Post Bag No.4004 Udyogamandal P.O. Kochi - 683 501 (Kerala) Ph.: 0484-2545011-20 / 2545583 Fax: 0484-2546564, 2545583 E-mail: salestcc@vsnl.net marketing@tcckerala.com mail@tcckerala.com
34	Tuticorin Alkali Chemicals & Fertilisers Ltd.	Harbour Construction Road SPIC Nagar Tuticorin - 628 005 Ph.: 0461-2355612 - 13 / 2355615 - 16 Fax: 0461-2355376 Email: ttn_ank@sancharnet.in headworks@tacfert.com
35	United Phosphorus Ltd.	750 G.I.D.C., P.B. No. 9 Jhagadia - 393 110 Distt. Bharuch (Gujarat) Ph.: 02645-226011 - 15 Fax: 02645-226017

4. **Importers**

a. Abhay Chemicals Limited ,150 Gayatri Chambers, RC Dutt Road, Alkapuri, Baroda – 390005, Gujarat

b. Albright Wilson Chemicals Limited, Pheonix House, "A" Wing, 4th Floor, 462x,x xSenapati Bapat Marg, Lower Parel (W), Mumbai- 400013

c. Arvind Mills Limited, Naroda Road, Ahmedabad 380025, Gujarat.

d. Birla Cellulose Limited , Birla Dham, Kharach, Kosamba, R.S-374120,District Bharuch, Gujarat

e. Central Pulp Mills Limited Nehru House, 4 Bahadur Shah Zafar Marg New Delhi – 110002

f. Deepak Nitrite Limited, 4/12, GIDC Chemicals Complex Nandesari 391340 Gujarat

g. Godrej Sopas Limited Eastern Express Highway Vikhroli (East),Mumbai 400049

h. Gujarat Narmada Fertilizer & Chemicals Limited .P O Narmadanagar 392015 Bharuch, Gujarat

i. Gujarat State Fertilizer & Chemicals Limited ,P O Fertilizer nager ,Vadodara Gujarat

j. Indian Farmer Fertilizer Coop. Limited ,P O Kasturinagar 382423

k. Indian Oil Corporation Limited,Gujarat Refinery, P O Jawaharnagar Vadodara – Gujarat

l. Jaysynth Dyechem Limited ,301, Sumer Kendra,Pandurang Budhkar Marg Worli, Mumbai 400 018

m. Link Pharma Ltd,B-2,6th Floor, Ramakrishna Chambers ,Productivity Road , Alkapuri ,Baroda 390005, Gujarat

n. Meghmani Organics Limited,188/184, Phase II,GIDC Industrial Estate, Vata , Ahmedabad 382445 ,Gujurat

o. Narmada Chemature Petrochemicals Limited,2nd Floor, Skyline Building ,Near Bharuch Railway Station ,Bharuch Gujarat

p. Nirma Limited ,Nirma Bhavan, Ashram Road Ahnedabad Gujarat

q. Pab Chemicals (P) Limited,Surya Kiran Complex, 1st Floor, Old Padra Road, Post Bag No. 4059,Baroda –390005,Gujarat

r. Rama News Prints & Papers Limited,Village : Barbodhan – 395005Taluka Olpad Distt: Surat, Gujarat

s. Rubamin Limited ,Synergy House ,Subhanpura Baroda – 390023,Gujarat

t. Sabero Organics Limited,A-302, Phoenix House 3rd Floor ,462, Sanapati Bagpat Marg ,Worli (East) Mumbai 400013

u. Torrent Gujarat Biotech Limited th Floor, Sri Ram Chamber Opp. Circuit House,RC Dutt Road ,Baroda – 390005 Gujarat

v. Transpek Silox Industries Limited ,Kalali Atlandra Road,Vadodara – 390012, Gujarat

w. National Aluminium Company Limited,NALCO Bahvan ,E 37 Site B, Surajpur Industrial Area ,Gautam Buddha Nagar (UP)

x. Cyanides & Chemicals Company ,Prop. Hindustan Development Cor. Ltd Corporation Limited,65 Free Press House,Nariman Point ,Mumbai 400021

y. Demosha Chemicals Limited ,105 A Mittal Towers ,210 Nariman Point Mumbai 400021

z. Hitsu Industries Limited,Plot No. 306/2, Phase II,GIDC, Vapi Gujarat

aa. Shri Ramchandra Straw Products Limited, Village Vijaypur ,Tahsil Bellari Moradabad (UP)

bb. Libra Foams ,Div of S B Distributors Limited,E 37 Site B, Surajpur Industrial Area ,Gautam Buddha Nagar (UP)

cc. Adani Wilmar Limited ,Navinal Tiand ,Mundra – KATCCHH,Gujarat

dd. Adani Exports Limited,Adani House, Shrimali Society ,Mavarangpura Ahemedabad ,Gujarat

ee. Daurala Organics Limited ,Humalaya House ,Kasturba Gandhi Road New Delhi

ff. Bilag Indusries Pvt Ltd ,Plot No 306/3, Phase II,GIDC VAPI, Gujarat

gg. Shri Ramchandra Straw Products Limited ,Village Vijaypur Tahsil Bellari ,Moradabad (UP)

hh. Libra Foams ,Div of S B Distributors Limited ,E 37 Site B, Surajpur Industrial Area ,Gautam Buddha Nagar (UP)

ii. Daurala Organics Limited ,Humalaya House ,Kasturba Gandhi Road New Delhi .P/L Nayapalli,Bhubaneshwar – 751013,ORISSA

jj. Harish Kr. & Company ,23- Anant Building 21,S Gandhi Marg, Mumbai 400002 C J Shah & Co,105 Bajaj Bhawan,Nariman Point ,Mumbai 21

kk. Hindustan Lever Limited,Hindustan Lever House,165/166, Backbay Reclamation ,Mumbai 400 020.

ll. Hindusstan Link & Resins Limited ,Bilakhia House, Muktanand Marg Chala – Vapi, Gujarat

Exporters

mm. Asahimas Chemicals PT, 9th Floor, Summitmas I, Jl. Jend, Sudirman Kav. 61 – 62, Jakarta, 12190, Indonesia

nn. PT Pabrik Kertas Tjiwi Kimia Tbk., Main Office Building A, Jl. Raya Surabaya – Mojokerto Km. 44, Mojokerto 61301, Jawa Timur, Indonesia

oo. PT Sulfindo Adiusaha PT. Sulfindo Adi Usaha 14th Floor, Ratu Plaza, office Tower, Jl. Jend. Sudirman Kav. 9 Jakarta Jakarta 10270 Indonesia

pp. PT Indah Kiat Pulp & Paper Tbk .BII Plaza, Menara II, Lantai 7, Jl. M.H. Thamrin No. 51, Jakarta 10350 Indonesia

qq. Formosa Plastics Corporation 201, Tung Hwa North Road Taipai Taiwan

rr. Dow Chemical Dow Hellas SA Lavrion Site Thorikon Lavrion TK 19500 Greese

ss. Solvey Fluor GmBH Brueningstrasse 50 Zip Code : D-65926 Frankfurt am Main Germany

tt. Bayer AG Bayer MaterialScience AG Communications, Building K12 Kaiser-Wilhelm-Allee 51368 Leverkusen Germany

uu. BASF AG ZOI - D 100 D-67056 Ludwigshafen Germany

vv. Enichem SpA Piazzale Mattei, 100144 Roma – Italy

ww. Qatar Vinyl Company Q.S.C. Post Box No. 24440 Doha, Qatar

xx. Hanwha Chemical Corporation 100-797, Hanwha Building,1, Jung – Ku, Seoul Korea RP

yy. DC Chemicals Limited Oriental Chemical Building 50, Sogong – Dong Jung – Gu Seoul Korea RP

zz. Shanghai Chlor AlkaliChemicals Wu-Road No. 4747, Shanghai City 200 122 China-PR

aaa. Sinopec Qily Petrochemical Co Limited Qilu Office Building, High Tech & Industrial Development Zone, Zibo, Shandong China PR

bbb. Wuhan Golden Fortune Technology & Trade Co., Ltd. International Enterprise Center, No2# Guanshan Road, Wuhan, Hubei, China

ccc. Tianjin Kaiyi Chemical Factory No. E7-205 Binhai Finance Zone, No. 20, Guangchang East Rd., Teda, Tianjin, China

ddd. Tianjin Xibeier International Co., Ltd 21c Yitingyuan, No 22, 6th Latitude Road, Hedong District, Tianjin, China

5. **Exporting Nations:**

i. European Union
ii. Germany
iii. Greece
iv. Indonesia
v. PR China
vi. Qatar
vii. Republic of Korea
viii. Saudi Arabia

ix. Taiwan
x. Thailand
xi. USA

6. Questionnaires were also sent, to all known domestic producers ,importers and exporters and they were asked to submit their response within 30 days.
7. Request to consider them as interested parties were received from the following parties and all the requests were accepted:
   i. M/s Tricon Energy Limited, USA
   ii. M/s Basic Chemical Solutions Far East Pte Ltd, Singpore
   iii. M/s Hanwha Corporation, Korea RP
   iv. M/s Vinythai Public Co. Ltd., Thailand
   v. M/s Vedanta Aluminium Limited
   vi. Aluminium Assoication of India

8. Requests for extension of time to submit their replies were made by the following parties:
   i. M/s PT Asahimas Chemical, Indonesia
   ii. Ministry of Trade of the Republic of Indonesia
   iii. M/s Vinythai Public Co. Ltd., Thailand
   iv. M/s Vedanta Aluminium Limited
   v. Aluminium Assoication of India
   vi. M/s Hindustan Unilever Limited
   vii. M/s PT Sulfindo Adiusaha, Indonesia

9. After taking into account the time limits for completing the investigation within the prescribed period, requests for extension of time were allowed and the parties concerned were accordingly informed.
10. The information presented by domestic producers was verified by on-site visits to the plants of the domestic producers to the extent considered necessary. The cost data has been also verified and certified by cost accountant. The non confidential version of verification report is kept in the public file.
11. All the views expressed by the interested parties have been taken into account in making appropriate determination. The non confidential information received or acquired has been kept in the public file.

VIEWS OF DOMESTIC PRODUCERS OF CAUSTIC SODA IN INDIA

12. The domestic producers have made following submissions:

13. The petition has been filed by the Association of Indian producers, whereas data has been provided by those domestic companies whose collective output was in the region of 32-36% between April 2005 and June 2009. Since the share of these companies constitutes a major share in Indian production, as held by WTO, it should be considered that the petition has been filed by or on behalf of domestic industry and contains injury information for domestic industry.
14. The scope of the petition includes Caustic Soda in lye form only. Caustic Soda in solid form has been excluded in view of the fact that the volume of import has surged only in respect of lye form. Imports of caustic soda has shown sudden, unexpected

and significant surge which is because of (i) firstly global melt-down leading to decline in demand in the global major market, (ii) thereafter, increase in Chlorine prices in US and Europe, leading to increased Chlorine production and resultant caustic production.

15. Imports of Caustic soda are causing serious injury to the domestic industry. Further, the Indian industry is threatened with serious injury, should the safeguard duty not be imposed immediately. Serious injury to the domestic industry is established considering sub-optimal capacity utilization, inability of the domestic industry to increase capacity utilization in spite of increase in demand, sub-optimal increase in sales, decline in market share, profitability, return on investment and cash flow of the domestic industry.
16. Other Indian producers have in fact suffered injury in much higher proportion, as is evident from their capacity utilization levels.
17. So significant has been decline in profitability of the domestic industry that the domestic industry started suffering significant financial losses from a situation of profits. Further, the decline in profitability is in spite of significant improvement in Chlorine realization. Had the realization of Chlorine been lower (as was the case till quite recently), the domestic industry would have suffered much higher level of financial losses.
18. Employment and wages are not reflecting injury in view of prevailing labour laws in the Country and the fact that industry decided not to reduce production in spite of significant increase in imports.
19. Serious injury to the domestic industry is being caused by the increased imports. The causal link is clearly established in decline in the market share of the Indian industry and increase in the market share of imports on one side and steep decline in prices of the domestic industry on the other side.
20. Critical circumstances exist in the current case, as (i) the domestic industry is unable to hold on the prices which have declined to such an extent that the domestic industry is suffering significant financial losses; (ii) the trend of declining prices continues, (iii) the industry has limited storage capacity and therefore surge in import will lead to storage problems; (iv) being a commodity product, the industry was forced to reduce prices not only for the customers who were importing, but also for the customers who have not imported; (v) the extent of price decline is most unprecedented in this product. Never before in the past two decades, the industry saw decline in prices by more than Rs. 10,000 pmt in a matter of two quarters. In view of these critical circumstances, immediate safeguard duty is required to be imposed.
21. Industry has drawn a viable/feasible adjustment plan in order to be competitive in due course.
22. There is an urgent need of provisional safeguard duty to protect domestic industry from irreparable loss.

VIEWS OF EXPORTING NATIONS

Views of European Commission

23. Safeguard is to be regarded as an exceptional instrument and the standards required to impose measures should be very high. The factors listed in Art. 4.2(a) of the WTO Agreement on Safeguard does not point injury in this case.

24. The increased import has taken only 1% shares of the Domestic Industry since 2005-06 to 08-09. The first quarter cannot be taken for comparison purpose.

25. The level of sale has increased by 22% and Production by 25% since 2005-06 to 08-09.

26. The Capacity Utilization is more than 85%. The decrease is only because of 40% increase in production Capacity.

27. The profit / loss analysis in Notice of Initiation is not representative as it mixes yearly data with monthly data for 2008-09.

28. The profit loss graph included figures for July and August 2009 while no information was provided in complain and the N.O.I. was issued on 20.08.2009.

29. The productivity and employment were not analyzed.

30. The investigation should be either on the basis of situation of sole applicant or the total industry.

31. There should be Causal link analysis as the 10% import cannot cause injury.

32. The impact of Other factor like huge increase in production capacity should be analyzed.

33. The Public Interest test is required in Safeguard investigation and provisions to impose Provisional measures require existence of critical circumstances.

34. The imports from EU countries are already under Anti dumping duties and any double remedy should be excluded.

Views of Republic of Korea

35. The increase in import is not sudden but the result of a continuous trend. The investigation period is deliberately divided to cause distortion and exaggeration in the resulting data. The increase in import cannot be regarded as recent.

36. If the table reflecting import in relation to production is redrawn using data at yearly interval than the same will show steady upward trend.

37. Qualitative Analysis is required for V curve since April 2008. The sudden increase in import after Dec. 2008 is after decrease in previous months is not enough for Safeguard as decided in the case of Argentina –Peach Safeguard in 2003. The Panel has decided that its significance may have been that of recovery and not an increase that was significance enough for the purpose of Art. 2.1 and Art. XIX : 1(a). The investigation should cover the whole period of investigation and should not focus for a certain period.

38. The import data of first quarter should not be taken for whole financial year 2009-10.

39. The fall in Capacity Utilization is not a recent change but a trend that has been occurring since 2005.

40. There has been no actual damage inflicted on employment.

41. The comparison between Capacity and demand lacks logical evidence. The demand has been presented as an additional variable without supporting data as evidence. The relationship between capacity and demand lacks logical evidence. The capacity has been increased in anticipation of increase in demand.

42. The market trend and the fact that imported product have been steadily increasing its market share in India despite of Antidumping duty indicate that they are gaining market share in the Indian market. This is because of the fact that they are more competitive. Hence no safeguard measure is warranted.

Views of Department of Foreign Trade, Thailand

43. The initiation of investigation has not been notified to the Committee on Safeguards within 15 days and hence it is violation of Art. 12.1(a) of WTO. Hence because of procedural violation the investigation should be terminated.

44. The applicants are not major industry as they account for only 35% of total production in India. Hence alleged serious injury does not refer to a major proportion of the total Indian production.

45. There is no injury to the applicant as most of the injury indicator namely Production, Sales Production Capacity shows positive development and the Market Share has remained either Positive or stable.

46. Serious injury, if any, is not because of increased import. The same is because of overinvestment in domestic production capacity at the time of international economic difficulty.

VIEWS OF EXPORTERS

Vinythai Public Company Limited, Thailand.

47. The imports from Thailand are increasing but the impact of imports on the price of domestic industry is zero because the price of Caustic Soda from Vinythai Plc. is based on international price. The increased imports of Caustic Soda are consistent with increased Indian consumption demand. The consumption increased by 4% whereas production by 1.8% only. Hence there is import.

48. The decline in capacity utilization of domestic industry from Oct'0 to Dec'08 was due to recession, the low capacity utilization from Jan'09 is due to increased import which was caused as the domestic industry did not reduce their price to be in compliance with the international price. Further, as per the information provided in the application the percentage of the capacity utilization is more for applicant than other Indian producers and also more than Indian industry as a whole.

49. The price of Caustic Soda from Vinythai Plc. is based on international price and it is not reference to the price undercutting, price underselling, price suppression and price depression.
50. Our market share is increasing as our products quality is superior to domestic product and our products are suited not only for food industry but other industry as well. The domestic industry have more market share than imports. The sales volume of Indian industry is more than import sales and total market share of Indian producers in 85.5-97.5%.
51. The domestic industry accepts that their productivity has improved significantly, but their profitability is declining as they cannot sell their product as their price is higher than the international price in that period.
52. The increase of inventories of domestic industry can be on account of lack of sufficient plan to control their inventories.
53. The information provided in the application document shows that the number of employees has decreased since June'05-June'09 but they are not serious.
54. All the above shows that imports have not caused and threatening to cause serious injury to the domestic producers.

M/s Basic Chemical Solutions Far East Pte Ltd.

55. The increase in imports in India is due to the fact that users of Caustic Soda in India are facing shortage of supply of caustic soda especially so for the caustic soda lye. Caustic Soda is a bye product of Chlorine during Chlor-Alkali production of chlorin, edc,vcm,hcl and pvc. 1.1 metric tons of Caustic Soda is produced in only 30 pct concentration for each ton of chlorine produced. Thus production of Caustic Soda is fully dependent on production volume of chlorine. Finally the production of chlorine would depend on the sale of chlorine. Chlorine biggest end use is area of edc, vcm and pvc resins. Most of India Chlor-Alkali manufacturers are not integrated to edc, vcm and pvc and thus they have problem increasing their production of Caustic Soda because they are not expanding production to the edc, vcm and pvc. Most of the Chlor-Alkali manufacturers in India only produce merchant chlorine which has very small end market all over world including India. Merchant Chlorine end use is in area of water treatment etc.
56. Merchant Chorine storage is very difficult, costly and dangerous. As a result chlorine production cannot be increased to support more production of Caustic Soda.
57. The end use of Caustic Soda is very wide and its market in India is very large as compared to chlorine. Caustic Soda is used in manufacturing soap, bleach, paper, metal refining etc.Thus any SG Duty will result in wide implication and hurt the users of Caustic Soda in India as they will still need to continue to import due to shortfall in domestic Caustic Soda supply.

M/s Tricon Energy Ltd., USA

58. The notice of initiation has failed to define a period of investigation and provides data for different parameters for varying periods of time from varying sources. For example Table 2 of the initiation notification reports the DGCIS data from 2005-06 up to 2007-08, IBIS data from April' 08 to June'09 and DOV data for July'09. Graph on profitability however shows the margin from 2005-06 to August'09.

59. The DG has dealt with the issue of period of investigation in the Carbon black investigation which was initiated on February 5,1998 and the petitioner had submitted data upto Sept'97. Thus when the petitioner tried to introduce new evidence of recent events the DG refused to accept the data because " *would not be fair to change this refence period as various interested parties respond with reference to facts available during this period…..*" Similar stand was taken by DG in Flexible Slabstock Polyol and Propylene Glycol cases. Hence in this case also the period of investigation should be limited at most to April- Dec. 08 and at best April-September'08.

60. In the present case it is critical to fix the period of investigation. Or else petitioner may introduce new data beyond the reference period and interested parties may be informed accordingly.

VIEWS OF IMPORTERS/ END USERS

61. The SG Duty is not to give undue advantage to domestic producer and to ensure monopoly to domestic producer.
62. Caustic Soda is imported in liquid form as well as in solid/flakes form. The price in the invoice is always quoted on Dry MT basis. In case of liquid imports there are 2 weights – LMT and DMT. The wt on DMT basis is approx. half of LMT. It appears that to show greater volume of imports the petitioner has not converted LMT weight into DMT weight. Further to show lower prices of imports they have divided consignment price by LMT weight. Thus, the import data is misleading.
63. Lot of import data has been left out intentionally.
64. Petitioners do not constitute domestic industry as the application is filed only on the basis of data provided by 35% of domestic production. No person can be considered as domestic industry unless it submits data.
65. The panel report in the matter of Argentina – Definitive Anti Dumping Duties on Poultry from Brazil is not relevant for safeguard proceedings as safeguard law contemplates 'major share' whereas Anti dumping law contemplates ' major proportion'. Petitioners do not have locust standi to file an application under Section 8B of the Customs Tariff Act as they do not constitute Domestic industry under the law.
66. Petition is incomplete. Adjustment plan is missing and the name of known buyers have been suppressed intentionally
67. The adequacy and accuracy of data not examined (As per Rule 5(3) of Customs Tariff (Identification and Assessment of Safeguard Duty) Rules, 1997)
68. Petitioner have requested for imposition of provisional safeguard duty. However petitioner has not brought on record in clear terms the 'Critical Circumstances' which warrant imposition of provisional SG Duty.(Referred to Rule 9 of Customs Tariff (Identification and Assessment of Safeguard Duty) Rules, 1997 and Article 6 of the WTO) and thus there is no case of ex parte Provisional Safeguard duty.:
69. Petitioners are running in profit.
70. Safeguard Duty on Caustic Soda is against public interest In the case of an application filed by United Phosphorous in 1999 for imposition of SG Duty on the imports of phosphorous for which investigation was initiated on 15.9.99, DG (SG) in spite of finding of serious injury refused to recommend imposition of SG Duty on the ground of public interest. The final finding of DG was challenged before hon'ble Delhi High Court and the Hon'ble HC dismissed the WP. The Hon'ble SC too refused to interfere with the finding of DG(SG).

71. Aluminium Association of India was not included in the list of consumers which is a very major domestic consumer of Caustic Soda in India. AMAI has made a very one sided representation and figures appear to be inaccurate.

72. There is no serious injury. Import from all most all the exporting countries are subject to Anti dumping duty and cannot be the cause of serious injury to the domestic industry.

73. The increase in import of Jan. to June'09 cannot be seen in isolation. The trend was there since last five years.

74. The structural and operational deficiencies of the Caustic Soda industries are the overwhelming cause of the current condition of D.I. The injurious effect, if any, is due to domestic factor and not imports hence there is no case of SG duty as per WTO provisions and Art. 4.2(b) of AoS.

75. The safeguard duty should not be imposed as the import of the product has introduced fair competition Indian Market which otherwise is dominated by the manufacturer forming a cartel for pricing through AMAI.

Findings of the DG:

76. The case records, the replies filed by the domestic producers, users/importers, exporters and exporting nations have been analysed. Submissions made by the various parties and the issues arising there-form are dealt with at appropriate places in the findings below.

The Indian Market for Caustic Soda: A snap shot

77. **Nature of Industry:** The caustic Soda is manufactured by electrolysis of common salt. The production of caustic soda is always accompanied with production of Chlorine in fixed proportion. Both Caustic Soda and Chlorine have commercial utilities and are used in different industries. Caustic soda (sodium hydroxide) is a versatile alkali. Its main uses are in the manufacture of pulp and paper, alumina, soap and detergents, petroleum products and chemical production. Other applications include water treatment, food, textiles, metal processing, mining, glass making and others. Caustic soda is also a basic feedstock in the manufacture of a wide range of chemicals. It is used as an intermediate and a reactant in processes that produce solvents, plastics, synthetic fibres, bleach, adhesives, coatings, herbicides, dyes, inks and pharmaceuticals. It is also used to neutralise acidic waste streams and the scrubbing of acidic components from off-gases. It is used in the petroleum and natural gas industries to remove acidic materials from hydrocarbons and off-gases. In the textile sector, it is used in the chemical processing of cotton and the dying of synthetic fibres. If caustic soda is in surplus, it can be stored if sufficient capacity is available.

78. Chlorine is an essential input to the chemical industry. Of all the halogens, chlorine is by far the most abundant in nature and is the easiest to produce. More than 85% of all pharmaceuticals and more than half the products of the chemical industry depend on chlorine chemistry. These products are used in most industrial and economic sectors including:

i. Healthcare;
ii. Agro-food;
iii. Building;
iv. Textiles;

v. Transport;
vi. Leisure activities;
vii. Cosmetics.

79. Chlorine, by its nature, is difficult to store and transport, so it is mainly used at the site where it is produced in a variety of downstream units such as those for VCM (Vinyl chloride monomer, the building block for PVC), and the plastic PVC (Polyvinylchloride). There is negligible international trade of chlorine.

80. As production of Caustic Soda cannot be delinked with the production of Chlorine, the industry is known as Chlor-Alkali industry. The demand, supply and price dynamics of both Chlorine and Caustic Soda affect health of the Industry.

81. **Indian Caustic Soda Industry in the International market:** Caustic Soda has general uses in a large number of industries. The growth of caustic soda industry is largely dependent on overall growth of manufacturing sector. The consumption of caustic soda in India is in the range of 2 million DMT per annum and the installed production capacity in India is more than 2.5 million DMT. Even though India has sufficient capacity to meet its domestic demand, approximately 7% of domestic demands were met by imports in past. China, Indonesia, Europe, Thailand, Qatar and USA are the main exporting nations to India. India does not have significant presence in export market of Caustic Soda. Indian producers have been exporting around ½% of their production.

82. The installed production capacity in India is about 20% of installed capacity of North America, 22 % of Europe and 12% of China. The market size in India has been growing and to meet the growing demand the installed capacity has also grown at the same pace leading to gradual increased production in past years. Even after gradual increase in capacity and production in past years, the Indian Caustic Soda market is less than 5% of the World Caustic Soda market.

Need for Safeguard Investigation:

83. The Alkali Manufacturers Association of India (AMAI) filed an application for imposition of Safeguard Duty on imports of Caustic Soda into India to protect the domestic producers of Caustic Soda against serious injury/threat of serious injury caused by the increased imports of Caustic Soda into India. They have also submitted that the increased import has made their industries unviable and that the industry has been running on losses. The loss in profitability and market share are causing irreparable loss and thus provisional safeguard duty should be imposed to protect domestic industry. The evidences produced by them had shown prima-facie case of threat of serious injury/ serious injury. Hence, the investigation was initiated on 20th August, 2009. During the course of investigation the applicants produced detailed evidences relating to critical circumstances and requested for imposition of provisional safeguard duty.

Can Provisional Safeguard Duty be imposed without completing the Investigation?

84. The issue to impose immediate safeguard measures was examined. It has been observed that in a number of cases world over, provisional safeguard measures have

been recommended/imposed within 30 days of initiation of the safeguard investigation. In some cases the provisional safeguard measures have been recommended on the same day as the date of initiation of the investigation. The Rule 9 of Customs Tariff (Identification And Assessment of Safeguard Duty) Rules, 1997 notified vide Notification No. 35/97-NT-Customs dated 29.07.1997 prescribes that the Director General shall proceed expeditiously with the conduct of the investigation and in critical circumstances, he may record a preliminary finding regarding serious injury or threat of serious injury. The principles governing investigations have been provided under Rule 6 of the Customs Tariff (Identification and Assessment of Safeguard Duty) Rules, which is independent of Rule 9. The Rule 15 of the Customs Tariff (Identification And Assessment of Safeguard Duty) Rules provide for refund of differential Safeguard duty in case safeguard duty imposed after conclusions of the investigations is lower than the provisional duty already imposed and collected. The harmonious reading of Rules 6, 9 and 15 of the said Rules leads to a conclusion that the Rules provide for expeditious recommendation of provisional Safeguard duty based on preliminary findings. There is also a provision for refund of the differential duty, in case it is found that the duty imposed after conclusion of investigation following natural justice as enshrined in the Rule 6, is lower than the provisional Safeguard Duty.

85. It is noted that in critical circumstances any delay in imposition of Provisional Safeguard duty may cause damage which would be difficult to repair and thus, it was considered prudent to analyze circumstances to assess whether the same falls in the category of critical circumstances.

The product under investigation:

86. The product under investigation is "Sodium Hydroxide also known as Caustic Soda in lye form". Caustic Soda is classified under sub-heading No. 2815 of Schedule I of the Customs Tariff Act 1975. Caustic Soda is chemically known as NaOH. Caustic Soda is a soapy, strongly alkaline odourless liquid widely used in diverse industrial sectors, either as a raw material or as an auxiliary chemical. It is used in manufacture of pulp and paper, newsprint, viscose yarn, staple fibre, aluminium, cotton etc. The preliminary investigation shows that the imported Caustic Soda and domestically produced Caustic Soda have similar technical characteristics, sold through the same marketing channels and can be used by the user interchangeably. Therefore, the imported Caustic Soda is considered to be 'like or directly competitive' article to domestically produced Caustic Soda.

Domestic Industry:

87. Section 8B(6)(b) of the Customs Tariff Act 1975 defines domestic industry as follows:

> (*b*) *"Domestic industry" means the producers –*
>
> *(i) as a whole of the like article or a directly competitive article in India; or*
>
> *(ii) whose collective output of the like article or a directly competitive article in India constitutes a major share of the total production of the said article in India.*

88. In the instant case the application has been filed by Alkali Manufacturers Association of India (AMAI), 3rd Floor, Pankaj Chambers, Preet Vihar Commercial Complex, Vikas Marg, New Delhi- 110092 for imposition of Safeguard Duty on imports of Caustic Soda. The applicant has disclosed the data of certain companies who constitute 35% of Indian production. They have also contended that 'major' does not mean more than 50%. In support of their contention they have referred to the Report of the Panel in the matter of Argentina- Definitive Anti-Dumping Duties on Poultry from Brazil. However, without going into legality of the contention made by the applicant, the safeguard investigation was initiated based on 13 (thirteen) manufacturing units of Caustic soda as domestic industry, which constitute more than 60% of the total domestic production of India. The preliminary finding regarding the 'domestic industry' is that the 13 units constitute domestic industry. These manufacturing units are:

i. M/s Punjab Alkalies & Chemicals Ltd. (Unit I & II), Nangal Una Road, Naya Nangal, Distt. Ropar, Punjab.
ii. M/s Siel Chemical Complex, (A unit of Mawana Sugars Ltd.),Vill. – Khadauli, Charatrampur, Rajpura, Distt- Patiala
iii. M/s Grasim Industries Ltd., Chemical Division, P.O. – Birlagram, Nagda (M.P.)
iv. M/s Gujrat Alkalis, and Chemicals Ltd.- Dahej, P.O. – Dahej, TaVagra, Distt - Bharuch.
v. M/s Gujrat Alkalies and Chemicals Ltd. – Baroda, P.O.Petrochemcials, Ranoli, Baroda – 391346.
vi. DCM Shriram, Shriram Fertiliser & Chemicals, A unit of DSCL, Kota.
vii. Shriram Alkali & Chemicals, 749, GIDC Indl.Estate, Jhagadia, Distt – Bharuch, Gujrat – 393 110
viii. M/s Reliance Industries, Ltd., Dahej, Dahej Mfg Div, P.O. – Dahej, Distt-Bharuch, Gujrat – 392130.
ix. M/s DCW Ltd, Sahupuram, Distt – Tuticorin
x. Indian Rayon, A unit of Aditya Birla, Nuvo Ltd., Junagarh – Veraval Road, Viraval, distt – Junagarh, PIN – 362012.
xi. M/s Gujrat Fluoro Chemicals Ltd., Plot No.12-A, GIDC, Industrial Area, Dahej, Bharuch – Gujrat
xii. M/s Kannoria Chemicals & Industries Ltd., P.O. – Renukot - 231217, Distt - Sonebhadra.
xiii. Aditya Birla Chemicals (I) Ltd., (formerlyM/s Bihar Caustic & Chemicals), Garhwa Road, At &PO. Rehla, Distt. Palamu (Jharkhand)

89. Share of these 13 manufacturing units in total production of India has been as follows:

Table-1

Share of Domestic Industry in Total Production (%)				
Quarter	2006-07	2007-08	2008-09	2009-10
Q 1	60	67	64	68
Q 2	60	68	66	
Q 3	62	65	65	
Q 4	63	61	71	

90. The Collective output of the above mentioned producers constitute more than 60% of the total production of Caustic Soda in India, which is a major proportion. Therefore,

the preliminary determination is that the above mentioned domestic producers constitute the domestic industry within the meaning of required and defined under Sec 8B (6) (b)(iii) of the Safeguard Duty Rules 1997.

Period of Investigation:

91. The Customs Tariff Act, 1975, the Custom Tariff (Identification and Assessment of Safeguard duty) Rules, 1997, the Agreement on Safeguard or the relevant Article XIX of GATT does not specifically define what the Period of Investigation should be. However, the issue of period of investigation has been dealt extensively in the panel's report on Argentina Footwear as well as Appellate Body Report on Argentina Footwear, which are being produced below;

"Argentina– safeguard measures on imports of Footwear; Report of the Panel

8.216 Regarding the investigation's almost exclusive reliance on end-point-to-end-point comparisons in its analysis of the changes in the situation of the industry, we have the same concerns as were noted above with regard to the "increased imports" analysis. Here we note in particular that if intervening trends are not systematically considered and factored into the analysis, the competent authorities are not fulfilling Article 4.2(a)'s requirement to analyse "all relevant factors", and in addition, the situation of the domestic industry is not ascertained in full. For example, the situation of an industry whose production drops drastically in one year, but then recovers steadily thereafter, although to a level still somewhat below the starting level, arguably would be quite different from the situation of an industry whose production drops continuously over an extended period. An end-point-to-end-point analysis might be quite similar in the two cases, whereas consideration of the year-to-year changes and trends might lead to entirely opposite conclusions.

We believe that consideration of changes over the course of the investigation period in the various injury factors is indispensable for determining whether an industry is seriously injured or imminently threatened with serious injury. An end-point-to-end-point comparison, without consideration of intervening trends, is very unlikely to provide a full evaluation of all relevant factors as required

Appellate Body Report

Note 130:

The Panel, in footnote 530 to para. 8.166 of the Panel Report, recognizes that the present tense is being used, which it states "would seem to indicate that, whatever the starting-point of an investigation period, it has to end no later than the very recent past." (emphasis added) Here, we disagree with the Panel. We believe that the relevant investigation period should not only end in the very recent past, the investigation period should be the recent past.

92. From the above it is apparent that neither the Agreement on Safeguard nor the relevant provisions of WTO provide specific definition or interpretation of the period of investigation. The Appellate Body Report has given the finding in unequivocal terms that the relevant investigation period should not only end in the very recent past; the investigation period should be the recent past. Therefore, the period after

filing of the application cannot be ignored in safeguard investigation. However, in order to meet the requirement of natural justice, it is imperative that the information received or collected after initiation of investigation is accessible to the interested parties.

93. In the instant investigation, the period starting from January 2009 to June 2009 has been considered. The information relating to the period April, 2006 to December 2008 has also been considered for comparison and trend study. Further, the figures after June 2009 have also been taken into account to make a fair and comprehensive analysis.

Methodology and Source of information:

94. For the purpose of import data reliance has been placed on DGCIS figures up to FY 2007-08 and IBIS for the subsequent period. The transaction wise details of the information have been kept in the public file. The other economic parameters relating to all manufacturers of India have been sourced from the Alkali Manufacturers Association of India (AMAI) and individual units. Further, the study report of Harriman Chemsult Ltd., a widely used journal on Chlor-Alkali Industry has also been referred. If any other information is used the source is mentioned with the information.

95. As the initiation of investigation has been done in the mid year, the annual information may not be very recent information. Therefore, for the purpose of analysis, quarterly, as well as monthly figures have been used. In order to obviate effects of seasonal variation, if any, the comparison has been made with corresponding periods of preceding years. The abbreviation Q1, Q2, Q3 and Q4 denote April-June, July-September, October-December and January-March respectively. In order to conduct trend analysis, actual monthly figures have been considered, so that sample size is reasonably large.

96. Further, while conducting analysis of economic factors for the determination of serious injury or threat of serious injury, analysis of these factors for both, the domestic industry (i.e 13 units), as well as that for all producers of India, has been done to take into account inter-unit dynamics amongst Indian industry affecting the economic factors.

Is there an increase in import?

97. **Increased Imports:** The table below gives the Quarterly import figures relating to caustic soda in lye form.

Table 2

Quarterly Imports(DMT){Dry Metric Ton}				
Quarter	**2006-07**	**2007-08**	**2008-09**	**2009-10**
Q 1	33641	32149	59180	101227
Q 2	15762	18149	38933	
Q 3	45114	59299	6062	
Q 4	20186	22614	82173	

Table 2A

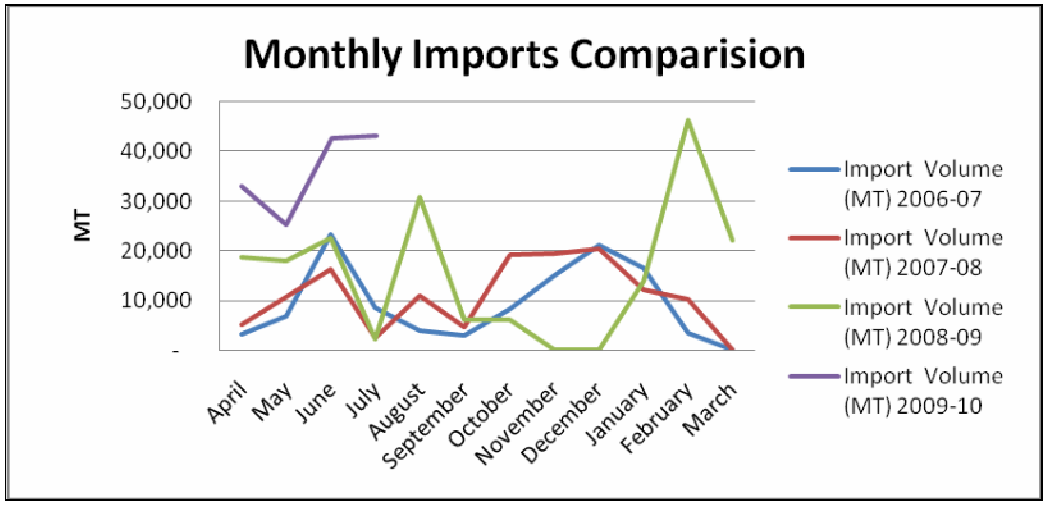
Quantity of Imports (DMT)	
July 2009	43164
July 2008	2082

98. The imports in the Q4 of 2008-09 and Q1 of 2009-10 are more than the imports which took place in any quarter in the past three years. The Q4 of 2008-09 has witnessed 263% increase in imports compared to Q4 of 2007-08. Also, Q1 of 2009-10 has witnessed 71% increase compared to Q1 of 2008-09.

99. It is seen that the total imports in 2006-07, 2007-08 and 2008-09 were 114703DMT, 132211 DMT and 186348DMT. The imports in 2009-10 crossed the 2 lac DMT mark in the month of August, 2009, i.e the imports in first 5 months of 2009-10 are more than the annual imports of past years of the entire period considered for analysis. Therefore, though the increase in import has been there in the past , the increase is significantly sharp during the recent period.

100. In order to study the past trends as well as the current trends of imports the monthly data of imports has been used. The graph below shows monthly imports trend.

Graph 1



The graph above shows that the imports during January 2009 to July 2009 have been more than the corresponding months of the previous years. It was also more than the period immediately preceding January 2009.The average monthly imports during January-June, 2009 was 30567 DMT against average monthly imports of 7499 DMT during July-Deceber, 2008 and 10566MT during January-December, 2008.

101. Therefore, the preliminary determination is that there is increase in import.

102. **Relative increase in imports:** The share of imports in the total market size of India has been as follows:

Table 3

Share of Imports in Total Market Size (%)				
Quarter	2006-07	2007-08	2008-09	2009-10
Q 1	6.95	6.84	11.93	18.29
Q 2	3.43	3.94	8.10	
Q 3	9.11	12.03	1.37	
Q 4	4.32	4.75	15.57	

103. The market share of imports has gone up to 15.57% in the last quarter of 2008-09 and 18.29% in the first quarter of 2009-10. The share of imports in the year 2009, beginning from January to June, has been the highest in the period beginning from 2006-07. The market share of imports in the month of July, 2009 is 18.5%, which shows a continuous rising trend in market share of imports.

104. Therefore, the preliminary determination is that the imports have gone up in relative terms also.

Under what conditions imports are taking place?

105. The table below gives average value of imports per DMT.

Table 4

Value of Imports (Rs./DMT)				
Quarter	2006-07	2007-08	2008-09	2009-10
Q 1	14512	14274	15551	14574
Q 2	14957	14635	14294	
Q 3	16109	14954	16479	
Q 4	15622	14066	12697	

Table 4A

Value of Imports (Rs./DMT)	
July 2009	12375
July 2008	21108

106. The average value of import per DMT has fallen by 9.7% in Q4 of 2008-09 and 9.4% in Q1 of 2009-10 compared to same quarters of the previous year. The falling trend continued in July, 2009 and the import price fell to Rs.12375/DMT. Further, the export prices in the international market have seen a steep fall, which has also made imports cheaper compared to domestically produced caustic soda.[1]

107. Therefore, the preliminary finding is that the imports are taking place at falling prices.

Is the increase in import on account of unforeseen developments?

108. The phrase 'unforeseen developments' means developments which are unexpected[2].

[1] Refer Table 22

[2] The Appellate Body Report (ABR) in the matter of Argentina Foot wear case has dealt with the meaning of unforeseen developments, which is reproduced

109. The financial meltdown and recession faced by the economy is unparalleled in recent history. The global recession caused sudden deceleration in the manufacturing sector all over the world. The deceleration has been different in different countries and for different sectors of economy. The caustic soda industry has also been affected by the slowdown in the manufacturing sector. The slowdown in demand of caustic soda in North America, Europe and many parts of Asia caused steep fall in prices. For example the spot price of Caustic Soda in USA fell to one tenth of what it normally used to be.[3]

110. The demand of caustic soda however continued to grow except in Q3 of 2008-09 in India in spite of slow down witnessed in various countries. The slowdown in North America and Europe, determined the price trend as they have more than half of the global production capacity.

111. These developments are unexpected and are 'unforeseen developments'. These developments caused price differences and also changed the demand supply scenario in different parts of world. It also caused a wide price gap between Indian domestic price and export price, and led to increased imports to India.

Evaluation of evidences relating to Serious Injury or Threat of Serious Injury:

Statutory framework:

112. "Serious injury" means as an injury causing overall impairment in the position of a domestic industry;[4] and "threat of serious injury" means a clear and imminent danger of serious injury.[5]

113. The Article 4.2(a) of the Agreement on Safeguard and Annexure to Rule 8 of the Custom Tariff (Identification and Assessment of Safeguard duty) Rules, 1997 technically requires that certain listed factors as well as other relevant factors must be evaluated to determine serious injury or threat of serious injury. However, these provisions do not specify what such an evaluation must demonstrate. Any such evaluation will be different for different industries in different cases, depending on the facts of the particular case and the situation of the industry concerned. An evaluation of each listed factor will not necessarily have to show that each such factor is "declining". In one case, for example, there may be significant decline in sales, employment and productivity which will show "significant overall impairment" in the position of the industry, and therefore will justify a finding of serious injury. In another case, a certain factor may not be declining, but the overall picture may nevertheless demonstrate "significant overall impairment" of the industry. Thus, in

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' As to the meaning of "unforeseen developments", we note that the dictionary definition of "unforeseen", particularly as it relates to the word "developments", is synonymous with "unexpected". "Unforeseeable", on the other hand, is defined in the dictionaries as meaning "unpredictable" or "incapable of being foreseen, foretold or anticipated". Thus, it seems to us that the ordinary meaning of the phrase "as a result of unforeseen developments" requires that the developments which led to a product being imported in such increased quantities and under such conditions as to cause or threaten to cause serious injury to domestic producers must have been "unexpected".'

3 *Source: www.icis.com and Harriman Chemsult Ltd*

4 Section 8B(6)(c) of the Customs Tariff Act, 1975.

5 Section 8B(6)(d) of the Customs Tariff Act, 1975.

addition to a technical examination of all the listed factors and any other relevant factors, it is essential that the overall *position* of the domestic industry is evaluated, in light of all the relevant factors having a bearing on the situation of that industry.[6]

114. Accordingly, in analyzing serious injury or threat of serious injury all factors, which are mentioned in the rules as well as other factors which are relevant for determination of serious injury or threat of serious injury, have been considered. No single factor has been considered as dispositive. All relevant factors within the context of the relevant business cycle and conditions of competition which are relevant to the affected industry have been considered. The determination of serious injury or threat of serious injury is based on evaluation of the overall position of the domestic industry, in light of all the relevant factors having a bearing on the situation of that industry.

115. **Identification of relevant factors**: In order to identify the relevant factors, the practice adopted by various member nations for safeguard investigation and the factors having bearing on the performance of Caustic Soda industry was studied. The Annex to Rule 8 of Safeguard Rules mentions following factors for determination of existence of serious injury or threat of serious injury;

i. Rate of increase of imports
ii. Share of the domestic market taken by increased imports
iii. Change in level of sales
iv. Production
v. productivity
vi. Capacity utilization
vii. Profits & losses
viii. Employment

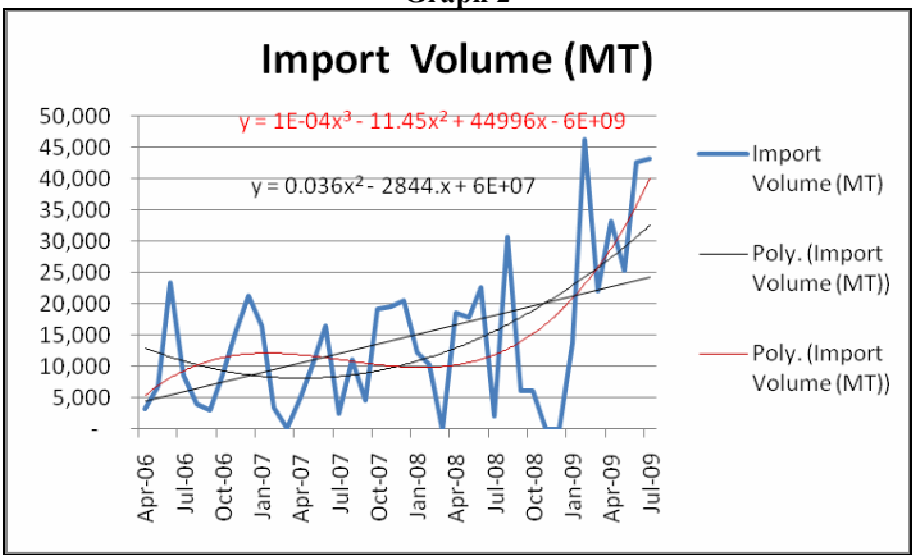
116. All these factors which are mentioned in the rules have been adopted for evaluation. Besides these, certain other factors were also considered relevant for the instant case. These are

i. Export capacity in the country of origin or export, as it stands or is likely to be in the foreseeable future and the likelihood that the capacity will be used for export to India.
ii. cost to sell
iii. Trend of domestic prices
iv. Profitability of ECU.
v. Return on employed capital

117. **Rate of increase of imports:** In order to assess the rate of increase of imports trend of imports since April 2007 has been studied by drawing trend lines of polynomials of order 2 and order 3. The trend is as shown in the chart below. The trend lines show that the rate of increase in imports is positive and the growth in imports is accelerated one. The rate of increase has gone up in year 2009.

[6] Based on Para 139 of Argentina footwear Case Appellate Body Report Of WTO

Graph 2



118. **Share of domestic market taken by increased imports:** The table below contains share of all domestic producers taken together in domestic market.

Table -5

Share of Domestic Producers in Domestic Market (%)				
Quarter	2006-07	2007-08	2008-09	2009-10
Q 1	93.05	93.16	88.07	81.71
Q 2	96.57	96.06	91.90	
Q 3	90.89	87.97	98.63	
Q 4	95.68	95.25	84.43	

Table 5A

Share of Domestic Producers in Domestic Market (%)	
July 2009	79.8
July 2008	98.86

119. The table above shows that the share of domestic producers in domestic market has gone down to 81.71% in the Q1 of 2009-10, which is the least during the entire period considered for analysis. The share of domestic producers was 84.43% in Q4 of 2008-09 against 95.25%, which is 10.82% less than the corresponding quarter of 2007-08 and 14.20% less than the immediately preceding quarter i.e Q3 of 2008-09. The market share of domestic producer further fell down to 79.80% in July 2009, which was 98.86% in July 2008.

120. The increased imports have taken 10.82% and 6.36 % of market share from domestic producers in Q4 of 2008-09 and Q1 of 2009-10 respectively.

121. **Change in level of Sales:** The Table-6 is the table containing quarterly consolidated sales by all domestic producers and Table 7 contain the consolidated sales by 13 selected domestic producers.

Table 6

Consolidated Sales by all domestic producers (DMT)				
Quarter	2006-07	2007-08	2008-09	2009-10
Q 1	330,584	321,647	384,619	351,754
Q 2	337,714	344,480	399,305	
Q 3	336,639	342,040	370,919	
Q 4	354,842	407,860	328,600	

Table 6A

Consolidated Sales by all domestic producers (DMT)	
July 2009	190163
July 2008	195287

Table 7

Consolidated Sales by 13 selected domestic producers (DMT)				
Quarter	2006-07	2007-08	2008-09	2009-10
Q 1	220,370	225,570	249,983	256,423
Q 2	216,402	247,064	268,271	
Q 3	221,810	231,824	237,284	
Q 4	230,426	256,051	254,194	

Table 7A

Consolidated Sales by 13 selected domestic producers (DMT)	
July 2009	88754
July 2008	87845

122. The Consolidated Sales by all domestic producers has fallen by 19.43% in Q4 of 2008-09 compared to Q4 of 2007-08 and by 8.54% in Q1 of 2009-10 compared to Q1 of 2008-09. It is also noted that consolidated sales of all domestic producers were higher than previous corresponding quarters till Q3 of 2008-09, i.e before the increased imports took place. This implies that sales were improving before the increased import but the sales saw downward trend in subsequent quarters. The fall in sales is in spite of growth in demand in India, which grew by 9.81% and 10.38% in Q4 of 2008-09 and Q1 of 2009-10 respectively compared to respective quarters of previous year. The growth in demand would have had positive impact on both sales and domestic prices, but imports increased the supply of caustic soda at low prices, which led to fall in domestic prices as well as fall in sales.

123. The Consolidated Sales by 13 selected domestic producers has gone down in Q4 of 2008-09 by 0.73% and gone up in Q1 of 2009-10 by 2.51% compared to the corresponding quarters. The rise in sales of 13 selected domestic producers, who are the top 13 producers in terms of their size, are on account of their reduction in Net Sales Realization[7] to meet the price of imported caustic soda at the cost of their fall in

[7] Refer Graph 3

Return on Capital Employed[8], which saw steep decline in Q1 of 2009-10. Ordinarily, increased sales result in improved profits, but the profit of 13 units fell by 98% to Rs 135 Lacs in Q1 of 2009-10 against profit of Rs. 6,462 Lacs in Q1 of 2008-09. Therefore, the improvement in sales in Q1 of 2009-10 by 13 units does not mean improvement in health of caustic soda industry. It denotes the injury faced by the 13 units in terms of loss of profitability and loss of new market in spite of reduction in prices in their efforts to meet the prices of imported caustic soda.

124. In light of above, it is noted that there is fall in cumulative sales by all domestic producers after the imports increased. This fall in sales, accompanied with the fall in prices, makes the impact of increased imports more visible.

125. **Production:** The Table-8 is the table containing quarterly consolidated gross production figures by all domestic producers and Table 9 contains the gross consolidated production by 13 selected domestic producers.

Table 8

Consolidated gross production figures by all domestic producers (DMT)				
Quarter	2006-07	2007-08	2008-09	2009-10
Q 1	477,312	501,907	564,452	550,847
Q 2	487,181	518,436	577,407	
Q 3	510,146	544,103	537,053	
Q 4	524,370	600,540	519,196	

Table 8A

Consolidated gross production figures by all domestic producers (DMT)	
July 2009	190163
July 2008	195287

Table 9

Gross consolidated production by 13 selected domestic producers (DMT)				
Quarter	2006-07	2007-08	2008-09	2009-10
Q 1	288,186	335,056	360,868	376,344
Q 2	290,756	354,925	379,758	
Q 3	316,777	352,145	351,606	
Q 4	328,025	367,597	366,989	

Table 9A

Gross consolidated production by 13 selected domestic producers (DMT)	
July 2009	128623
July 2008	126168

[8] Refer Graph 8.

126. The consolidated production by all domestic producers in Q4 of 2008-09 has fallen by 13.54% compared to the same quarter of 2007-08. The production has also fallen down by 2.41% in Q1 of 2009-10 compared to the corresponding period of 2009-09. The production of these producers in July 2009 was 1,90,163 compared to 1,95,287 in July 2008, which shows a continuing declining trend. This declining trend in production is despite the increase in demand in Indian domestic market.

127. The consolidated production of 13 selected domestic producers in Q4 of 2008-09 is less than the Q4 of 2007-08. However, the production in Q1 of 2009-10 is more than the production in Q1 of 2008-09. The growth of 4.2% in production in Q1 of 2009-10 is on account of increase in sale by 2.5% in the market which has grown by 10.4%. Further, as discussed in para 123 above, the increase in sales is not indicative of improvement in performance of domestic producers of India. Similarly, slight increase in production also does not indicate improvement in performance, if analyzed along with the profitability and ROEC.

128. From the above, it is seen that the total production by all domestic producers have declined. This decline in total production by all domestic producers is despite growth in domestic demand. Therefore it is seen that there is a fall in cumulative production of all domestic producers even when the market size of India is growing.

129. **Capacity utilization:** The Table-10 and Table 11 is the table containing quarterly capacity and capacity utilization respectively of all domestic producers and Table-12 and Table 13 are the tables containing quarterly capacity and capacity utilization respectively of 13 selected caustic soda producers.

Table 10

Capacity (DMT) of all domestic producers				
Quarter	2006-07	2007-08	2008-09	2009-10
Q 1	636,961	673,558	705,797	763,583
Q 2	636,961	676,201	722,384	
Q 3	636,961	686,949	744,471	
Q 4	636,961	705,091	750,348	

Table

Capacity (DMT) of all domestic producers	
July 2009	256648
July 2008	235266

Table 11

Capacity Utilization of all domestic producers (%)				
Quarter	2006-07	2007-08	2008-09	2009-10
Q 1	74.94	74.52	79.97	72.14
Q 2	76.49	76.67	79.93	
Q 3	80.09	79.21	72.14	
Q 4	82.32	85.17	69.19	

Table 11A

Capacity Utilization of all domestic producers (%)	
July 2009	74.09
July 2008	85.20

Table 12

Capacity (DMT) of 13 selected caustic soda producers				
Quarter	2006-07	2007-08	2008-09	2009-10
Q 1	349,863	389,412	411,439	438,830
Q 2	349,863	390,072	417,924	
Q 3	349,863	400,071	426,940	
Q 4	349,863	399,239	435,600	

Table 12A

Capacity (DMT) of 13 selected caustic soda producers	
July 2009	146950
July 2008	137606

Table 13

Capacity Utilization of 13 selected caustic soda producers (%)				
Quarter	2006-07	2007-08	2008-09	2009-10
Q 1	82.37	86.04	87.71	85.76
Q 2	83.11	90.99	90.87	
Q 3	90.54	88.02	82.35	
Q 4	93.76	92.07	84.25	

Table 13A

Capacity Utilization of 13 selected caustic soda producers (%)	
July 2009	**87.35**
July 2008	**91.69**

130. The cumulative installed capacity of all domestic producers is growing. The increase in capacity in Q4 of 2008-09 was 45257 MT against increase in domestic demand by 51748 MT compared to the same quarter of previous year. The increase in capacity in Q1 of 2009-10 was 57786 MT against increase in domestic demand by 57433 MT compared to the same quarter of previous year. Therefore, the increase in capacity by domestic producers is in tune with the growth in domestic demand. The capacity utilization of all Indian producers taken together has fallen down by 15.98% in Q4 of 2008-09 and by 7.83% in Q1 of 2009-10.

131. The capacity utilization of selected 13 domestic producers has gone down in Q4 of 2008-09 and Q1 of 2009-10 by 7.83% and 1.95% compared to the corresponding quarters of previous year.

132. In light of the above, it is noted that there is a fall in capacity utilization. It is also seen that there would be fall in capacity utilization of all producers in cumulative terms even if growth in capacity is adjusted. However, the capacity expansions by Indian producers are natural business decisions considering growth in Indian demand. Therefore, the fall in capacity utilization is attributable to increased imports.

133. **Profits & losses:** The table below gives quarterly profits and losses. The profit in Q1 of 2009-10 has gone down by 98% compared to Q1 of 2009-10. The profit is showing downward trend since Q3 of 2008-09. The July 2009 saw losses of Rs. 1391 Lacs. This implies that the profit has been steadily falling since Q3 of 2008-09 to reach negative in the month of July, 2009. The profit in Q1 of 2009-10 is the minimum in Q1 of the past years.

Table 14

Profit & Loss of domestic industry (Rs. In Lacs)				
Quarter	2006-07	2007-08	2008-09	2009-10
Q 1	2,145	788	6,462	135
Q 2	2,068	2,358	9,096	-
Q 3	2,173	1,530	1,706	-
Q 4	2,345	(1,641)	1,442	-

134. In light of the above it is noted that there is a fall in profit.

135. **Employment:** The companies as well as units are multi product companies and units and thus there is no impact on employment, as apparent from the table below.

Table 15

Total Number of Employees				
Quarter	2006-07	2007-08	2008-09	2009-10
Q 1	3,734	3,795	3,672	3,726
Q 2	3,734	3,743	3,695	
Q 3	3,734	3,751	3,702	
Q 4	3,734	3,711	3,706	

Table 15A

Total Number of Employees	
July 2009	3780
July 2008	3688

136. **Productivity:** The productivity was stagnant in Q4 of 2008-09 and increased in 2009-10.

Table 16

Productivity (Production/employee) MT per Quarter				
Quarter	2006-07	2007-08	2008-09	2009-10
Q 1	77	88	98	101
Q2	78	95	103	
Q 3	85	94	95	
Q 4	88	99	99	

Table 16A

Productivity (Production/employee) MT per Month	
July 2009	34
July 2008	34.2

137. **Export capacity in the country of origin or export, as it stands or is likely to be in the foreseeable future, and the likelihood that the capacity will be used to export to India:** In order to assess the capacity available for exports in India, the capacity of North America, Europe and China has been studied. The Capacity and operating ratio since April 2008 is as follows;

Table 17
North America

Installed capacity and Surplus Capacity (North America)						
Months	**08-09**			**09-10**		
	Installed Capacity (DMT'000)	**Surplus Capacity (DMT'000)**	**Spot Price (US$/DMT)**	**Installed Capacity (DMT)**	**Surplus Capacity (DMT)**	**Spot Price (US$/DMT)**
APRIL	1178	177	540-550	1180	319	400-450
MAY	1242	112	570-600	1202	336	325-350
JUNE	1200	108	685-695	1153	265	125-200
JULY	1238	74	780-800	-	-	50-75
AUGUST	1253	125	825-840			
SEPTEMBER	1179	448	825-840			
OCTOBER	1236	173	900-1050			
NOVEMBER	1211	363	900-1050			
DECEMBER	1227	613	825-950			
JANUARY	1231	382	800-825			
FEBRUARY	1117	268	730-775			

MARCH	1229	455	680-725			

[Source: Harriman Chemsult Ltd. and Chlor Alkali monthly report published by CCAON]

Table 18
Europe

Installed capacity and Surplus Capacity (Europe)						
Months	**08-09**			**09-10**		
	Installed Capacity (DMT'000)	**Surplus Capacity (DMT'000)**	**Spot Price (US$/DMT)**	**Installed Capacity (DMT'000)**	**Surplus Capacity (DMT'000)**	**Spot Price (US$/DMT)**
APRIL	1082	162	350-365	1100	396	435-470
MAY	1126	169	350-365	1146	344	435-470
JUNE	1085	184	350-365	1106	310	435-470
JULY	1118	156	470-495	-	-	230-270
AUGUST	1113	156	470-495	-	-	
SEPTEMBER	1081	216	470-495			
OCTOBER	1114	201	500-525			
NOVEMBER	1076	355	500-525			
DECEMBER	1113	501	500-525			
JANUARY	1146	447	610-635			
FEBRUARY	1065	288	610-635			
MARCH	1139	365	610-635			

[Source: Harriman Chemsult Ltd. and Chlor Alkali monthly report published by CCAON]

Table 19
China

Installed capacity and Surplus Capacity (China)						
Months	**08-09**			**09-10**		
	Installed Capacity (DMT'000)	**Surplus Capacity (DMT'000)**	**Spot Asia Price (US$/DMT)**	**Installed Capacity (DMT'000)**	**Surplus Capacity (DMT'000)**	**Spot Asia Price (US$/DMT)**
APRIL	2032	510	420-430	2217	556	240-260
MAY	2099	527	430-440	2291	575	250-260

JUNE	2032	510	500-520	2217	556	230-250
JULY	2099	527	580-610	2291	575	180-210
AUGUST	2099	527	580-610			
SEPTEMBER	2032	510	580-610			
OCTOBER	2099	527	490-500			
NOVEMBER	2032	510	450-480			
DECEMBER	2099	527	430-470			
JANUARY	2291	575	400-450			
FEBRUARY	2069	519	350-380			
MARCH	2291	575	270-325			

[Source: Harriman Chemsult Ltd. and Chlor Alkali monthly report published by CCAON]

138. The surplus capacity in North America, Europe and China has gone up post August, 2008 period. The surplus capacity in the first quarter of 2009-10 in North America has been 920 Thousand DMT against 397 Thousand DMT during the corresponding period in 2008-09. Similarly, the surplus capacity in Europe has been 1050 Thousand DMT in the first quarter of 2009-10 against 515Thousand DMT during the corresponding period in 2008-09. The surplus capacity of North America, Europe and China taken together in the first quarter of 2009-10 has been 3657 Thousand DMT, which is 170% of annual market size of India. The increase in surplus capacity in North America, Europe and China during the first quarter of 2009-10 compared to the corresponding period of 2008-09 was 1198 Thousand MT, which is more than double of the total market size of India during the same quarter.

139. Therefore, the information on available capacity shows that large surplus capacity is available in the exporting nations. There is also a wide gap between the selling price, cost of sale of Caustic Soda in India and the price at which Caustic Soda is available for export in exporting nations. Therefore, it is imminent that the available capacity would be used, as is being done currently for export to India.

140. Further, the analysis of monthly surplus capacity and the monthly imports of Caustic Soda in India show a relationship between the imports and increase in surplus capacity in North America, Europe and China. The relationship also shows a lag of few months between surplus capacity and increased import, which is primarily on account of transit time. The analysis also shows that the quantity of import increases with the increase in difference between cost to sale and price at which caustic soda is available for export.

141. **Cost to sell:** The Table 20 and Table 21 contain the quarterly information of Net sales realization /DMT and cost to sale of Caustic Soda respectively. The Graph 3 is the graph plotted based on information about monthly information on Net Sales Realization and Cost to sale .The Graph 4 shows ECU cost and ECU realization. (Electrochemical unit) [ECU = Ex-factory price of 1 MT Caustic Soda + 0.88 MT Chlorine].

Table 20

Quarterly Net Sales Realization/DMT of Caustic Soda				
Quarter	2006-07	2007-08	2008-09	2009-10
Q 1	18,981	15,892	17,800	19,679
Q 2	18,639	15,977	20,285	
Q 3	19,105	16,132	21,117	
Q 4	19,847	14,946	21,644	

Table 20A

Quarterly Net Sales Realization/DMT of Caustic Soda	
July 2009	16082
July 2008	19706

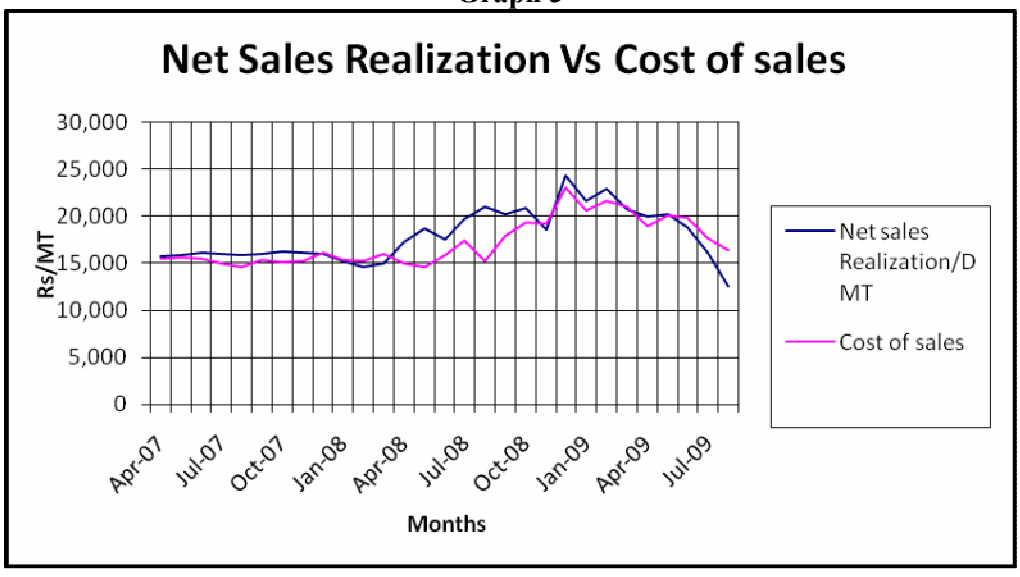
Table 21

Cost to sell at 0% profit (Rs. /DMT)				
Quarter	2006-07	2007-08	2008-09	2009-10
Q 1	18,007	15,542	15,215	19,627
Q 2	17,683	15,023	16,894	
Q 3	18,125	15,473	20,398	
Q 4	18,829	15,587	21,076	

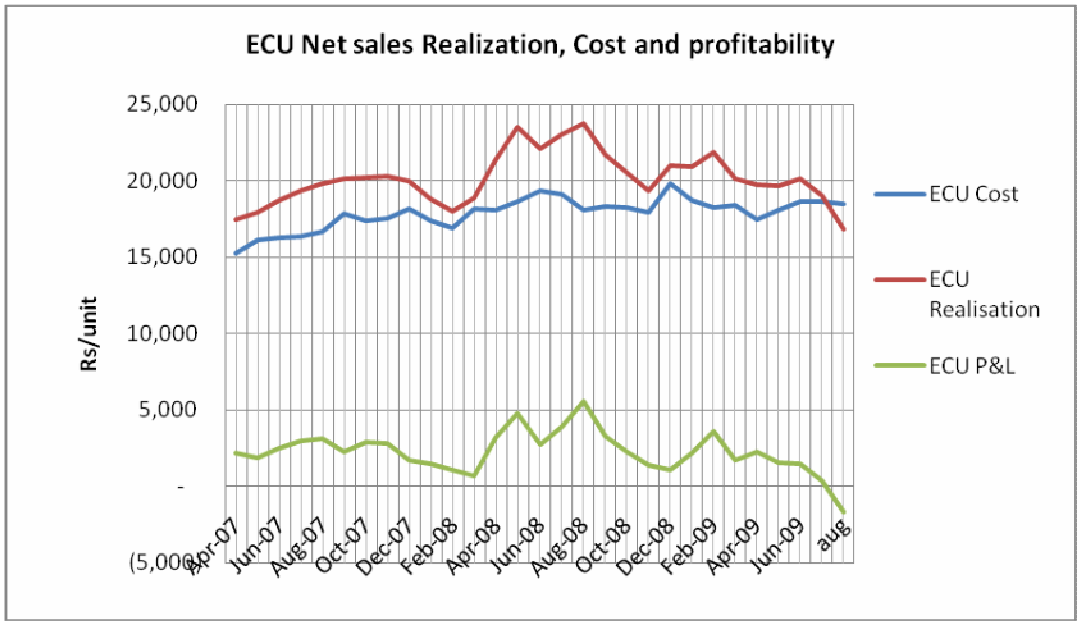
Table 21A

Cost to sell at 0% profit (Rs. /DMT)	
July 2009	17650
July 2008	17374

Graph 3

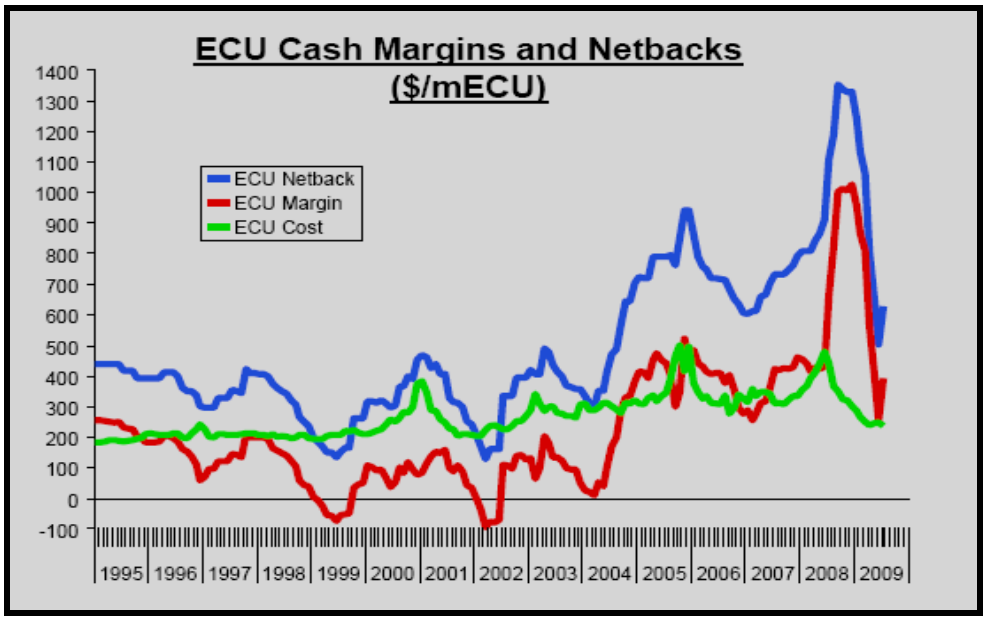


Graph 4



142. In order to compare the trend of ECU realization of industry in other countries, the ECU realization of North America has been studied, which is as follows;

Graph 5



143. The analysis of above tables and graph shows that the difference between net sales realization (NSR) and cost to sale in respect of both caustic soda and ECU has been narrowing down since January, 2009 and turned negative during June, 2009 in India.

The NSR of caustic soda has been reasonably higher than the cost of sales during the entire period under examination except after January 2009 when the difference started narrowing down. Similar trend is also noticed in case of ECU realization which went to the level leading to negative difference. The Chlor-Alkali business is viable only if the ECU realization is at least equal to the cost to sale. The fall in ECU realization in July 2009 is Rs. 3999, which led to fall in ECU profitability by Rs 3531 compared to July 2008.

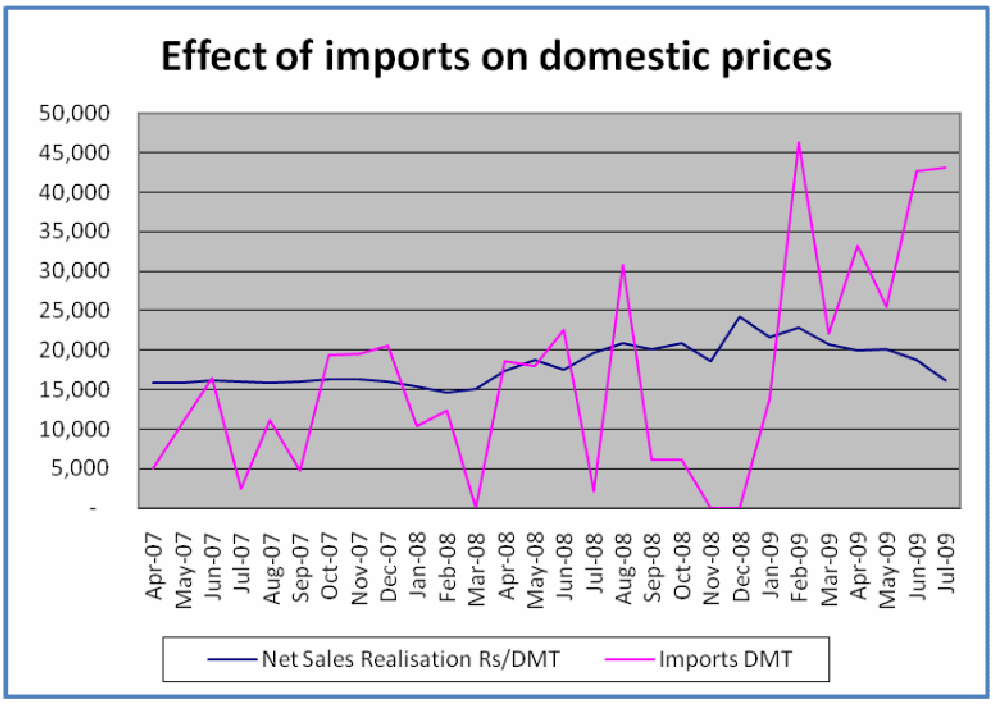
144. In contrast to ECU realization of India, the ECU margin (i.e the difference between net sales realization (NSR) and cost to sale in respect of both caustic soda and Chlorine) has remained positive In North America In fact, the ECU margin has been more than the ECU cost even when the prices of Caustic soda has seen steep fall. It implies that the Caustic Soda industry remained viable and profitable in North America and Europe, even at the fall of caustic soda price to near one tenth levels. This is possible on account of high realization in chlorine sales (Graph 9). Therefore, it is seen that Indian Caustic Soda Industry became unviable with fall in prices to such a low level, but the same industry in North America and Europe remained viable.

145. **Trend of domestic prices:** The table and graph below gives the relationship between imports, international prices and its effect on domestic prices.

Table 22

Period	Average Net Sales Realization (Rs/DMT)	Import Price(CIF) (Rs/DMT)	International Prices for Export (in US $/DMT)		
	a	b	c	d	E
	(Rs/DMT)	(Rs/DMT)	North America	Europe	Asia
2005-06	14969	14142	-	-	-
2006-07	16097	15397	-	-	-
2007-08	16704	14593	-	-	-
April'08	17285	14449	550-560	420-440	365-387
May'08	18694	19079	580-600	465-485	420-450
June'08	17491	13656	-	-	-
July'08	19706	21108	830-850	620-650	500-550
August'08	20966	13691	830-850	700-740	580-635
September'08	20183	15016	830-850	710-750	490-580
October'08	20879	16479	830-850	710-750	450-470
November'08	18586	-	830-850	620-650	400-470
December'08	24283	-	830-850	600-640	400-470
January'09	21602	13544	830-850	600-640	360-450
February'09	22884	11681	820-850	600-640	310-390
March'09	20667	14297	775-810	540-560	200-310
April'09	19922	15180	225-325	200-250	200-250
May'09	20193	13932	130-160	170-200	200-240
June'09	18791	14421	90-110	90-120	170-200
July'09	16082	12375	35-75	50-60	130-150

Graph 6

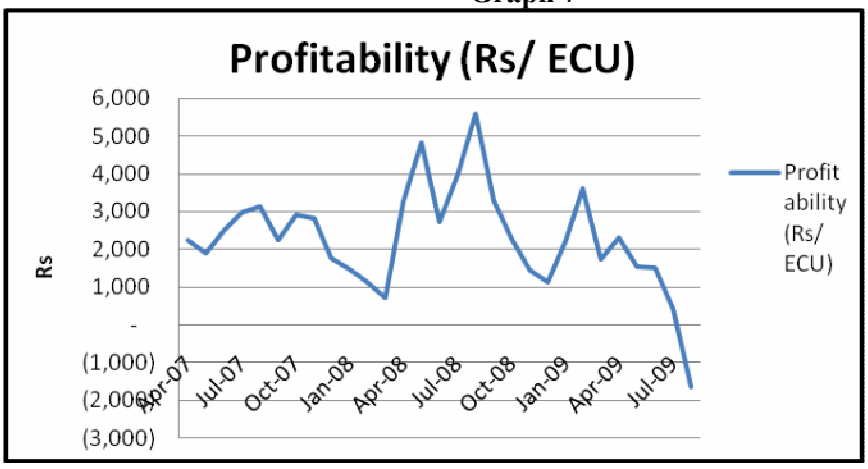


146. The table above clearly shows the existence of price difference between selling price in India and the price at which caustic soda is available in international market. As a result the landed cost of caustic soda in India went down. Besides these the caustic soda market continued to grow in India fuelling demand. The growth in demand would have had positive impact on net sales realization. But the graph above shows the depression in domestic prices of caustic soda from January 2009 when there is significant increase in imports. The fall in domestic price in July 2009 is Rs.3624 compared to price of July 2008. The domestic price in July, 2009 has gone down even below the prices of 2007-08.

147. In light of the above, it is noted that the imports have caused depression in prices in the domestic market.

148. **Profitability of ECU:** The Graph below gives profitability in terms of Rs/ECU.

Graph 7

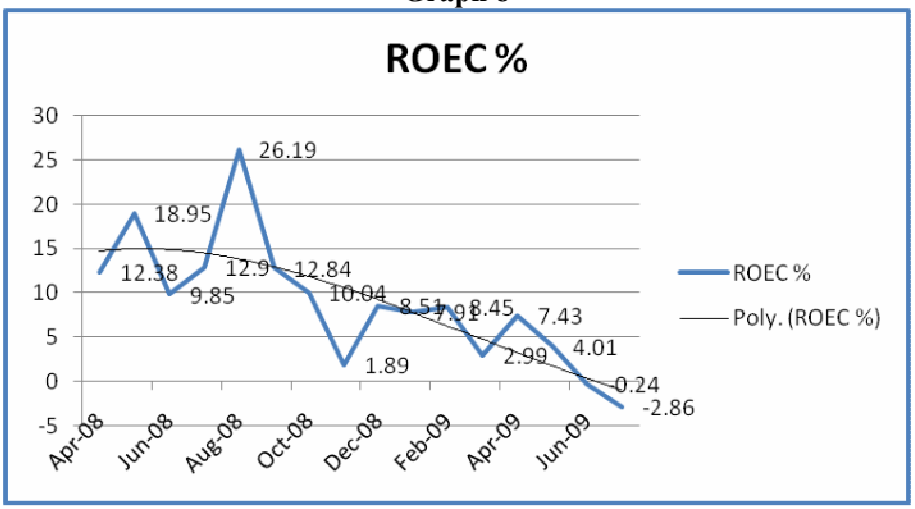


149. It is noted that the production of caustic Soda and chlorine goes together, by virtue of Chemical reaction, which produces caustic soda and chlorine together in near fixed proportion. Therefore, analysis of profitability has been done on ECU basis, which takes price movement of both caustic soda and chlorine into consideration. The profitability of domestic industry has seen downward trend after February, 2009 to reach negative in August, 2009. The fall in profitability has been steady and steep after February, 2009, when increased import was noticed. The ECU profitability in July, 2009 fell by Rs.3531, This shows a continuous declining trend.

150. In light of the above it is noted that there is a steep downward trend in ECU realization after increase in imports.

151. **Return on Employed Capital:** The return on employed capital (ROEC) was 5.34% in 2006-07, 9.37 in 2007-08, and 10.96% in 2008-09. The ROEC fell down to 3.77% in Q1 of 2009-10. The monthly analysis the monthly ROEC is given in the graph below, which shows downward trend The trend alalysis of ROEC also shows steep declining trend after January, 2009.. The Return on Employed Capital went down by 15.76% in July, 2009. The ROEC has turned negative in June, 2009. The negative trend is found to be continuing even in August 2009.

Graph 8



152. Therefore, it is noted that there is a steep downward trend in ROEC, which has become negative after increase in imports.

153. **Analysis of fixed costs and variable costs:** The cost data of domestic industry shows that the fixed cost is approximately one fifth of total cost, and variable cost **(**only raw material and utility) is around four fifth. The domestic industry was able to recover the variable cost till the month of June, 2009 even after reduction in Net Sell Realization of ECU, and thus the natural response to deal with the increased import was to reduce prices and increase sales and production so that the fixed cost per unit is reduced. However, on account of increased imports at reduced prices the ECU realization got further depressed in the subsequent months (till August, 2009) to an extent that the variable cost is barely recoverable. Under these circumstances when the fixed cost is significant and depression in ECU realization of domestic industry is only to the extent of non recovery of fixed cost and reasonable profit, reduction in sales and production by refusal to respond to the falling international prices ,has not

been a prudent option. However, any further depression in ECU realization or continued depressed prices may force the domestic industries opt for reduction of sales and production or shutting down certain facilities to reduce losses.

154. In other words the option of reduction of price even to the level of incurring losses can be exercised only up to a limited period depending on the cash reserve available with the industry. Therefore, the first symptom of injury of the industry is witnessed on the profitability, followed by sales and production and then on employment. The adverse impacts of increased imports at lower prices are more visible on smaller units than on larger units on account of their competitive advantages on account of size. Further, difference between ECU realization and the cost to sale is the parameter, which alone can determine whether the industry is viable at the existing ECU realization. If ECU realization is less than the cost of sales, the production of caustic soda and chlorine cannot be on sustainable basis.

155. **Evaluation of overall position:** The analysis of individual parameters above shows that the most important indicator i.e the difference between ECU realization and cost of sale at 0% profit has turned negative after the same getting narrower post February, 2009. Therefore, the Chlor-Alkali industry has become non-viable. Further, the available surplus capacity and steep fall of caustic soda price for export in exporting nations causing wide arbitrage window shows that use of the surplus capacity for export to India is being done and is also imminent in foreseeable future. It is also noted that the exporting nations have capability to maintain such lower prices on sustainable basis as the ECU margin is positive even at a very low price on account of high realization of chlorine in their domestic market[9]. This fact also gets strength from the fact that the rate of increase in imports is also on rise.

156. The cumulative production and sales of Caustic Soda in India after January, 2009 has seen downward trend compared to the same quarters in previous year even after growth in demand and creation of capacity to meet the demand. The production and sales of the 13 units, which are relatively larger in size, have largely remained stagnant after January, 2009. This means the production and sales of smaller units have been adversely affected. The capacity utilization of Indian Industries has gone down to the minimum level in the fourth quarter of 2008-09 and first quarter of 2009-10, which clearly shows injury felt by Indian industry. The domestic prices have seen a steep fall[10]. The profitability and ROEC has turned negative[11]. All these parameters show the extent of injury.

157. Based on the above, the preliminary determination is that accelerated growth of imports, loss of market share of Indian Industries to import , available capacity in the exporting nations to export caustic soda at a price much below the cost of sales has forced ECU realization by domestic producers, to a level, below the cost of sale of ECU. Also, falling sales, falling capacity utilization, falling trend in profits, profitability and ROEC are the factors showing a clear and imminent threat of serious injury.

[9] Refer Graph 5 and para 145 in previous pages.
[10] Graph 6 on previous page
[11] Graph 7 and Graph 8

Other factors:

158. **Exports:** The annual exports by India in 2006-07 were 17183 DMT, which is 0.86% of total domestic production. The export in 2007-08 and 2008-09 was 19311 DMT and 11573 DMT, which is 0.89% and 0.53% of domestic production respectively. The export in Q1 of 2009-10 is 1785DMT, which is 0.3 % of total domestic production. Thus, it is noticed that the export by domestic industry is quite insignificant to have any influence on performance of domestic industry.

Table 23

Year	Export Quantity (DMT)	Export as % of total production
2006-07	17183	0.86
2007-08	19311	0.89
2008-09	11573	0.53

159. **Demand of Caustic Soda and capacity of Indian producers to meet domestic demand:** The demand of caustic soda is growing. It was 5.53 Lac DMT against the capacity of 7.64 Lac DMT per quarter in the first quarter of 2009-10. The total demand in 2008-09 was 19.47 lacs DMT against the Indian capacity of 29.23 Lac DMT. This means, the Indian industry has sufficient capacity to meet the demand.

Table 24

Market Size of Domestic Industry (DMT){Total Domestic sales + Imports}				
Quarter	2006-07	2007-08	2008-09	2009-10
Q 1	4,83,895	4,69,885	4,96,067	5,53,500
Q 2	4,59,042	4,60,110	4,80,598	
Q 3	4,95,026	4,92,893	4,42,573	
Q 4	4,67,473	4,75,913	5,27,661	

160. **Demand and Price of Chlorine in India:** Chlorine is amongst the most active elements and is very difficult to transport. Therefore, it has negligible international trade. Hence, the prices of chlorine are more influenced by local factors than by the international factors. The consumption pattern of Chlorine, internationally, and in India is as follows;

SECTORWISE GLOBAL CHLORINE DEMAND

S.NO.	User Industry	% share in Total Chlorine consumption
1.	Vinyls	36
2.	Chloromethanes	5
3.	Chloroethanes	1
4.	Propylene Oxide	7
5.	Allylics/Epichlorohydrin	4
6.	Phosgene/Polycarbonates	10
7.	Others(CB,CPr,CPf)	5

8.	Inorganics,Others	32

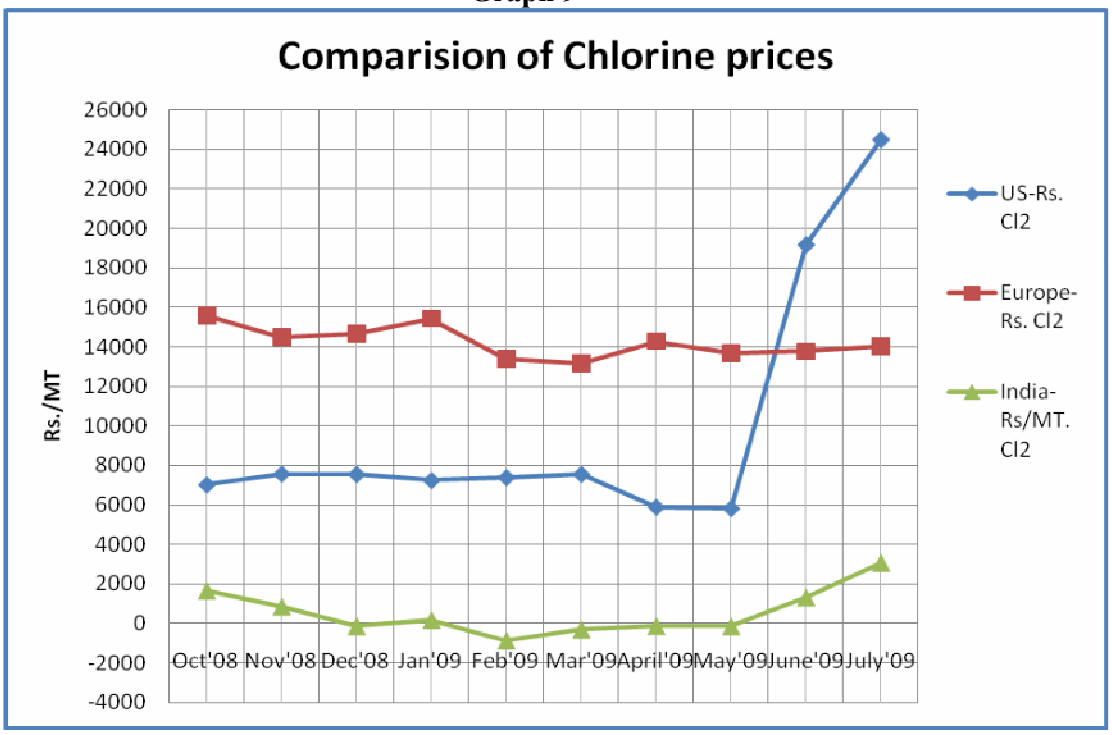
Source : Tecnon Orbichem (AMAI International Seminar on Growth of Cl2 Derivatives, May, 2008 Mumbai.)

SECTORWISE CHLORINE CONSUMPTION PATTERN IN INDIA DURING LAST THREE YEARS

S. NO.	END USER	PERCENT CONSUMPTION		
		2005-06	2007-08	2008-09
1	Vinyls (incl. PVC)	17.11	17.59	16.58
2	Organics	26.56	20.27	27.36
3	Inorganics	23.90	23.25	10.51
4	Pulp & Paper	10.29	8.27	8.32
5	CPW	7.00	11.12	14.46
6	Water Treatment	2.75	2.02	2.39
7	Pesticides / Insecticides / Weedicides	1.50	4.74	5.92
8	Pharmaceuticals	0.53	0.53	1.17
9	Dyes & Inks	0.55	0.39	0.53
10	Textiles	0.44	0.58	1.01
11	Others	9.38	11.25	11.76

161. The different consumption pattern of Chlorine in India compared to the global consumption pattern, results in its price variation. Hence, the prices of chlorine in North America, and Europe are different from that of the Indian market. The Chlorine price trend in India, Europe and North America is indicated below:

Graph 9



162. The graph above shows that there is wide difference in chlorine prices in different countries. This differential pricing of Chlorine is on account of inherent problems in their tradability and the nature of user industry of chlorine in these countries. As a result a situation is created where industries of certain countries can reduce the prices of caustic soda and still be viable by increasing the prices of chlorine. In India, it is not possible to increase the price of chlorine to a large extent because of different nature of chlorine consuming industry. The rise of chlorine prices above a level may cause increase in prices of derivatives of chlorine forcing imports of chlorine derivatives. Under these circumstances, the increased imports of caustic soda at lower prices cause depression in prices of caustic soda pushing the ECU realization below the cost, making the industry unviable.

163. **Causal Link:** The fall in sales, production, capacity utilization, profit, profitability, Return on Employed Capital, net sales realization coincide with the increase in imports. It is the increased import at lower price which caused depression in prices in India leading to loss of profitability, profit and return on employed capital. The increased import alone caused loss of market share. The entire growth of demand in Indian market has been taken by the increased imports. The increased import also took away the sales of domestic producers.

164. Therefore, the increased import is the significant cause of threat of serious injury.

165. **Critical Circumstances:** The fall in international prices of caustic soda, accompanied with the available capacities in the exporting nations to export caustic soda at a very low price, depressed the domestic prices to an extent that ECU realization is less than the cost[12]. This has made Chlor-Alkali industry unviable in India. The increased imports at accelerated rate have also shown effects on sales, market share, production and capacity utilization besides pushing the domestic industry to losses. These factors are the critical circumstances. Any delay in imposition of safeguard duty in these circumstances would cause irreparable damage to domestic industries.

166. **Restructuring Plan:** The domestic industry has submitted a detailed restructuring plan. The summary of which is as follows;

i. Conversion of mercury cells to membrane cells.
ii. Reduction of power consumption in membrane cells.
iii. Reduction in salt prices through increase in yield and productivity.
iv. Reduction in freight cost by use of rail transport and bulk shipment.
v. Reduction in finance cost through restructuring of loans.
vi. Productivity improvement by restructuring of work forces.
vii. Cost reduction through improvement in by product realizations - Hydrogen and Chlorine are by-products for the Indian producers, improvement in realization of by products would lead to reduction in cost of production of caustic soda. Efforts in this direction includes production of new or more Chlorine based product in medium & large scale, development of newer Chlorine based products; reduction in Chlorine packing and transportation cost. Further, Many Caustic Soda Industries are putting new / expanding capacities for Chloro-derivatives for

[12] Refer Graph 4

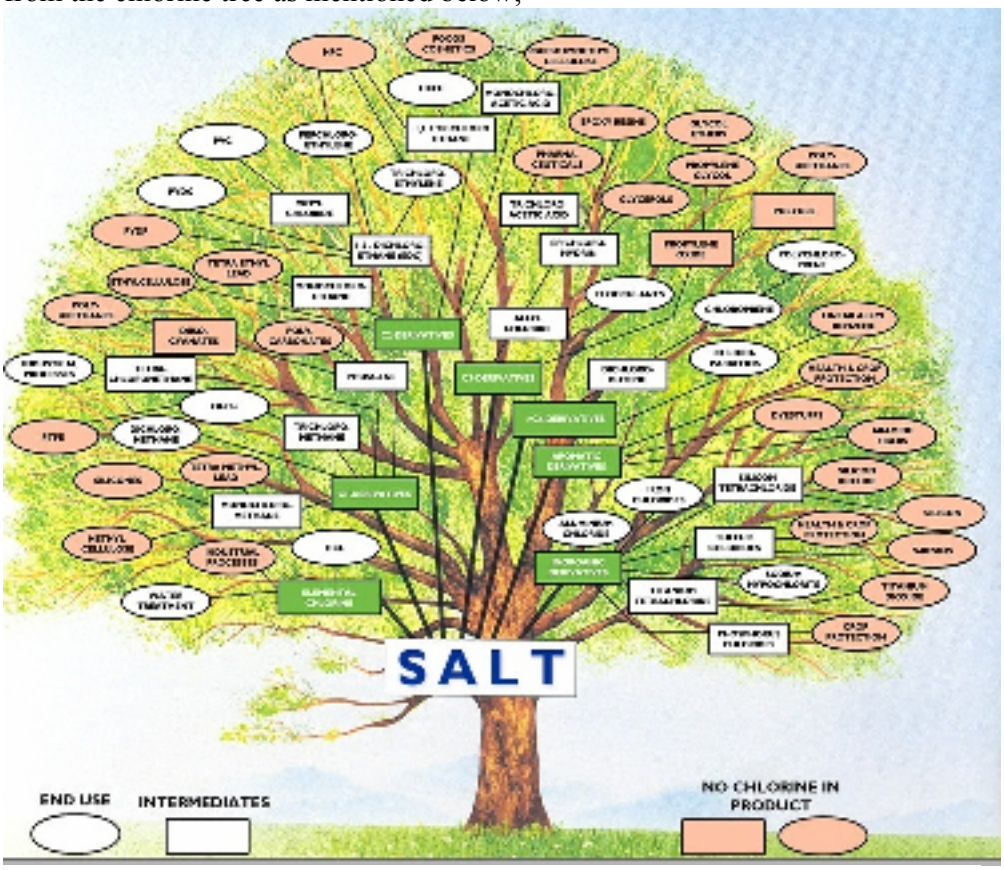
example GACL / Grasim / Kanoria / DSCL / DCW, etc. so as to increase captive demand and reduce emphasis on merchant sales for better realization.

viii. Optimization of production capacities – With increasing demand there is scope of better production capacity utilization, which would reduce the fixed cost per MT. Further, the planned capacity expansion would result in cost saving.

167. On examination of the restructuring plan, the preliminary determination is that the restructuring plan is a viable plan.

168. **Public Interest:** The Chlor-Alkali industry provides input to a large number of industries. Caustic Soda is used in chemical, paper, soap and metal industry. It is also used as a cleaning agent. For the healthy growth of all these industries it is necessary that steady and reliable supply of caustic soda is available.

169. Chlorine is used as a disinfectant and purifier, in plastics and polymers, solvents, agrochemicals and pharmaceuticals, as well as an intermediate in manufacturing other substances where it is not contained in the final product. Chlorine is used worldwide to purify water supplies as the ultimate defense against waterborne microbiological infection. Modern day cholera and other water borne diseases in India exemplify the devastating consequences of contaminated water and poor sanitation. Chlorine also plays a critical role in the production of thousands of commercial products. Products reliant on unique properties of chlorine include everyday household items such as household bleach and swimming pool disinfectants, bullet-resistant vests, computer hardware, silicon chips and automotive parts. The uses of chlorine can be visualized from the chlorine tree as mentioned below;



Chlorine has diverse applications. About one-third of finished products are chlorine-free, although made with the help of chlorine.

170. The local availability of chlorine for these industries is crucial. It is necessary that India has a viable and healthy chlor-alkali industry for its economic development.

171. The contribution of cost of caustic soda in most of the user industry is not very high thus the impact of safeguard duty may also not be very high on the prices of final products. The impact analysis of safeguard duty on Aluminum industry and paper industry shows that 1% of safeguard duty would have effect of 0.03% (approx.) on selling price of Aluminum Metal price and about 0.06% (approx.) on selling price of paper and paper products. This is on presuming that the entire impact of safeguard duty is passed on to the consumers.

172. Further, while determining the safeguard duty, care has been taken to ensure that the tariff level is maintained only up to the limit where imports are still viable and can compete with domestic products on a level playing field. The existence of a healthy Chlor-Alkali industry is in the interest of manufacturers, end users and consumers. The Chlor-Alkali industry is the life line to chlorine based industries, as chlorine is supplied by the domestic producers only. In case, chlor-alkali industry becomes unviable, the chlorine based industries would be adversely affected on account of non supply of chlorine.

173. The preliminary determination is that there are various competing interests in economy with competing long term and short term goals. However, it is in the public interest that the Chlor-Alkali industry in India remains viable and vibrant to provide critical inputs for development of various industries in India. Under the existing circumstances, the chlor-alkali industry has become unviable. If no protection is granted at this juncture, the chlor-alkali industry, which has been providing inputs to various industries, may succumb to imports at low prices. This would also have an adverse impact on the downstream industries, especially, those which are dependent on chlorine. Therefore, imposition of safeguard duty is in the public interest.

Developing Nations:

174. The percentage of imports from developing nations has also been examined. Except China, Indonesia, Qatar, Saudi Arabia and Thailand who constitute 13%, 31%, 9%, 9% and 16% of total imports in India, other developing nations individually have less than 3% of total imports in India. Therefore, the import of product under consideration originating from developing nations except China, Indonesia, Qatar, Saudi Arabia and Thailand may not attract Safeguard Duty in terms of proviso to Section 8B of the Customs Tariff Act, 1975.

Summary of examination of submissions by Interested Parties:

175. All submissions made by the interested parties have been examined and dealt with at relevant places, while doing the analysis. A brief summary of issues raised and their analysis is as below:

Domestic Industry:

176. **Submission by Interested parties:** Most of the interested parties have submitted that Petitioners do not constitute domestic industry as the application is filed only on the basis of data provided by 35% of domestic production. The European Union has submitted that the investigation should be either on the basis of situation of sole applicant or the total industry.

177. **Analysis of submissions:** The submissions by interested parties have been considered and detailed analysis on the issue of 'domestic industry' is mentioned in the paragraph

87-90. Regarding the contention of the European Union that investigation should be done either on the basis of situation of the sole applicant or the total industry, it is noted that there is no provision in either the safeguard agreement or domestic law, which prescribes such a condition. In fact, in the case of 'Safeguard measures against import of certain steel products', the European Union has based its safeguard investigation on certain group of domestic producers, who were neither sole unit nor the total industry[13]. However, analysis of 13 units, which constitute more than 50% (65%) of domestic production as well as analysis of the total industry, has been done in the preliminary findings to evaluate overall position of the industry.

Period of investigation:

178. **Submission by Interested Parties:** Some of the interested parties have contended that the period of investigation should be frozen and no subsequent development should be analyzed.

179. **Analysis of submissions:** This issue has been discussed in detail in para 91-93. The contentions by the interested parties are without any legal base. It is more appropriate to consider the most recent information available so that the decision about imposition of safeguard duty is based on the most recent information.

Increased Imports:

180. **Submission by Interested Parties:** Some of the interested parties have contended that the increase in import is gradual. The Korean Government has contended that imports increased both recently and sharply since December 2008 after sudden decrease during the previous months. Similar increase was not found to be sufficient enough for imposing safeguard measures in the case of Argentina-Peach safeguard in 2003.

181. **Analysis of submissions:** The analysis of import data and trend analysis clearly shows that there has been steady growth in imports till December, 2008. After that, the imports increased at a pace which never existed in the past. The imports in the Q4 of 2008-09 and Q1 of 2009-10 increased by 263% and 71% respectively compared to the same quarters of previous year. This increase cannot be termed as gradual increase.

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[13] **Excerpt from "COMMISSION REGULATION (EC) No 560/2002 of 27 March 2002 [imposing provisional safeguard measures against imports of certain steel products]"**

"THE COMMUNITY PRODUCERS

(11) These industry associations are representative of a major proportion of total Community production of the like and/or directly competing products.

— Eurofer represents almost 95 % of Community production of iron and steel products. The associated industries are located in almost all Member States;

— ESTA represents about 50 % of the tube producers in the Community, including eleven major producers.

The associated industries are located in Greece, Italy, Luxembourg, the Netherlands, Spain, Sweden and

the United Kingdom;

— FS represents about 50 % of Community production of carbon steel flanges. The associated industries are

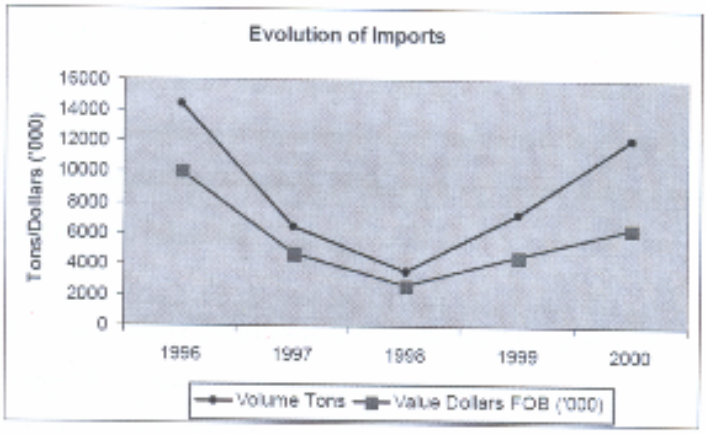
located in Germany, Italy, France, Spain and the United Kingdom;

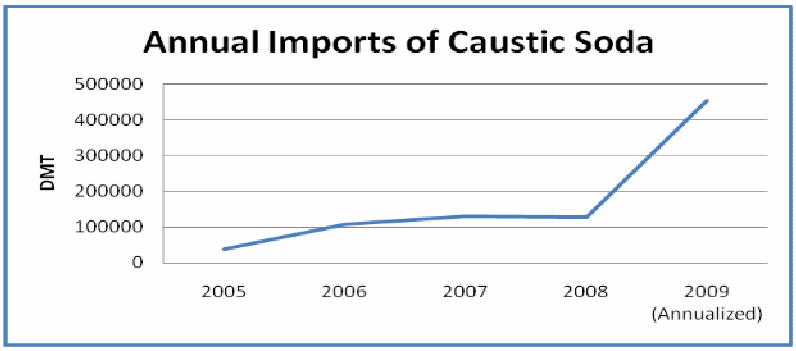
— DCEU represents over 70 % of relevant Community production. The associated industries are located in

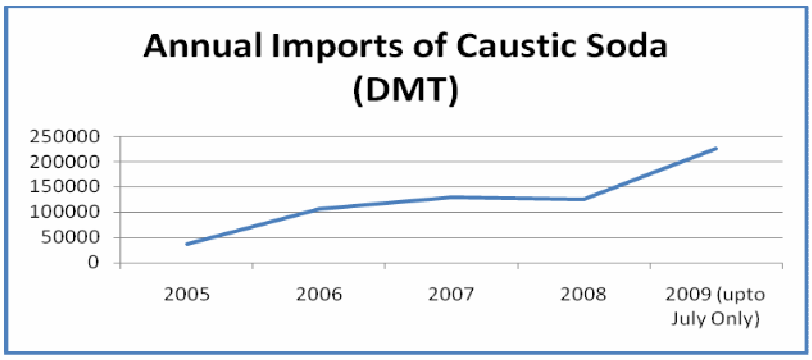
Austria, France, Germany, Italy and the United Kingdom.

182. Regarding the contention of the Korean Government about some decrease in import in the previous months, it is noted from the monthly analysis of imports that fluctuation in monthly import is a natural phenomenon. As far as the quoted test of increased imports as mentioned in the Argentina-Peach case is concerned, the similarity between the two cases have been studied by comparing the graph of increased imports in Caustic Soda and that of canned peach.

<Chart-3> Evolution of Imports







183. The comparison of the graph of import in the Argentina Peach Case and that in the instant case is different. In the Argentina Peach case the import in the recent period (year 2000) was less than the import four years ago (i.e 1996). In the current case, the import increased steadily in the past and saw a sharp increase in the recent period. The

imports in the year 2009 (upto July) are more than the imports in any year in the past five years. Therefore, there is an increase in import.

184. **Submissions by Interested Parties:** Some of the interested parties have contended that there is increase in production and sales and thus there is no injury.

185. **Analysis of submissions:** The determination of serious injury cannot be based on analysis of one or two parameters. No parameter can be considered dispositive. The analysis has to be done based on over all evaluation of all related parameters. The analysis of all the parameters has been done and the preliminary findings are based on overall evaluation of all the parameters. The production and sales of all domestic producers taken together has declined.

186. **Submissions by Interested Parties:** Some of the interested parties have contended that the capacity utilization is more for the applicants than other Indian producers and also more than Indian industry as a whole.

187. **Analysis of submissions:** As applicants are fewer in number than the industry as a whole, the capacity utilization would be different for them. However, the analysis of the industry as a whole as well as that of 13 units has been done.

188. **Submissions by Interested Parties:** Some of the interested parties have contended that the capacity utilization, market share and profitability are showing improvement.

189. **Analysis of submissions:** The analysis of capacity utilization, market share of domestic producers and profitability shows that the all these factors are showing a negative trend.

190. **Submissions by Interested Parties:** One of the interested parties has contended that the number of employees has decreased since June'05-June 09. They have also contended that the applicants are not serious about the injury. The increase of inventories of domestic industry can be on account of lack of sufficient plan of inventory management.

191. **Analysis of submissions:** In this respect, it is noted that reduction in one parameter cannot be a ground of imposing safeguard duty nor can failure to seek government protection in the past be a ground for not warranting action in present. The industry has shown efforts and willingness to restructure their operations to get ready to face international competition.

192. **Submissions by Interested Parties:** Some of the interested parties have submitted that the sales volume of Indian industry is more than import sales, hence there is no injury.

193. **Analysis of submissions:** It is observed that it is not necessary for 'serious injury' or 'threat of serious injury' to be more import sales than sales by domestic industry. The detailed analysis of all relevant parameters relevant for determination 'serious injury' or 'threat of serious injury' has been done in the preliminary findings.

194. **Submissions by Interested Parties:** Another interested party has contended that the increase in imports in India is due to the fact that users of Caustic Soda in India are facing shortage of supply of caustic soda, especially, for the caustic soda lye. The production of Caustic Soda is fully dependent on production and sale volume of chlorine. Chlorine's biggest end use is in the area of edc, vcm and pvc resins. Most of Indian Chlor-Alkali manufacturers are not integrated to edc, vcm and pvc and thus they have problem increasing their production of Caustic Soda because they are not expanding production to the edc, vcm and pvc. Majority of the Chlor-Alkali manufacturers in India only produce merchant chlorine which has very small end market all over world including India. Merchant Chorine storage is very difficult, costly and dangerous. As a result chlorine production cannot be increased to support more production of Caustic Soda.

195. **Analysis of submissions:** The issue of market of chlorine and its pricing patterns has been studied. It is a fact that the consumption pattern of chlorine in India and other countries is different. The consumption pattern, in turn causes different pricing patterns in different countries. This issue has been discussed at length in para 160-162. As far as capability of market to absorb chlorine is concerned, India has sufficient capacity to absorb and consume chlorine. The price pattern of chlorine, which is dependent on demand and supply, shows that the prices of chlorine were negative when supply became more than the demand. But after December 2008, the price of chlorine is showing upward trends[14] which shows that demand is more favorable than the supply. Therefore, India would have consumed all chlorine had it been produced along with caustic soda to meet increased demand in absence of increased imports.

196. **Submissions by Interested Parties:** Some of the interested parties have contended that the imposition is not in the public interest.

197. **Analysis of submissions**: No evidence has been submitted in support of the contention by the interested parties. The issue of public interest has been discussed in detail in para168-173.

198. **Submissions by Interested Parties:** Various interested parties have submitted that there is no adjustment plan.

199. **Analysis of submissions**: It is seen that the applicants have submitted the restructuring plan, (non confidential version is available in Public File). The restructuring plan has been discussed in para 166-167.

Conclusion and Recommendation

200. In view of the findings above, the preliminary determination is that the increased imports of Caustic Soda in Lye form into India have threatened to cause serious injury to the domestic producers of Caustic Soda in Lye form. Further, there exist critical circumstances necessitating recording of preliminary findings. It will be in the public interest to impose provisional safeguard duty for a period of 200 days on imports of Caustic Soda in Lye form, into India. In arriving at the amount of safeguard duty which would be adequate to prevent threat of serious injury to the domestic industry and to facilitate positive adjustment, weighted average cost of sales at reasonable return on employed capital and average landed cost of import (taking basic customs duty, cess and anti-dumping duty, if any, into account) have been considered. Further, the calculated safeguard duty has been moderated downward to allow imports to maintain competition in domestic market in the interest of end users and consumers. Accordingly, safeguard duty at the rate of 20% ad valorem, is considered to be the minimum requirement to protect the interest of domestic industry. The same is recommended to be imposed on imports of Caustic Soda lye falling under subheading 28151200 of the First Schedule of the Customs Tariff Act, 1975.

201. As the imports from developing nations except China, Indonesia, Qatar, Saudi Arabia and Thailand do not exceed 3% individually, the import of product under

[14] Refer Graph 9

consideration originating from developing nations except China, Indonesia, Qatar, Saudi Arabia and Thailand may not attract Safeguard Duty in terms of proviso to Section 8B of the Customs Tariff Act, 1975.

(Praveen Mahajan)

Director General (Safeguards)

[F.NO. D-22011/47/2009]

Further Process:

I. The information provided by various parties may be subjected to verification where ever necessary, for which they will be informed separately.

II. A public hearing will be held in due course before making a final determination, for which the date will be indicated separately. The interested parties may offer their comments on preliminary findings during public hearing or prior to that.