

**TO BE PUBLISHED IN PART 1 SECTION-1 OF
GAZATTE OF INDIA- EXTRAORDINARY**

F. No. 7/14/2017-DGAD
Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Anti-Dumping & Allied Duties
4th Floor, Jeevan Tara Building, Parliament Street, New Delhi

Dated the 19th February, 2018

FINAL FINDINGS

Subject: Anti-dumping investigation (Sunset Review) concerning imports of “Melamine” originating in or exported from European Union, Iran, Indonesia and Japan.

No. 7/14/2017-DGAD: Having regard to Customs Tariff Act, 1975 as amended from time to time (hereinafter referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules thereof, as amended from time to time (hereinafter referred to as the AD Rules).

A. Background

1. The Customs Notification regarding the final findings dated 1st June, 2012 of the original investigation on imports of Melamine from EU, Iran, Indonesia and Japan was notified through Customs Notification No. 48/2012-Customs (ADD) dated 8th October, 2012. Based on the 1st sunset review (SSR) initiated vide Notification No 7/14/2017-DGAD dated 22nd September, 2017, the existing Anti-Dumping Duty has been extended till 7th October, 2018 through Customs Notification No. 47/2017-Customs (ADD) dated 6th October, 2017.

B. PROCEDURE

2. The procedure described below has been followed:
 - a) The Designated Authority (hereinafter referred to as the “Authority”), under the above Rules, received a written application from M/s Gujarat State Fertilizers & Chemicals Ltd. (hereinafter referred to as the “petitioner”) as domestic industry of the subject goods, alleging continued dumping and injury of Melamine (hereinafter also referred to as “subject goods”) originating in or exported from European Union, Iran, Indonesia and Japan (hereinafter referred to as the “subject countries”) The domestic industry also submitted regarding threat/likelihood of Dumping and Injury in event of withdrawal of existing ADD.

- b) The Authority, on the basis of evidence submitted by the petitioner to justify initiation of the investigation, decided to initiate the Sunset review investigation against imports of the subject goods from the subject countries.
- c) The Authority notified the Embassies of the subject countries in India about the receipt of application before proceeding to initiate the investigation in accordance with sub-Rule 5(5) of the AD Rules.
- d) The Authority issued a public notice dated 22nd September, 2017 published in the Gazette of India, Extraordinary, initiating anti-dumping investigations Sunset review concerning imports of the subject goods from the subject countries.
- e) The Authority forwarded a copy of the public notice to all known exporters (whose details were made available by the Petitioner) and gave them opportunity to make their views known in writing in accordance with the Rule 6(2) of the AD Rules.
- f) The Authority forwarded a copy of the public notice to all the known importers of the subject goods in India and industry associations and advised them to make their views in writing within forty days from the date of the letter.
- g) The Authority provided a copy of the non-confidential version of application to the known exporters and the Embassies of the subject countries in India in accordance with Rule 6(3) of the AD Rules. A copy of the Application was also provided to other interested parties, wherever requested.
- h) The Authority sent questionnaires to elicit relevant information to the following known exporters in the subject countries in accordance with Rule 6(4) of the AD Rules:

DSM Melamine OCI Melamine Europe Mijnweg-1, PO Box No.601 6160 AP Geleen, Netherlands	Agrolinz Melamine International GMBH A-3021 Linz, St.Peters Strasse-25 Austria.
Nissan Chemical Industries Ltd. 635 Sasakura , Fuchu Machi, Toyama-9322792, Japan	Khorasan Petrochemical Company Vanak Avenue, PO Box No.19395- 4583 Tehran, Iran
Iran Petrochemical Commercial Co., No.1339, Valisar Avenue, Vanak Square Post Box No.19697 Tehran, Iran	PT.DSM Kaltim Melamine Kawasan Indstri, PT Pupuk Kalimantan, Timur-75313, Indonesia
PT Sri Melamin Rejeki Plaza Aminta, 9th Floor Jl.Let.Jend T.B. Simatupang, Kav.10 Pondok Pinang, Jakarta-12310, Indonesia	

- i) In response to the initiation notification, no exporters/producers from the subject countries have responded.

- j) Questionnaire was sent to the following known importers/users/associations of subject goods in India calling for necessary information in accordance with Rule6(4)of the AD Rules:

Century Plyboards (I) Limited. 6, Lyons Range, Kolkata 700001	Greenply Industries Ltd. E/176-179, Phase II Riico Industrial Area , P.O.Behrur-391 701, Rajasthan
Merino Industries Ltd. Village : Accheja Delhi Hapur Road, Hapur Uttar Pradesh	Merino Panel Products Ltd. Village : Rohad,44KMS Stone, Delhi Rohtak Road, Haryana
Golden Laminates Ltd. 192-193, Ind. Area,Panchkula Phase - I, Haryana	Surya Vikas Plywood Pvt. Ltd. Vill.- Damla, Delhi Road, Yamuna Nagar,
Katyani Chemtech India Ltd. Vill.- Bhagwanpur,Derabassi-Barwala Road Derabassi.	Rushil Décor Ltd. 1 Krinkal Apartment,Mahalaxmi Society, Paldi, Ahmedabad, Gujarat.
Sundek India Ltd. 1421 Rajpur,Kalol Mehasa Highway, KADI, North Gujarat	Bloom Dekor Ltd. Dhanlaxmi Chambers,Ashram Road Ahmedabad, Gujarat.
HEF India Private Ltd. New No. (Old No.2),Third Class Street, C.I.T Colony, Mylapore, Chennai	Managlam Timber Products Ltd. Birla Building,7th Floor, R.N. Mukharjee Road, Kolkata
Virgo Industries Village: Rampur, Jatan,Nahan Road, Himachal Pradesh	Alfa Ica Ltd. 204, Uma Industrial Estate,Sanand, Ahmedabad, Gujarat
The Bombay Burmah Trading Co. Plot No. 23 to 26, 46 to 48 Sector 5, II E Pant Nagar Industrial Estate, Rudrapur (Uttranchal)	

- k) The following importers/users of the subject goods have responded in the form of questionnaire responses or provided comments to the initiation of the investigation.

- (i) M/s Exim Corp India Pvt. Ltd.
- (ii) M/s Century Plyboards (I) Ltd.
- (iii) M/s Virgo Industries
- (iv) M/s Agarwal Chemicals
- (v) M/s Sandeep Organics Pvt. Ltd.

- l) The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties. The public file was inspected by various interested parties, who requested copies of the documents from the public file, which were provided the same.

- m) Information provided by interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. The Authority accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis, which was made available through public file.
- n) Further information was sought from the petitioner and other interested parties to the extent deemed necessary. Verification of domestic industry was conducted to the extent considered necessary for the purpose of present investigation.
- o) The Non-injurious Price (hereinafter referred to as 'NIP') considering the cost of production and cost to make and sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) has also been worked out to ascertain extent of injury.
- p) Investigation was carried out for the period starting from 1st April 2016 to 31st March 2017 (12 months) (hereinafter referred to as the 'period of investigation' or the 'POI'). The examination of trends, in the context of injury analysis covered the period from 2013-14, 2014-15, 2015-16 and the POI.
- q) As the investigation is an SSR, post POI period (1.4.2017 to 30.9.2017) data has also been examined to evaluate threat of Dumping/Injury.
- r) In accordance with Rule 6(6) of the Anti-dumping Rules, the Authority provided opportunity to the interested parties to present their views orally in a oral hearing held on 2nd January 2018. The parties, who presented their views in the oral hearing, were requested to file written submissions of the views expressed orally, followed by rejoinder submissions.
- s) The Authority issued a disclosure statement under Rule 16 on 5/2/2018 and provided an opportunity to give comments to the disclosure statement till 12th February, 2018.
- t) Exchange rate for conversion of US\$ to Rs. is considered for the POI as Rs.67.95 as per customs data.
- u) In this final findings, *** represents information furnished by the interested parties on confidential basis, and so considered by the Authority under the Rules.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

3. The product under consideration in the present investigation is Melamine. In the original case, the Final Findings issued vide Notification No. 14/35/2010-DGAD, dated 1st June, 2012 defined the product under consideration as follows.

“Product under consideration in the present investigation is Melamine, a tasteless, odorless, and non-toxic substance. Melamine formaldehyde resin is used for laminates as it offers good hardness, resistance to scratch, stain, water and heat. Laminates used in some electrical applications possess high mechanical strength, good heat resistance and good electrical insulating properties. Asbestos filled Melamine resins possess very high dielectric strength and high resistance. Beside the best dimensional stability, Melamine Formaldehyde moulding powder gives clear and bright colors, easily moldable and offers resistance to surface scratching. Melamine is reacted with formaldehyde and made into resins or moulding powder for making innumerable products of beauty and utility. Melamine is used for making melamine formaldehyde, which in turn is used in producing downstream products.

Melamine has a dedicated Custom Sub Heading 29336100 of Chapter 29 of the Customs Tariff Act. The product falls under OGL category and is freely importable.”

C.1 Views of the Domestic Industry

4. The domestic industry has made the following submissions with regard to the product under consideration: -
 - The product under consideration in the present Sunset Review application is Melamine. As submitted in the petition, present investigation being a sunset review investigation, the scope of the product under consideration remains the same as has been in the original investigation which is Melamine. There is no known difference in the product under consideration produced and exported from the subject countries and the subject goods produced by the domestic producer / GSFC. The subject goods produced by the domestic producer and those imported from the subject countries are comparable in terms of characteristics such as physical and chemical characteristics, manufacturing process and technology, functions and uses, product specifications, pricing, distribution and marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably.

C.2 Views of Importers, Consumers and other Interested Parties

5. Following interested parties have raised issues with regard to the product under consideration.
 - (a) M/s Sandeep Organics Pvt. Ltd has submitted the following:
 - Even, sgs cannot test the product under consideration in India.
 - There are various raw materials used to manufacture the product under consideration.
 - There are various grades of the product under consideration.
 - Different packing of PUC has different price.
 - Different grades have different price & usage/application.
 - There is difference in quality & usage due to difference in grades.

(b) M/s Exim Corp has submitted the following:

- There are different grades of Melamine. Imports are of top quality grade while domestic industries grades are of different qualities and net sales realization is not a true and fair depiction of domestic prices

C.3 Examination by the Authority

6. The Authority notes that since the present investigation is for sunset review, the scope of the product under consideration remains the same as that of the original investigation. The product under consideration, Melamine, is classified under Chapter 29 under subheading 29336100. The classification is, however, indicative only and is in no way binding on the scope of the present investigation.
7. Rule 2(d) with regard to like article provides as under: -
"like article" means an article which is identical or alike in all respects to the article under investigation for being dumped in India or in the absence of such article, another article which although not alike in all respects, has characteristics closely resembling those of the articles under investigation;
8. The application filed is for the review and continuation of the quantum of the anti-dumping duty in force, and the issue of like article has been already dealt with in the previous investigations. In the earlier investigations the Authority has already held that the subject goods produced by the domestic industry is like article to the subject goods imported from the subject countries.
9. As regards the argument of different grades of product under consideration, it is noted that none of the exporters of the product under consideration cooperated or provided any information regarding different grades of product under consideration. Certain importers raised concerns about different grades of PUC which have been appropriately dealt in later paragraphs.

D. SCOPE OF DOMESTIC INDUSTRY AND STANDING

10. Rule 2 (b) of the AD rules defines domestic industry as under:
"(b) "domestic industry" means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof in such case the term 'domestic industry' may be construed as referring to the rest of the producers"

D.1 Views of the Domestic Industry

11. The domestic industry has made the following submissions with regard to the 'domestic industry': -

- GSFC is the sole producer of the subject goods and constitute domestic industry within the meaning of Rule 2.
- It has been an argument by certain interested parties that GSFC has imported the subject goods from Qatar which is a non-subject country and this should lead to the qualification of GSFC as a domestic industry. It is humbly submitted that the issues coined has no legal basis.
- It is very clear from Rule 2 (b) of AD Rules that the reference given in the context of imports is the imports of dumped article and not imports from a non-dumped source. In other words, to become importers themselves the company might have imported from the subject countries and import from a non-subject country would not come under the purview of imports as provided in Rule 2 (b). Notwithstanding the above, if the contention is that the word used is 'imports thereof' and it may include other imports as well then it is a wrong reading and interpretation of the Rule. The proviso should be read in its entirety and the dumped article made applicable in case of relation with exporters/imports is what relevant for the imports also. In case, should there be a doubt in the interpretation, the language of WTO AD Agreement needs to be relied upon as ordered by the Hon'ble Supreme Court in GM Exports case (in short) and the WTO AD Agreement defines the position of importers themselves as follows;

“Article 4.1 (i) when producers are related to the exporters or importers or are themselves importers of the allegedly dumped product, the term "domestic industry" may be interpreted as referring to the rest of the producers;”

- The Agreement clearly mentions alleged dumped product and the Indian AD Act and Rule cannot mean a different thing while defining the domestic industry that the contentions of the opposing parties has to be rejected as bereft of any merit and it should be held that GSFC constitutes domestic industry within the meaning of Rule 2 (b).
- It is once again clarified that the imports made from Qatar by the company are only to meet certain customer demand and not to lose those customers in the long run that too when the company is about to complete large capacity expansions. The focus of the company is only production in its plant and imports were not made as a core trading activity. Company did not target any notable profits from such imports and as submitted such imports were performed to retain the long term customer looking at the future production by the company. The credentials of GSFC continue to be that of a responsible Indian producer and the investments undertaken by it underlines such credentials. Had the focus of company been imports, it would not have considered such investments.

D.2 Views of Importers, Consumers and other Interested Parties

12. Following interested parties have raised issues with regard to the scope and standing of the domestic industry.

(a) M/s Sandeep Organics Pvt. Ltd

- The petitioner is importing the product under consideration from Qatar.
- What are the reasons the petitioner is trading instead of manufacturing?

(b) M/s Exim Corp India Pvt. Ltd has submitted that GSFC has no standing as Domestic Industry under Rule 2 (b) of AD Rules.

D.3 Examination by the Authority

13. The Authority notes that application for the sunset review has been filed by M/s. Gujarat State Fertilizers & Chemicals Ltd., the domestic industry in the original investigation. The petitioner company is not related (neither directly nor indirectly) to any exporter in the subject country or importer of product under consideration in India. Further the petitioner has not imported the subject goods from subject countries during the period of investigation. The petitioner made some imports of PUC from the subject countries in years prior to Pol and from Qatar during Pol and in the injury period in significant quantities. The provisions of Rule 2 (b) requires to examine imports by Domestic Industry with reference to dumped article thereby limiting such examination to the subject countries only. While this is with regard to the eligibility as Domestic Industry, imports made by Domestic Industry from non-subject countries is a matter of examination to evaluate the claims of injury and causality which the Authority has evaluated in later paragraphs. The Authority holds that despite the above company continues to be a producer undertaking production and even enhancing capacity and domestic industry therefore qualifies to hold the status as within the meaning of the Rule 2(b) and that the petition satisfies the criteria of standing in terms of Rule 5 of the AD Rules.

E. ASSESSMENT OF NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN

E.1 Submissions made by importers and other interested parties/ other parties

14. Following submissions have been made by importers, subject countries and other interested parties with regard to normal value, export price and dumping margin

- (a) M/s International Trade Remedies & Practices representing M/s Agarwal Chemicals
- Adjustments made by Domestic Industry on export price are not on evidence and cannot be considered.
 - MIP prescribed in EU's finding cannot be considered as 'Normal Value' but be based on EU's cost of production in 2015 – 16 as per findings and be adjusted further with urea price in 2016 – 17 and 5% profit be added, which would not imply dumping.

- (b) M/s Sandeep Organics Pvt. Ltd.
- Oci Nitrogen B.v., P.O. Box 601, 6160 Ap Geleen, the Netherlands is the manufacturer in EU. There are two more manufacturers in Europe.
 - Exports of Melamine from Europe is very less
- (c) M/s Century Plyboards Pvt. Ltd.
- DA should have evaluated normal value on the basis of published accounts of exporters or conducted market enquiries or examined the export prices to 3rd countries.
 - If normal value is so high in the exporting countries then Domestic Industry should also export in those markets.
- (d) M/s Exim Corp India Pvt. Ltd.
- Initiation of SSR is not automatic in light of the judgment by Hon'ble High Court Delhi in W.P. 146/2017 and 147/2017. Petition does not meet the requirements of AD Rules. Construction of NV has not been disclosed and adjustments claimed on export price are extremely high. Petitioner's claim on CNV should not have been accepted and that GSFC should have made efforts to obtain domestic prices in subject countries.
 - Petitioner has claimed high adjustment on export price for example marine insurance as 0.5% while it should be 0.125%.

E.2 Submissions made by Domestic Industry

15. Following submissions have been made by the domestic industry with regard to normal value, export price and dumping margin:

- a) The estimates of normal value of different basis and the comparison of the same with export price into India shows positive dumping margin in case of subject countries except Indonesia as there were no imports from Indonesia.
- b) There have been continued imports from EU, Japan and Iran. Even though it can be argued that the imports necessitated because of demand supply gap, the fact of the matter is that such imports were made at dumped rates and behavior of the producers/exporters from the subject countries still continues unchanged and when dumping continued when AD duties are in force, it is beyond any doubt that dumping will continue in an aggravated manner if duties are allowed to expire.

E.3 Examination by Authority

Normal Value

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

- (i) The comparable price, in the ordinary course of trade, for the like article, when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6), or*
- (ii) When there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either:
 - (a) Comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or*
 - (b) The cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section(6):
Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely transshipped through the country of export or such article is not produced in the country of exporter there is no comparable price in the country of export, the normal value shall be determined with reference to its price in the country of origin.**

17. The Authority notes that many interested parties have submitted referencing of other secondary source data to evaluate 'normal value' in subject countries. The Authority has therefore also referenced EU findings, ICSLOR and World Trade Atlas data for this purpose besides the CNV computed on the basis of cost data of the domestic industry.

18. EU in final findings dated 30th June, 2017, on an Anti-Dumping investigation on imports of Melamine from China had reported in its finding domestic selling price of 1179 Euros/MT for the period 2015 – 16. The Domestic Industry has also provided ICSLOR spot prices prevailing in EU for the period 2015 – 16 and 2016 – 17. The domestic prices reported in EC's findings correlate with the ICSLOR's reported domestic prices of 1178 Euros/MT in 2015 – 16.

19. The Authority has also considered the world prices of Melamine from EU to India and other countries during 2015 – 16 and 2016 – 17 reported by WTA. The domestic selling prices as reported in EU's findings for 2015 – 16 has been appropriately adjusted for 2016 – 17 by an adjustment of average prices difference of Melamine global exports from EU to World during 2015 – 16 and 2016 – 17.

20. The Authority therefore holds that in an SSR investigation, the trade diversion in global exports of a subject country in event of cessation of an existing Anti-Dumping Duty requires examination of 3rd country prices of the subject countries in POI and post POI and therefore World Trade Atlas data on 3rd country prices of these subject countries has been considered to construct normal value along with CNV computed on the basis of Domestic Industry's data. Both CNV on Domestic Industry's data and 3rd country export prices of subject countries as per World trade Atlas data have been referenced and considered.

Export Price

Export Price of European Union

21. The Authority has adopted the DGCIS data for POI and injury period to evaluate CIF price and the landed value. The weighted average CIF for POI is evaluated as 1.216 \$/Kg. The adjustments on CIF price have been allowed as per the consistent practice/norms to an extent of 0.1 \$/Kg on ocean freight and 0.5 % of CIF on Ocean Insurance. Further adjustments of commission, port expenses, inland freight, bank charges and credit cost to an extent of 0.5%, 0.5%, 1%, 0.5%, 1% have been allowed respectively on FoB. The ExEP is evaluated as 1.071 \$/Kg.

Export Price of Iran

22. The Authority has adopted the DGCIS data for POI and injury period to evaluate CIF price and the landed value. The weighted average CIF for POI is evaluated as 1.353 \$/Kg. The adjustments on CIF price have been allowed as per the consistent practice/norms to an extent of 0.04 \$/Kg on ocean freight and 0.5 % of CIF on Ocean Insurance. Further adjustments of commission, port expenses, inland freight, bank charges and credit cost to an extent of 0.5%, 0.5%, 1%, 0.5%, 1% have been allowed respectively on FoB. The ExEP is evaluated as 1.260 \$/Kg.

Export Price of Japan

23. The Authority has adopted the DGCIS data for POI and injury period to evaluate CIF price and the landed value. The weighted average CIF for POI is evaluated as 1.199 \$/Kg. The adjustments on CIF price have been allowed as per the consistent practice/norms to an extent of 0.05 \$/Kg on ocean freight and 0.5 % of CIF on Ocean Insurance. Further adjustments of commission, port expenses, inland freight, bank charges and credit cost to an extent of 0.5%, 0.5%, 1%, 0.5%, 1% have been allowed respectively on FoB. The ExEP is evaluated as 1.102 \$/Kg.

Determination of Dumping Margin

24. Dumping margin based on CNV as per Domestic Industries cost of production data and other appropriate secondary sources (EU's finding, world trade atlas and ICSLOR) is computed as under:

S. No.	Particulars	Unit	EU	Iran	Japan
1.	CNV (DI's CoP Data)	\$/Kg	***	***	***
2.	CNV (Secondary Sources)	\$/Kg	***	***	***
3.	ExEP	\$/Kg	1.071	1.260	1.102
4.	DM as per (1) above	\$/Kg	***	***	***
		% range	5 to 10	Minus 5 to minus 10	0 to 5
5.	DM as per (2) above	\$/Kg	***	***	***
		% range	20 to 25	Minus 5 to minus 10	0 to Minus 5

F. METHODOLOGY FOR INJURY DETERMINATION AND EXAMINATION OF INJURY AND CAUSAL LINK

F.1 Submissions made by the importers and Other Interested Parties/ other parties

25. Following are the submissions made by importers and other interested parties/ other parties:

(a) M/s Century Plyboards Pvt. Ltd.

- As imports from Indonesia are Nil, there is no likelihood of dumping or injury from Indonesia
- GSFC has admitted that there are no excess capacity in EU yet claimed likelihood of injury from EU
- Fixation of benchmark price of Anti-Dumping Duty has helped DI.
- Cost of production of GSFC cannot exceed 77000 Rs/MT and therefore injury margin cannot be positive.
- NIP was determined ignoring the value of captive inputs recorded in books and creating artificial value of Urea to create imposition of ADD.

- It is surprising that if natural gas price and electricity have declined from 2013 – 14 to 2016 – 17 how cost of melamine has moved up from Rs. 60469/MT to Rs. 103796/MT.
- DGAD should examine the NIP determination as per AD Rules and also visit the NIP determined during 2nd SSR in case of imports from China.
- Neither the urea produced by GSFC has used natural gas nor melamine production uses Urea. The NIP is fraudulently fixed. These has been a departure in methodology for computing NIP now.
- Net sales realisation of DI would be atleast Rs. 15000/MT more than NIP of Rs. 74000/MT.

(b) European Commission

- As Per Article 11.1 of the WTO ADA, which provides that “An anti-dumping duty shall remain in force only as long as and to the extent necessary to counteract dumping which is causing injury”. It is clear that, in case of non-continuation of injury (or where injury is not caused by the dumped imports), the duty should be terminated.
- In the application it is claimed that imports from the subject countries continue to be dumped, even though it is impossible for parties to understand the calculation of normal value due to the lack of relevant data that were redacted in the non-confidential version of the complaint. However, the data provided on injury clearly shows that there is no continuation of injury to the domestic industry. On the contrary, the domestic industry seems to be in a healthy and profitable situation, where almost all economic parameters show a very positive and increasing trend.
- In particular: there is no sign of a slow-down in production, nor in the volumes of sales, which both remained stable during the whole period considered. The sales value even shows a slight increase (from 100 to 102, indexed).
- At the same time, the cost of sales decreased and the selling price increased, resulting in an impressive increase in profitability which, at the end of the period, had more than tripled (from 100 to 352, indexed).
- A positive and increasing trend can also be observed in the level of wages (+50%), productivity and return on investments.
- As regards market share, it decreased by 12% over the period considered. But the decrease in market share needs to be read in light of an increase in demand of 14%. With a capacity utilization rate of almost 100%, the domestic industry was not able to satisfy the increasing demand, which has obviously resulted in an increase in imports. Nevertheless, this increase in imports did not come from the subject countries but from other countries. Their import volumes increased by 175% and their market share more than doubled.
- As the domestic industry is not, at present, suffering material injury, the only possibility to extend the measures would be the likelihood of recurrence of

injury. In this regard, and based on the data provided by the petitioner, it seems very unlikely that any injury caused by dumping would recur in the future. In fact, import volumes from the subject countries have decreased (-7%) over the period considered and so did their share in import volumes (-22%) and their share in demand (-18%). At the same time, their imports prices have increased (+4%) and they were not undercutting domestic prices during the POI. This shows that the subject countries do not have any propensity to cause injury to the domestic industry.

- In view of the lack of injury to the domestic industry and the unlikelihood that injury would recur, the cause of any difficulty the domestic industry might be suffering (which the abovementioned positive trends contradict) must lie elsewhere. The data provided by the petitioner show that, while imports from the subject countries have decreased, imports from countries already subject to measures (mainly China) and from other countries have increased.
- As regards imports from countries already subject to measures, GSFC holds a market share of 36%, which is almost equal to the market share of the imports from the subject countries and from other countries altogether. Moreover, it is surprising that, despite the measures in force, their import prices dropped by 28% over the period considered. During the POI, they were significantly lower than the prices from both the subject countries (26% less) and other countries (29% less), thus it seems very likely that they were significantly undercutting domestic prices.
- As regards imports from other countries, there was a substantial increase, both in volumes (from 4614 to 12 674 MT) and in market share (more than doubled). But, as highlighted above, in a situation where the demand increased and the domestic industry was clearly not able to satisfy it, imports represented the only source of supply and necessarily increased.
- Therefore in view of Article 11.1 of the WTO ADA, it is reiterated that “an anti-dumping duty shall remain in force only as long as and to the extent necessary to counteract dumping which is causing injury”.
- In the petition there is an indication that the domestic industry is investing in additional capacity, in order to be able to satisfy the increasing demand. Even if economically it makes sense for an industry to invest in its capacity in view of an increase in demand, it is certainly not the objective of anti-dumping measures to protect the domestic industry’s investment plans.
- Extending measures in these circumstances would clearly be WTO inconsistent, as in the present case the domestic industry is not suffering injury and injury is unlikely to recur; thus the measures are no longer necessary.

(c) M/s International Trade Remedies & Practices representing M/s Agarwal Chemicals

- Petitioner cannot claim protection for their new investment, as AD is to eliminate trade distorting effect and not to protect future investment. EC's findings in Pure silk typewriter ribbon fabrics from People's Republic of China (98/349/EC) is relevant in this context. Rather capacity expansion needs to be seen as a positive sign for petitioner's growth.
- The domestic producer can cater to only 23% demand of country and that end users are forced to pay price for continuous inability of Domestic Industry to satisfy demand. In fact for last 10 years the imports have been constant at a level to meet demand in the country despite ADD being in place.
- DI is manipulating by importing from Qatar which is about 40% of their production and at the same time seeking AD measure on other countries, thus taking advantage of both the worlds.
- No evidence has been provided by Domestic Industry on likelihood of injury, surplus capacities and high export intensity of these exporting countries.
- For diversion of EU's exports to India in view of 78% capacity utilisation in EU of product under consideration, no evidence on diversion to India has been provided. There is no price attractiveness to export to India as prices of exports from EU are higher than that of Indian market.
- As there are no exports from Indonesia, ADD on the imports from Indonesia may be withdrawn as was the case of FDY wherein SSR investigation was not initiated against Vietnam from where there were no exports.
- The price undercutting be considered on cumulative basis and not individual subject country wise.
- DI's submissions that ROI for EU producers was 34% and it was found that injury can reoccur are misplaced as ROI in EU is computed on NFA basis and not on capital employed. Further the AD extension in SSR can be on parameters of likelihood and not level of ROI.

(d) Government of Indonesia

- As provided in the petition, the domestic industries in India shows positive development whereby the demand of subject goods showed improvement by 4.5% while production increased slightly by 0.9% and the total import of subject goods increased by 5.9%. This is a clear indication that India still needs imports to meet their domestic demand. Moreover, the return of investment showed significant improvement by 57.2%.
- In view of the above, the continuation of the imposition of antidumping duties is strongly not advisable under Article 3.1 of the WTO anti-Dumping Agreement ("ADA"), which states that WTO Members could extend their imposition of anti-dumping measure if "the investigation is conducted in accordance with the agreement and the determination is made that (a) dumping is occurring, (b) the domestic industry producing the similar product in the importing country is

suffering material injury, and (c) there is a causal link between the two previous results”

- Based on the aforementioned subject, the GOI requests the DGAD not to extend the imposition of Anti-Dumping Duty on import of Melamine especially from Indonesia since domestic industries no longer suffer material injury.
- Government of Indonesia has verified the existence of the two alleged companies, namely PT, DSM Kaltim melamine and PT. Sri Melamine Rejeki and that both companies were to no longer exist and have declared bankruptcy.
- The above fact supports the data in the petition (Proforma IV Par 1 page 44) which shows that no importation of subject goods from Indonesia since 2013 to 2017.

(e) M/s Exim Corp India Pvt. Ltd.

- The sales realization by GSFC in last 5 years include lower and reject grades and therefore are not comparable and should be excluded for computing the weighted average NSR.
- DGAD should publish NIP for us to make submissions.
- AD measure is not a tool to earn superlative profit margins. DI can sell their product at remunerative prices without ADD.
- There is no evidence regarding likelihood of dumping or injury and these are mere assertions.
- There are WTO's jurisprudence on credible evidence viz. WTO panel in Guatemala – AD investigation regarding port land cement from Mexico and panel in US final determination on softwood lumber from Canada. DI's petition has no credible evidence on dumping and injury.
- GSFC has claimed excessive confidentiality by not providing evidence behind deductions on the exfactory export price.
- GSFC has neither suffered injury on volume nor on price and therefore has not suffered material injury at all.
- Actual NIP was determined at Rs. 74300/MT which was erroneously converted to USD.
- Petitioner has evaded disclosure of costs and NIP in India
- The average sales realization in EU varied from Euro 1013 to Euro 1149 per MT during 2012 to 2016 and therefore normal value should be in this range.
- The Authority should examine various factors of EU's findings also and that NIP of DI cannot be more than Rs. 58500/MT now.
- Authority should establish risk of recurrence as positive finding rather than likelihood of recurrence as a negative finding. While there are no positive words for public interest in AD Rules neither there are any negating words, DA should give an appropriate analysis on the interests of downstream industries

F.2 SUBMISSIONS MADE BY THE DOMESTIC INDUSTRY

- Share of dumped imports remained at about 26% from subject countries which are a substantial percentage and relevance of such percentage is that they were made at dumped rates.
- The overall situation of the domestic industry remained positive in the POI which does not show any serious material injury as a positive effect of AD duties in force.
- Notwithstanding the above, capacity utilization which was 104.65 in 2015-16 was reduced into 99.23% in the POI.
- ROCE also slightly declined over the previous year during the POI
- Price Undercutting from EU and Japan were positive without ADD. Iran was negative and no imports from Indonesia. Overall PU is only slightly negative.
- The presence of the dumped imports at such significant level signified that there is a great likelihood such imports at dumped rates getting aggravated and soon the company turning to losses. The performance of the DI as per the proformas shows that it is still vulnerable to dumped imports and what has been helping the domestic industry to maintain its performance is the ADD in force and the expiry of the same is likely to lead to continuation or recurrence of dumping and injury to the domestic industry. It is likely that the expiry of the present anti-dumping duties is likely to lead to continuation or recurrence of dumping and injury to the domestic industry.
- The likelihood of dumping and injury gravely exists in case of expiry of the present Anti-dumping duties on imports of subject goods from subject countries. It is submitted that the subject goods are being imported into India from the subject countries at dumped prices. There exists current dumping from the subject countries during the Period of Investigation (“**POI**”). In this regard, it is also submitted that the dumping margins determined in respect of the subject countries in the original investigation indicates the propensity for dumping of the subject countries producers. Therefore, the fact that there is significant dumping margin in the present case, despite the existence of anti-dumping duties, further substantiates the reason for the Hon’ble Authority to continue with the present anti-dumping duty. Current dumping signifies the fact that dumping will be continued in case of expiry of the present duties.
- The producers in the subject countries have large production capacities of the PUC, and if the present duty is revoked then there exists a strong possibility/likelihood of intensified dumping of the product in India. Further, the producers of the subject countries have a high export percentage as well. This clearly indicates likelihood of enhanced dumping of the PUC to India in case of revocation of existing duties. Therefore, in view of the significant surplus capacities and considerable export orientation, it can be verily said that the subject countries have a propensity to dump the subject goods. In this regard, it is pertinent to note that the Indian demand of the PUC has currently increased to substantial level since 2012-13, and along the Indian demand increase, the imports from EU countries have also increased as compared to imports from EU during 2007-08 to 2011-12. Any comparison to this time period, i.e. of 2007-08 to 2011-12, shall not have any relevance, as since 2013-14, due to increased total demand in India. Therefore, there are all chances in totality that material from EU shall be imported/dumped in

more quantities in the event of any reduction/removal of Anti-Dumping duties. This shall enable the EU producers to increase their capacity utilization further as compared to the current utilization of about 78%.

- Rule 23 do not provide the set of parameters which needs to be examined to gauge whether the expiry of the duty is going to lead to the likelihood of dumping and injury. However, what can be the legal basis of such an examination is provided in detail in the petition it- self and the same is not reproduced for sake of brevity. However, following submissions are reemphasized which clearly demonstrates the likelihood of dumping and injury.

(a) Excessive Production capacity in Subject Countries: As per our market information, the producers in the subject countries have excessive production capacities. It is submitted that in case of cessation of the present duty, dumping from the subject countries would certainly intensify, causing intensified volume and price injury to the domestic industry. In case of revocation of anti-dumping duties, the volume of import of subject goods is bound to increase further. The available information on subject countries shows the following facts viz. their excess capacities and the potential to divert more to Indian market;

a) **Indonesia**

- i. There were no imports from Indonesia during the POI. It is understood that the Indonesian plant is currently shut down. But the chances of the revival of the plant are imminent and dumping and injury may resume in case of expiry of duties. It is a settled position that nil imports do not suggest any likelihood and as envisaged in the Rule, expiry of the duty may lead to continuation or recurrence of dumping and injury to the domestic industry.

b) **Iran**

- i. Iran continued to export the subject goods to India at dumped rates even after imposition of ADD.
- ii. Iran producers are also export oriented and have capacities to increase the exports to India. In fact, the submission by certain importers clearly stated that there are significant volume of exports from subject countries in terms of volume and value which further substantiates the claim of export orientation of subject countries (Submissions by Century dated 20.11.2017)
- iii. Submissions by Century shows that out of total export of 9203 MT from Iran, about 2500 MT was to EU at a price of USD1.09/Kg and about 2000 MT was to Turkey at a price of 1.13/kg whereas the same to India was at USD 1.35/kg. Higher price to India are apparently on account of existing duties in force and a decline in such dumped prices to new levels is so imminent. Decline in export price Iran in the event of AD duty is, thus, imminent.
- iv. Available evidences show likelihood of dumping and injury from Iran. Information on third country exports as available at the end of the petitioner is

provided along with this submission.

c) **Japan**

- i. Japan continued to export the subject goods to India at dumped rates even after imposition of ADD.
- ii. Japanese producers are also export oriented and have capacities to increase the exports to India. Japan exported about 8200 MT to EU in 2015-16.
- iii. Submissions by Century show that out of total export of 49000 MT from Japan in 2016-17, about 17000 MT was to EU at a rate of USD0.99/per Kg whereas the same to India was at USD 1.15/kg. It can be ascertained that the higher but dumped prices to India were on account of AD duties in force and exporters from Japan would increase exports to India in the event of expiry of present duties. Decline in export price Japan in the event of AD duty is thus imminent.
- iv. As per our information, Japan has a capacity of about 90000MT and about half of it is exported. The domestic demand is understood to be insignificant and Japan would divert more material to India in the event of expiry of duties.
- v. Available evidences show likelihood of dumping and injury in case of exports from Japan. Information on third country exports as available at the end of the petitioner is provided along with this submission.

d) **EU**

- i. EU continued to export the subject goods to India at dumped rates even after imposition of ADD.
- ii. EU producers are also export oriented and have capacities to increase the exports to India. Information on world export submitted by opposing parties like Century do not appear correct since the said data shows a significantly lower volume to India viz. what is reported by DGCI&S in the same period. Century WTA data provided by Century shows 4681 MT exports to India whereas DGCI&S shows 6723.
- iii. Available evidences show likelihood of dumping and injury in case of imports from EU
- i) A latest final finding concerning SSR of ADD on Melamine from China PR published by EU/EC shows the following relevant points qua the EU market which suggests likelihood
- ii) EU has a total capacity of about 479120 MT and the capacity utilization was about 78% which means there is a spare capacity available. Though it can be argued that such underutilization was there for at least past few years, the moot point is that the expiry of present duties may lead to utilization of such capacities to increase the exports to India. Since, dumping continued even after ADD, the possibility is only that the material will reach India at an even lower price

- dismantling the Indian Industry.
- iii) The demand in EU was about 392776 MT during 2015-16 as per the said finding. Thus the capacities are set up clearly targeting the export markets and the excess capacity in EU would be sufficient to take away the market share of domestic industry in India.
 - iv) The prices at which imports have made from EU are at undercutting, dumped and injurious levels that the likelihood of further dumping and injury is very imminent.
 - v) The said final finding shows that the EU producers were achieving about 34% ROI and still it was found that the injury can still recur whereas ROI of DI is much lower than that. EU industry was achieving a profitability on sales of about 15% which is also very high viz. the petitioner.
 - vi) Imports from China PR into EU was less than 2% of the demand whereas the share of SC in India is about 26% and EU found that even such volume from China PR showed the likelihood of dumping and injury.
 - vii) The MIP imposed by EU is 1153 EURO per MT concerning import from China PR. This would be the apparent bench mark price for European producers also as they would try to keep their prices at par with imports (Price in 2015-16 was 1149 EURO). Such MIP can be a basis for Normal Value in case of EU. The cost and price of Melamine given in the said finding are not for the year 2016-17 and are for 2015-16. But MIP is applicable for POI as well. Also, it is an admitted fact in the EU finding that the raw material cost is not the determining factor of price for Melamine as the Melamine prices are governed by demand supply situation. The significance of this finding is that the cost in EU provided for 2015-16 is not indicative of probable price with adjustments for cost which can be the normal value for Melamine in EU for 2016-17. The MIP shows that there shall be positive dumping margins in case of such prices as well.
 - viii) The above data points shows that the exporters from EU have a potential to export more to India and the chances of such increase in dumped volume is very imminent. EU alone can eat out the entire Indian demand should there be no ADD against EU.

The evidences on excess capacity and potential exports from subject countries shows that the exports from all such sources will surge at an even lower/dumped price levels with the expiry of duty that the likelihood of dumping and injury is very imminent on this count.

(b) Vulnerability of the Domestic Industry: This factor relates to whether the Domestic Industry would be susceptible to material injury in the event of expiry of anti-dumping duty which is force. In this regard, the Designated Authority must consider whether the industry will deteriorate further upon expiry of anti-dumping duties in force. In the instant case, continued presence of dumped imports shows that the vulnerability to such dumped imports exists at large. In the event of expiry of current anti-dumping duties, the Domestic Industry will have to reduce the selling price to match the import price which will lead to material injury as is substantiated below:

- i) In the event of cessation of current anti-dumping duty and if domestic industry chooses to sell at import prices, the domestic industry would suffer significant price injury. The subject imports are already forcing the domestic industry to sell the product at par with imported prices.

- ii In the event of cessation of current anti-dumping duty and if the domestic industry chooses to maintain the current selling price, domestic sales would drastically reduce, possibly leading to a miniscule market share.
- iii Also, the capacity expansion being completed also would be impacted. Thus, there is vulnerability on the current capacity and also the upcoming capacity.

(c) Price Attractiveness of the Indian Market: The product has a very significant demand in India. The prices at which subject goods are being imported from the subject countries are at a level creating serious pressure on the price at which the goods are being sold in the Domestic Market by the domestic industry which is evident in the fact that the Price undercutting have been positive in case of imports from EU and Japan and only slightly negative at subject countries level. Therefore, in case of expiry of duty, exporters would further channelize their output in the Indian market as they are already holding excessive capacities and the demand in India is very conducive for such dumping.

(d) Price Undercutting In the Absence of Measures: As submitted earlier, imports from EU and Japan have been undercutting the prices of the Domestic Industry in the POI though Iran was negative. In the event of revocation of duty, the situation would deteriorate further and the level of price undercutting will turn significantly positive in case of Iran as well.

(e) No likelihood of continuation or recurrence of dumping must be established: While the foregoing establishes that the present anti-dumping duties should be extended further, it is submitted that it is incumbent upon the producers/exporters from subject countries to establish that dumping and injury is unlikely to continue or recur in the event of revocation of anti-dumping duties. However, none of the producer/exporters have participated in the present investigation.

(f) Likelihood of injury in case of imports from Indonesia: *It can be noted from the import summary statement that there haven't been any import of subject goods from Indonesia in the entire injury period. It is submitted that zero import does not establish absence of likelihood of dumping and injury in the event of expiry of present duties. Imports from Indonesia have become zero on account of the anti-dumping duties in force and dumping and consequent injury would resume, should there be no anti-dumping duties on Indonesia.*

(g) Conclusion to likelihood of dumping and injury: GSFC submits that the above facts establishes that dumping and injury is likely to continue and intensify in the event of expiry of existing anti-dumping duties on imports of subject goods from the subject countries. The facts that dumping continued from subject countries in the POI even after duties in force, substantial excess capacities with producers in the subject countries which has the potential to be diverted to Indian, positive price under cutting from EU and Japan and the price difference between imports and the domestic industry's non-injurious price clearly show that not only is there likelihood of intensified dumping in the event of expiry of

anti-dumping duties, but also of intensified injury to the Domestic Industry.

- Apart from the dumping margins determined in respect of the subject countries in the original investigation, the large capacity of the subject countries to produce PUC can also adversely affect India. It is clearly indicated in the Petition that the propensity for dumping of the PUC from subject countries and the large capacities of such subject countries to produce the PUC establishes a strong likelihood of dumping of PUC in India, in the absence of the on-going Anti-dumping duty.
- In the above regard, it is submitted that there is huge gap between production *vis-à-vis* the demand in the subject countries. The total export during calendar year of 2016 from Austria was 32855 MT, Germany was 89004 MT and for Japan was 41488 MT. Therefore, in terms of the demand in the subject countries and their abundant production, it can be clearly stated that in the absence of Anti-Dumping duty, the domestic industry will gravely suffer. It is also important to consider the other significant operating factors in the subject countries which can force them to dump the PUC in India. Such factors like, stringent norms operating under Registration, Evaluation, Authorisation and Restriction of chemicals are to be required and followed for sale of PUC in Europe. Hence, in order to avoid these norms or rejection under these norms, Europe can easily dump its large production of PUC in India. The possibility of dumping of PUC from Iran to India is equally high due to prevailing sanctions over Iran.
- It has also been observed that the Net back price of the PUC exported by the subject countries to India is lower than the prevailing price in the respective countries. This information is gathered from the price reports available from the ICIS LOR data for Spot and contract prices of Melamine from Trade Maps India.
- In the event of any expiry of Anti-dumping duty in force, the new plant of GSFC with expanded capacity will gravely suffer, thereby causing GSFC to shut its operations
- GSFC is the only manufacturer of PUC in India, therefore constituting Domestic Industry in the present petition. The first plant of GSFC which was established in 1982 with an installed capacity of 5000 MTPA, the same was based on technology from Chemie-Linz, Austria. Thereafter, in view of the growing demand in India, the second plant of installed capacity 10000 MTPA was established in 1997, based on the same technology. At the present, the total installed capacity of PUC is 15000 MTPA though the demand of PUC has grown from 1977 till the present in India. Therefore, in view of the growing demand, GSFC is in the process of adding significant capacities to meet the stable demand for the product in India and such new capacities shall be operational in the near future. Therefore, GSFC is additionally adding 40000 MTPA plant to cater domestic demand. The total investment made by GSFC is to the tune of Rs. 1000 crores and the breakeven domestic price for this project is to the tune of USD 1400 to 1500 PMT.
- The operations of this plant will become un-viable and frustrate in the absence of Anti-dumping duty from the subject countries. As per the current prices given, under the Anti-dumping duty protection, GSFC has been able to operate its both Melamine plants efficiently with a reasonable margin. The margins of Melamine sales have been roped in by GSFC for meeting the expenses of Melamine 3 expansion project and to support its commitment to supply PUC to

Domestic Industry. Hence, it is submitted in terms of Article 11.1 of the Agreement of Anti – Dumping that duty shall remain in force as long as and to the extent necessary to counter the act of dumping which is causing injury.

- The major raw material for production of PUC is Urea. There are a number of companies manufacturing Urea in India, but no other player except of GSFC took the challenge of establishing production of the PUC in India. The various challenges which have discouraged other companies to manufacture PUC are Guarded Technology, Complex Operations, Special Alloy Equipment's, High Capital Intensive project, dumping by Low Gas Price Countries like China & Gulf Countries etc. In spite of the difficulty, GSFC has successfully established its operations using the aforesaid technology. Hence, it is extremely important to save the operations of GSFC from shutting down due to express losses that it will suffer in the absence of the anti-dumping duty.
- GSFC is already in the process of expanding its capacity. The decision to establish additional capacity has been pending execution from a very long time. The delay in execution had been caused due to the economic factors of the Melamine 3 project and factors operating under International standard capacity plants. However, the efforts of GSFC to establish its increased capacities can be gauged from the fact that it decided to establish a Fertilizer & Petrochemical Complex at Dahej for which it acquired 650 acres of land. However, due to policy constraints under Department of Fertilizer, Government of India, GSFC was unable to bring Ammonia-Urea Project at Dahej. This resulted in failing of the proposed Melamine Project at Dahej.
- As regards to Submissions by Century Plyboards (I) Ltd DI has submitted that the claims of Century that there is no likelihood of dumping and injury is denied as bereft of any merit. The calculations relied upon by Century are self-serving and do not show the factual position of the case in hand. The Authority may rely upon the actual data submitted by the petitioner considering various examinations and not to rely upon the estimations made by Century which is apparently has no nexus to the reality. Century has made a comparison between the cost of sales and net selling price of the Domestic Industry and the landed price of imports. It may be noted that the domestic industry has been able to pass on increase in cost of production to the customers as a result of the current Anti-dumping duty in force. Hence, if the current Anti-dumping duty is removed then the domestic industry shall face an imminent threat of significant financial losses on account of price suppression/depression effects in as much as at present the subject countries imports are underselling the prices of the domestic industry during the POI.
- As per the marketing and sales dynamics of the Indian Market, the PUC is sold in both ways *i.e.* direct sales and indirect sales through Channel partners. The ratio of which is 30% and 70% each respectively. By this way GSFC is able to sell the product consistently in all market conditions thus overcoming the vagaries of difficult, dull, tumultuous market conditions which includes factors like, heavy flow of imports, indifferent buying behavior of consumers etc. The indirect sales to channel partners takes care of GSFC consistent sales, involving multiple material handling, catering to small/medium customer base, extend credit payment days, risk and cost of the unfixed and unsecured payment terms of consumers. It is not true that the cost of Melamine through distributors is higher than the same offered to direct customers. In this regard, it would be pertinent to mention that M/s Century Plywood has purchased PUC

(approximately 26 MT of GSFC Melamine, which barely forms 1% of the total annual requirement of PUC by M/s Century Plywood) and Century was not charged differently. Therefore, it is wrong for M/s Century Plywood to rely on misrepresented data in order to prove its case.

- It has been argued by M/s Century that in case of negative injury margin in the POI and Post POI period concerning subject imports the duties should be discontinued and have cited certain past cases. It is submitted that the submission of Century should not be accepted. This is without prejudice to our claim that the injury margin will still be positive in the POI and any post POI period. However, even a negative injury margin cannot lead to termination of existing duties. Injury margin may reflect the non-continued injury situation of the domestic industry because of existing anti-dumping duties and the requirement under the Rule is likelihood of injury on account of expiry of the measures in force. In a fresh investigation, injury margin is determined for the purpose of quantification of measures as India follows lesser duty rule and no such requirement of quantification exists in the present case as the present investigation is only a sunset review. Thus, negative injury margin per se cannot be a ground to discontinue the present duties and in any case our submissions clearly demonstrates likelihood of dumping and injury in the event of expiry of present duties.
- In the judgment of the Hon'ble High Court of Gujarat in the matter Nirma Ltd Vs UOI the Hon'ble High Court has ruled that injury margin is an irrelevant factor while considering the likelihood aspect and the said judgment is the Rule of the land as of today and based on this judgment alone no duty can be terminated in a review by citing negative injury margin. Thus, the contention of Century needs to be rejected.

F.3 Examination by the Authority

26. The Authority notes that the DI has sold 3 grades of Melamine based on quality i.e. standard, regular and MS to an extent of 90.48%, 6.5% and 3.02% respectively during POI. The Authority notes that the investigation is on all grades of Melamine and that no separate product control number (PCN's) were made in the original finding or in the other ADD case of imports from China. The NIP, NV and export price has been adopted for all grades on an average basis. Further no producer/exporter has cooperated and hence no data on type of grades being produced and exported have been reported. The Authority therefore has considered the analysis for all grades of Melamine on an average basis.

27. As regards issue of sales to traders, the Authority has evaluated 'NSR' on an exfactory basis which is net of discounts/commissions. The proportion of sales to traders by DI about 18% of its total sales and is not of a large proportion as claimed by importers. Further the sales channel in domestic or export is dependent on nature of the product and in the instant case, the sales both in domestic market by Domestic Industry and on imports by importers from subject countries include traders as well. The Authority therefore has considered the

weighted average NSR of all grades and sales channel for comparison of price undercutting and underselling adopting the methodology as done in the original case.

28. The Authority has computed NIP for POI and post POI by considering normated values of raw material, utility and consumable and best capacity utilization attained during the POI. A return on capital employed as per Authority's consistent practice has been allowed.

29. The Authority has evaluated various economic and financial performance parameters of Domestic Industry during POI as under:

G. Volume Effect of dumped imports and Impact on domestic Industry

G.1 Volume Effect

G.1.1 Demand and market share

30. The table below shows the demand of product under consideration during injury period and PoI

Particulars	Units	2013-14	2014-15	2015-16	2016-17
Imports from EU	MT	6,542	9,287	6,817	6,723
Imports from Iran	MT	6,052	5,240	10,074	5,304
Imports from Japan	MT	1,040	2,060	1,280	740
Imports from Indonesia	MT	-	-	-	-
Imports from Subject countries	MT	13,634	16,587	18,171	12,767
Imports from other countries Attracting ADD	MT	22,582	24,262	18,284	23,305
Imports from Other Countries	MT	4,614	9,702	16,196	12,674
Total Imports	MT	40,830	50,551	52,651	48,745
Sales by Domestic Industry	MT	15,378	14,283	15,096	15,341
Demand	MT	56,208	64,834	67,747	64,086
Share in Demand					
Imports from EU	%	11.64	14.32	10.06	10.49
Imports from Iran	%	10.77	8.08	14.87	8.28
Imports from Japan	%	1.85	3.18	1.89	1.16
Imports from Indonesia	%	-	-	-	-
Imports from Subject countries	%	24.26	25.58	26.82	19.92
Imports from other countries Attracting ADD	%	40.18	37.42	26.99	36.37
Imports from Other Countries	%	8.21	14.96	23.91	19.78
Total Imports	%	72.64	77.97	77.72	76.06
Sales by Domestic Industry	%	27.36	22.03	22.28	23.94

The demand has been rising consistently over the injury period and PoI though there has been a miniscule decline in PoI which cannot be considered as a case of injury.

G.1.2 Import volumes and share of subject country

31. With regard to volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports either in absolute terms or relative to production or consumption in India. Annexure II (ii) of the anti dumping rules provides as under:

“While examining the volume of dumped imports, the said authority shall consider whether there has been significant increase in the dumped imports either in absolute terms or relative in production or consumption in India”

32. The import volumes for the injury period are as under:

Particulars	Units	2013-14	2014-15	2015-16	2016-17
Imports from Subject countries	MT	13,634	16,587	18,171	12,767
Imports from EU	MT	6,542	9,287	6,817	6,723
Imports from Iran	MT	6,052	5,240	10,074	5,304
Imports from Japan	MT	1,040	2,060	1,280	740
Imports from Indonesia	MT	-	-	-	-
Total Imports	MT	40,830	50,551	52,651	48,745
Share of imports in total Imports					
Share of Subject countries	%	33.39	32.81	34.51	26.19
Share of other countries	%	66.61	67.19	65.49	73.81
Subject countries import in relation to					
Indian Production	%	91.39	116.11	115.76	85.76
Consumption	%	24.26	25.58	26.82	19.92

The imports from subject countries have reduced after imposition of ADD and that their share has also come down.

G.2 PRICE EFFECT

G.2.1 Price effect of dumped imports and impact on domestic industry

33. The impact on the prices of the domestic industry on account of imports of the subject goods from the subject country have been examined with reference to price undercutting, price underselling, price suppression and price depression. For the purpose of this analysis, the cost of production, net sales realization (NSR) and the non-injurious price (NIP) of the domestic industry have been compared with landed value of imports from the subject country. A comparison for subject goods during the period of investigation was made between the landed value of the dumped imports and the domestic selling price in the domestic market. In determining the net sales realization of the domestic industry, taxes, rebates, discounts and commission incurred by the domestic industry have been adjusted. The price underselling is an important indicator of assessment of injury; thus, the Authority has worked out a non-injurious price and compared the same with the landed value to arrive at the extent of price underselling. The non-injurious price has been evaluated for the domestic industry in terms of Annexure III of the Anti-dumping Rules. The position is as follows:

G.2.2 Price Undercutting and Underselling

34. The Authority has made price undercutting and price underselling analysis both with and without anti-dumping duty after evaluating the Landed Value of inputs under the duty free imports for the reasons as mentioned in the foregoing paras.

Particulars	Units	EU	Iran	Japan	Subject Countries
Landed Value	Rs/KG	89.30	99.34	87.99	93.39
Net sales realisation	Rs/KG	***	***	***	***
Price Undercutting	Rs/KG	***	***	***	***
Price Undercutting	% Range	0 to 5	Minus 5 to minus 10	0 to 5	0 to minus 5

The above data indicates that price undercutting, without taking into account the antidumping duty in force, is negative on a cumulative basis for the subject countries.

G.2.3 Price Underselling

35. The price underselling is an important indicator of assessment of injury; thus, the Authority has worked out non-injurious price of the subject goods and compared the same with the landed values of the imported goods to arrive at the extent of price underselling.

Particulars	Units	EU	Iran	Japan	Subject Countries
Landed Value	Rs/KG	89.30	99.34	87.99	93.39
Non-Injurious Price	Rs/KG	***	***	***	***
Price Underselling/IM	Rs/KG	***	***	***	***
Price Underselling/(IM%)	% Range	0 to minus 5	Minus 10 to minus 15	0 to minus 5	minus 5 to minus 10

From the above table, the Authority notes that during the POI, the price underselling are negative.

Capacity, production, capacity utilization and domestic sales

36. Performance of the domestic industry with regard to production, sales, capacity and capacity utilization are as follows:

Particulars	Units	2013-14	2014-15	2015-16	2016-17
Capacity	MT	15,000	15,000	15,000	15,000
Trend	Index	100	100	100	100
Production	MT	14,918	14,285	15,698	14,886
Trend	Index	100	96	105	100
Capacity Utilisation	%	99.45	95.23	104.65	99.24
Sales Volume	MT	15,378	14,283	15,096	15,341
Trend	Index	100	93	98	100

The production capacity utilization and sales of Domestic Industry has been quite stable and consistent over the injury period and PoI.

Inventories

37. From the information given below, the Authority notes that the inventory position of domestic industry has declined during period of investigation.

Particulars	Units	2013-14	2014-15	2015-16	2016-17
Opening Stock	MT	509	47	48	649
Closing Stock	MT	47	48	649	194
Average Stock	MT	278	48	349	422
Trend	Index	100	17	125	152

The variation in inventory is not wide enough to evidence any stock piling.

Profits, return on investment and cash flow

38. Performance of the domestic industry with regard to profits, return on investment and cash flow over the injury period was as follows:

Particulars	Units	2013-14	2014-15	2015-16	2016-17
Cost of Sales	Rs. Kg	***	***	***	***
Trend	Index	100	93.00	96.52	95.98
Selling Price	Rs. Kg	***	***	***	***
Trend	Index	100	99.02	104.74	101.97
Profit/(Loss)	Rs. Kg	***	***	***	***
Trend	Index	100	357.10	457.30	359.04
Profit/(Loss)	Rs. Lacs	***	***	***	***
Trend	Index	100	331.67	448.87	358.14
Cash Profit	Rs. Lacs	***	***	***	***
Trend	Index	100	141.48	188.32	152.55
Return on Investment	%	***	***	***	***
Trend	Index	100	356.02	539.01	400.26

Profitability and RoI have been stable and positive during the injury period and PoI.

Employment, wages and productivity

39. From the information given below, the Authority notes that the employment position of the domestic industry has not deteriorated during period of investigation as compared to base year. Productivity in terms of production per day and production per employee remained within the same range over the period showing no adverse trend.

Particulars	Units	2013-14	2014-15	2015-16	2016-17
No. of Employees	Nos.	***	***	***	***
Trend	Index	100	94	98	95
Wages	Rs.Lakhs	***	***	***	***
Trend	Index	100	129	181	149
Productivity per Employee	MT/No.	***	***	***	***
Trend	Index	100	102	107	105
Productivity per day	MT/Day	***	***	***	***
Trend	Index	100	96	105	100

Magnitude of dumping

40. The Authority notes that the dumping margin of the imports of the subject goods from the subject countries during POI is positive for EU during POI, however, for Iran it is negative and for Japan while it is positive on the basis of 'CNV' constructed as per Domestic Industry's data, it is negative on secondary sources. Also for post POI, the dumping margins for all three subject countries become negative/de minimis.

Growth

41. The Authority notes that the growth of domestic industry in terms of sales, production, has been stable when compared to the base year.

Ability to raise Capital Investment

42. The domestic industry contended that it has planned capital investment of Rs.7,000 crores, which is for a number of products. This includes substantial capacity expansion for Melamine. The company has argued that it intends to enhance the capacity for Melamine by 40,000 MT. The domestic industry argued that continued dumping of Melamine is adversely impacting the expansion plan of the company with regard to the product. It is noted that continued dumping of the product and financial losses in the product are bound to adversely impact the ability of the domestic industry to raise capital investments. Though the domestic industry is a multi-product company, the adverse impact on the operating performance of the domestic industry on account of this product could affect the ability of the domestic industry to raise capital investment for the subject goods.
43. The Authority notes that Anti-Dumping measures on imports of Melamine from China are in place which holds almost 2/3rd of the global capacity. The Authority notes the submissions by the domestic industry regarding the investments made by them in their newly expanded facility which may get hampered on withdrawal of existing Anti-Dumping measure. The Authority holds that the existing Anti-Dumping measures for 5 years provided a fair playing field to the Domestic Industry which is reflected in its improved performance parameters. The protection for future production plan which is still to come up cannot be addressed in the ongoing SSR wherein the assessment on likelihood of injury to the existing manufacture base needs to be examined and has been done so. The level playing field for the additional capacity of Domestic Industry whenever it comes up can be considered by the Authority based on the circumstances prevailing at that time and as per the provisions of AD Rules.

Causal Link

44. The Authority examined whether other known factors could have caused injury to the domestic industry as follows:

Volume and prices of imports from third countries

45. The Authority notes that during POI, major imports of the subject goods from countries other than the subject country are from China and Qatar. While imports from China are attracting ADD, imports of Qatar have been made largely by GSFC which have been examined.

46. The Authority notes that M/s Gujarat State Fertilizers & Chemicals Ltd. (GSFC) has though not imported PUC from the Subject Countries during the POI of sunset review, it has undertaken imports of PUC to an extent of 940 MT and 100 MT from Iran during 2013 – 14 and 2014 – 15 respectively and to an extent of 500 MT and 600 MT from Japan during 2013 – 14 and 2014 – 15 respectively. It has also regularly undertaken imports from Qatar a non-subject country to an extent of 1500 MT, 8280 MT and 5379 MT during 2014 - 15, 2015 – 16 and 2016 – 17 (POI) from Qatar respectively. In post POI period of 6 months i.e. 1/4/2017 to 30/9/2017 also it has imported to an extent of 1140 MT from Qatar.
47. The imports by M/s Gujarat State Fertilizers & Chemicals Ltd. (GSFC) from Qatar have been at an average price less than the imports done by other importers during the injury period and POI. The import price from Qatar is comparable with import price of Japan but lower than that of EU and Iran. The applicant during the years of injury period consistently undertook imports from Qatar at such prices but did not report/allege injury on account of these comparable import prices from Qatar.
48. The Authority notes that Gujarat State Fertilizers & Chemicals Ltd. has submitted that imports made by them from Qatar were to enable them to fulfil orders of their longtime customers and that they merely traded on same with a margin of just 2-2.5% and even made losses at times. The Authority however notes that trading margins of such a Quantum are typical in a trading environment and that this trading share is 40% of GSFC's production. Even though Qatar is not a Subject Country, the imports from Qatar by GSFC is also a trendsetter of prices in the country which the exporters from Subject Countries would no doubt benchmark. Therefore trend of import prices from the Subject countries cannot only be attributed to the pricing policy of the producers/exporters from the Subject Countries but is also expected to be impacted by the import prices from Qatar which were largely by GSFC.
49. The Authority after considering this aspect while examining causality and the threat of Dumping and Injury as alleged by the applicant holds that such circumstances where the injury margin during POI and post POI is negative from subject countries and prices from Qatar are either comparable or lower than subject country prices, threat of injury cannot be attributed to imports from the subject countries.

Contraction of demand and changes in the pattern of consumption

50. The Authority notes that there is no contraction in the demand during injury period. Demand for the product has increased over the injury period.

Developments in technology

51. The Authority notes that none of the interested parties have furnished any evidence to demonstrate significant changes in technology that could have caused injury to the DI.

Conditions of competition and trade restrictive practices

52. The Authority notes that the subject goods are freely importable and the domestic industry is the sole producer of the subject goods.

Export performance of the domestic industry

53. The export performance of the domestic industry is not relevant since price and profitability only in the domestic has been provided and examined by the Authority for the purpose of assessing injury to the domestic industry.

Performance of other products

54. The claimed likelihood of dumping and injury by the domestic industry is on product under consideration. The petitioner has provided information which pertains only to the product under consideration. The financial information has been provided with regard to product under consideration.

Conclusion on Injury and Causation

55. The Authority holds that the performance parameters of Domestic Industry are stable and no injury due to imports from subject countries seems to exist. The fact that imports from Qatar have been carried out by domestic industry at similar prices, indicate that such import prices are non-injurious. Negative injury margin both during POI and post POI further substantiate this aspect.

H. Other Issues

H.1 Submissions made by the Importers/ users/ other Interested Parties/ other parties

56. Following submissions have been made by the importers/ users/other interested parties/ other parties

(a) M/s Century Plyboards Pvt. Ltd.

- The initiation does not mention submissions made by the other interested parties
- GSFC has claimed its sales policy as confidential. It does not sell directly to end users. The price difference between sales to traders and end users are account of malpractices by GSFC
- DA has not informed on the exact and precise issues on which it wants to hear the parties. An oral hearing must also be scheduled after issuance of disclosure statement oral hearing may be postponed and refixed.
- DA has not provided information in response to the RTI query.

(b) M/s International Trade Remedies & Practices representing M.s Agarwal Chemicals

- The petitioner has claimed excessive confidentiality. The data may be provided for further response
- Petitioner has desired fixed duty under continuance of measure. The investigation in fact needs to be terminated.

(c) M/s Sandeep Organics Pvt. Ltd.

- The petitioner is not having proper capacity to cater demand.
- The petitioner is government oriented company.
- The petitioner is having monopolistic situations.

(d) M/s Exim Corp India Private Limited has submitted that GSFC instead of responding to sales enquiry of a user directs its traders to respond.

H.2 Examination by the Authority

57. The Authority notes submissions by various importers/users that excessive confidentiality have been claimed, information sought under RTI by one of the importers/end users has not been provided and that initiation was faulty as the data before Authority was not fair. The Authority holds that initiation is based on various facts as available prima facie which require appropriate validation and analysis which in certain cases may require investigation post initiation to arrive at a fair and equitable judgment. As regards information to be made available to all interested parties the Authority adopted its established practice of considering claims of confidentiality by any interested party based on reasons and its acceptance by Authority as per relevant AD Rules. The non-confidential versions of submissions are made available through public file to all interested parties who may inspect the same in DGAD. In view of the above position and the framework of quasi-judicial investigation by Designated Authority as per AD Rules the issue of RTI requires no further response. The reply to RTI is provided by the Designated CPIO as per the prescribed rules under RTI Act, as a separate executive function which was done in this case as well.

58. As regards providing list of issues which DA would prefer to hear in an oral hearing, it is held that all interested parties have the liberty to express their views to DA in the oral hearing on any issue they feel is relevant for DA to hear. This practice has been consistently followed. Any interested party who chooses not to participate in an oral hearing has the option to do so as participation is not mandatory.

Post POI Likelihood analysis

59. Likelihood of Dumping and Injury

S. No.	Particulars	Unit	EU	Iran	Japan
1.	CNV (DI's CoP Data)	\$/Kg	***	***	***
2(a)	ExEP	\$/Kg	1.189	1.233	1.196
2(b)	CIF	\$/Kg	1.339	1.325	1.129
3.DM		\$/Kg	***	***	***
		% range	0 to 5	0 to minus 5	0 to 5
4.	NIP	\$/Kg	***	***	***
5.	IM	\$/Kg	***	***	***
6.	IM	% range	Minus 5 to minus 10	Minus 5 to minus 10	Minus 5 to minus 10

60. Surplus capacity of producers/exporters and attractiveness of Indian market

The Authority notes that domestic industry has claimed market capacity of 450000MT, 20000 MT and 90000 MT in EU, Iran and Japan respectively. The claim of EU's capacity of Melamine matches with the data reported in EU's finding dated 30th June, 2017. The capacity utilization is about 78% as reported in the finding in the year 2015 – 16. As regards Iran and Japan as per World Trade Atlas data highest global exports to an extent of 10000 MT and 49000 MT are evidenced. The fact that injury margin in POI and post POI are negative, and also that dumping margin in POI and post POI are not significant, these does not appear to be a likelihood of trade getting diverted to India. The Authority notes that annual demand of Melamine in the country is about 70000 MT and even with capacity addition of DI the demand supply gap is required to be met by imports. This gap rather than attractiveness is in-fact a necessity of filling in the demand supply gap. The Authority notes that the injury margin which if taken as an indicator of likelihood in post POI is also negative as also is the case during POI.

61. As regards imports from Indonesia the Authority notes that the producers/exporters in Indonesia have closed their operations and imports from Indonesia are nil during the injury period, POI and post POI. Therefore the AD measure on imports from Indonesia is felt to be non-justified and also does not warrant any further continuation.

Post disclosure comments

62. Submissions made by the Domestic Industry

- The Disclosure statement talks about participation and submissions made by one party namely M/s Sandeep Organics Pvt. Ltd. However, the said party did not place any submissions in the public file so far and the petitioner is not aware of any such participation till the receipt of the present Disclosure. At the outset, we deny all the claims of the said party also as bereft of any merit and the rejoinders provided earlier inter alia deals with submission by such importer also.
- The NIP determined is grossly underrepresented and is unduly low which requires re-examination. The Authority has shared the details of the NIP proposed for Melamine produced by the DI along with the Disclosure statement. After cross checking the same along with our records, it is felt that the NIP proposed is unduly low and are determined by not appreciating the relevant facts of cost of the product produced by the Company and also some methodologies adopted which is understood to be inconsistent with the past practice of the Authority itself. We could observe the following discrepancies in the calculation and humbly request the Authority to take notice of the same for the purpose of Final Finding.
- The working capital calculated for melamine as per the NIP calculation shared with us is Rs. *** lakhs. As per our calculation, which is in our understanding, is consistent with the methodology adopted by the DGAD to calculate working capital as a consistent practice, the figure works out to Rs. *** Lakhs for which detailed calculation is enclosed. It is submitted that undue disallowances of figures has caused very low NIP which is not justified and would cause serious damages to our legitimate interests. We request the Authority to relook into the same.
- We have serious concerns on the treatment of Ammonia which is generated as a by-product while producing Melamine. It was explained to the DGAD team during the on the spot verification that the Ammonia which comes out as a by-product while producing Melamine goes back to the Ammonia plant. The same cannot be used in industrial product as the same has very high inert gas content ***%.
- Since the Ammonia generated as a by-product at the time of production of Melamine which cannot be used in Melamine plant due to the above said purity issue, the Authority should not treat the same at the same cost/price of Ammonia which is used for Melamine. This has led to determination of unduly lower cost of Melamine produced by the Company. The above position of Ammonia generated as by-product needs to be properly accorded and treating the by- product ammonia at par with the other ammonia is incorrect technically also.
- We request the Authority to re-examine the treatment of Ammonia generated as a by-product while determining the cost and also NIP for Melamine produced by the Company. We shall be grateful to the Authority for ensuring no injustice is done to GSFC in the determination of NIP so that a fair outcome is ensured in the final finding.
- The facts as disclosed clearly demonstrate that the expiry of the present anti-dumping duties is likely to lead to continuation or recurrence of dumping and injury to the domestic industry.
- Rule 23 of AD Rules provides for an examination whether the expiry of the

present anti-dumping duties is likely to lead to continuation or recurrence of dumping and injury to the domestic industry. The Rule, thus, requires preempting any likely situation of dumping and injury as a result of such expiry wherein it also presumes that the situation of dumping and injury must have mitigated as a result of the duties that have been in force. Thus, even merest chance of likelihood should lead to the continuation of duties and the following facts in the present case shows why is it essential to continue the existing duties in the present case;

- Performance of the domestic industry improved as a result of duties in force against dumped imports of subject goods from subject countries. However, the DI is still vulnerable to injurious effect of such imports from subject countries, except Indonesia. Such imports have also reached the Indian market at a price which can negatively influence the performance of the DI in the absence of existing duties which is evident from the positive price undercutting in case of imports from subject countries. The argument that such imports were necessitated due to demand supply gap hold no good legal or factual ground as the need and purpose of the scheme is to ensure fair play between domestic production and imports with the given condition of the DI and meeting the entire Indian demand cannot be a prerequisite for fair play in the market from a DI perspective.
- The dumped imports have been looming around in the Indian market from subject countries and what prevented their free flow are the duties in force. Expiry of present duty shall provide a re-entry point for such dumped imports at an aggravated level.
- The Disclosure statement shows that Dumping Margin (NV based on Indian cost) has been positive in case of imports from EU and Japan and the same has been positive in case of EU based on NV on secondary basis. This clearly shows dumping continued from EU in an aggressive manner even after duties and there have been mitigating effects of duties on imports from Japan, Indonesia and Iran. In such a scenario, likelihood of dumping is imminent in the event of present duties as envisaged in the Rule.
- Even the dumping margin determined in the post POI period shows positive dumping margin in case of EU and Japan. This fact further establishes the fact that there are not any factual grounds to say that dumping will not recur in case of expiry of present duties. Dumping continued and continues, thus, duties are essential to counteract the same.
- The Disclosure statement shows positive injury margin in case of import from EU in the POI and negative in case of other subject countries. The injury margin in case of all the subject countries is provided as negative in the post POI period. It is our submission that such negative margins needs to be re-examined as we have submitted herein above that the NIP determined is grossly unrepresentative of the facts for determination of NIP which requires appreciation. Without prejudice, it is our submission that negative injury margin cannot be seen as a parameter to determine likelihood of injury for the reason that AD duties in force have led to improvement in performance of the DI and such mitigating effects of duties on injury caused is also supposed to be reflected in the injury margin. The duties have helped the DI to operate moderately and efficiently and the same would be reflected in the injury margin position. But the fact remain such negative injury margin is the result of the duties in force and any expiry of the said duties will lead the situation once again

to that of overall injury and positive injury margin.

- The facts of potential exports from subject countries especially EU clearly shows that there have not been any shift in the way in which exports were made to India and the users are still very much inclined to import the material at dumped prices from such sources and source like EU have significant unutilised capacities to offer Melamine at dumped and even more harmful prices.
- It is also needs to be noted that none of the exporters have come before the Authority have not permitted it to conducted detailed examinations of their exports to third countries etc. The balance of convenience in such a case should not be to rule out any likelihood but it should be used against such parties who chose not to participate.
- It has been observed by the Authority that level playing field for the additional capacity of Domestic Industry whenever it comes up can be considered by the Authority based on the circumstances prevailing at that time and as per the provisions of AD Rules. We pray for a reconsideration of this view. Large investments to increase the capacity are already made by the DI and production in the new capacity shall commence in a few months from now. It is not a matter the DI is seeking protection for a future investment but it's concern is clearly about investments already made and such investment decisions were based on an anticipation that the fair play in the market shall continue and we believe that the fair play shall disappear in the absence of present duties. The viability of the project being completed is dependent on fair price in the market for Melamine and achieving such prices is not feasible if large exporting countries like EU, Japan, Iran etc are left without any duties. It is significant to mention in here that the Exports from Iran during the year 2015 and 2016 to India of quantity 9140 MT and 5516 MT respectively was at an average price of USD 1.35/kg. Higher price to India are apparently on account of existing duties in force and a decline in such dumped prices to new levels is so imminent. Decline in export price Iran in the event of AD duty is, thus, imminent. There is a possibility that the exporters will sharply reduce their prices to retain the market once the new capacity in India goes operational and such imports even for a shorter period can cause irreparable damages to the DI. The AD rule as such empowers this Authority to take note of potential injury situation and it does not mandate the Authority to first let the harm happen and later approach it for solution. We pray that the DI has already made the investments needs proper appreciation and we request the Authority to reconsider its view on the aspect of capacity additions.
- It is has been observed by the Authority that trend of import prices from the subject countries cannot only be attributed to the pricing policy of the producers/exporters from the subject countries but is also expected to be impacted by the import prices from Qatar which were largely by GSFC, it is our submission that the observation of the Authority requires reconsideration in view of the fact that such observation is not complete in the context of likelihood examination. The focus of GSFC is always to produce the goods in its plant and it has no interest to import and sell the subject goods for nominal or no profits. The imports from Qatar had its basis in the demand supply gap and company did it to retain in its customer basis especially at a juncture where the new plant is almost ready to go live. Once the production starts in the new capacity, the

imports from Qatar would be nil by GSFC. The price of imports made during the POI from Qatar did not impact the performance of the DI as can be seen from the injury data and the likely impact of such imports by GSFC itself is also nil because no such imports will be under taken by GSFC after commencement of production in the new line. Thus, what is going to be the basis of pricing policy of the producers/exporters from the subject countries is not the import by GSFC but certainly capacity additions by GSFC which alone establishes likelihood of dumping and injury in the present case. Exporters will have to reduce their prices to stop GSFC from selling the Melamine produced from its new plant on top of the current capacity and such reduction in prices shall lead to further dumping and injury.

- It appears that the Authority has proposed to hold that the performance parameters of Domestic Industry are stable and no injury due to imports from subject countries seems to exist and the fact that imports from Qatar have been carried out by domestic industry at similar prices, indicate that such import prices are non-injurious and negative injury margin both during POI and post POI further substantiate this aspect.
- We request the Authority not to confirm this proposed view considering the submissions in these comments. The facts of imports from Qatar are once again reiterated and facts of imports from Qatar need to be seen in such back drops. Exporters are bench marking their price based on the duty in force and any removal of duty will lead to decline in price from subject countries. Imports from Qatar by GSFC did not influence the price since such imports did not create any pricing pressure on GSFC. But prices offered by exporters from subject countries are driven by the duties in force and such prices did not adversely impact the performance of DI for the reason that AD duties are in force. Also, view on injury margin needs to be readdressed in view of the factual inadequacies in the NIP determined. Also, there are duties on China PR and EU has also imposed ADD on imports of Melamine into EU from China PR. Any expiry of present duty shall only lead to increased exports from EU as they would try to take over the market of China PR as well in addition to the new capacities coming into production in India. Thus, imports from Qatar is not any determining factor but the exports from EU are directly linked to existence or expiry of present duties and in the case of expiry, the market will be once again captured by dumped imports from EU which will destabilise the position of DI in very short time.
- It is our considered submission that the domestic industry over the period recovered from the injury caused by the dumped imports from the subject countries and should the measures in force against such sources be allowed to expire, it is, however, likely that the injury would precipitously recur as the DI would be exposed to significant price pressure from such dumped imports. Expiry of duty will lead to even lower prices and potentially increased dumped volumes and there is not even an iota of fact which shows the situation of

exports shall remain the same even after expiry of duties and the position of DI would continue to be stable. As a consequence, the situation of the domestic industry would only deteriorate and it cannot be said that the DI would still be in a stable condition.

- Also, the European Commission in the matter of SSR of ADD on imports of Melamine from China PR observed that it is likely that the entry of low-priced Chinese imports to the Union market would immediately drive down the prices if the measures were allowed to lapse.
- Price of Melamine remains a sensitive issue in the Indian market also. There is not even a single factor which suggests exporters from subject countries will not reduce their prices to gain more market share in India in the event of expiry of duties and the DI will still be able to achieve prudent prices even with such low priced imports. Price sensitivity of Melamine is something even acknowledged by an AD Authority like EC and it cannot be concluded that producers/exporters from export oriented subject countries like EU will not reduce their prices to gain more market qua the DI and also other exporting countries given their export orientation and excess capacities. In such scenarios, the DI will be forced to reduce its prices and none of the facts in the Disclosure statement show that the import prices will not go down and DI will not be forced to reduce its prices in the event of unfavourable import prices. It is very obvious that if the DI has to reduce its prices, the injury is just imminent.
- It has also been observed by the Authority that even after expansion of capacity in India, there will be a need for imports. The real fact in this regard is that if the AD duties are allowed to expire, the adverse effects of even such necessitated imports would be so grave that there shall be price adversities in the market. The reason for that is the estimated excess capacity in countries like EU alone is much more than Indian demand and the exporters shall compete to capture even such left out demand position in India which will attract users to such dumped sources and the DI shall not be in a position to maintain its fair prices. Continuation of duty, which is nothing but a fair margin to remove the distorting effects of dumping, shall be beneficial for the DI and also users equally.
- It is submitted that Imposition of ADD has helped the domestic industry to recover from the injurious effects of dumping in the past. Injury parameters have shown recovery, however, there has been significant imports at dumped rates which shows the DI is highly vulnerable to dumping and injury once again;
- The current dumping signifies that it is highly likely that dumping will continue and intensify in the event of expiry of the present anti-dumping duties. Additionally, GSFC has demonstrated that there are significant surplus capacities with the producers of the product concerned in the subject countries and these producers and exporters have considerable export orientation and India remain a potential and attractive market that dumping and injury from such imports is likely in the event of expiry of present ADD on subject countries. The NIP as calculated needs re-examination as the same is grossly underreported and is very low and that it is evident that the expiry of the present anti-dumping duties is likely to lead to continuation or recurrence of dumping and injury to the domestic industry and we request the Authority to recommend continuation of ADD on dumped imports of the subject goods from subject countries.

Submissions made by the importers and Other Interested Parties/ other Parties

63. M/s Exim Corp represented by M/s Seetharaman Associates

- We welcome the observations that the Authority proposes to hold that the performance parameters of Domestic Industry are stable and no injury due to imports from subject countries seems to exist. The fact that imports from Qatar have been carried out by domestic industry at similar prices, indicate that such import prices are non-injurious. Negative injury margin both during POI and post POI further substantiate this aspect. We request the DGAD to take these observations to their logical conclusion and terminate the investigation without imposition of any measures.
- Further the above observations call for certain incidental findings from the DGAD on two critical aspects namely: GSFC does not qualify as Domestic Industry; and Initiation of SSR shall not be automatic without regard to the circumstances of each case and urge the authority to give a specific findings in regard to these two issues.
- We also request Designated Authority to give a finding as to how the domestic industry had projected the non-injurious price and that the said price did not meet the legal standards contained in Annexure III to the AD rules.

64. M/s International Trade Remedies & Practices representing M/s Agarwal Chemicals

- It has been mentioned in the disclosure that the provisions of Rule 2(b) requires to examine imports by domestic industry with reference to dumped article thereby limiting such examination to the subject countries only. “It is submitted that the interpretation of Rule 2(b) drawn by the domestic industry is restrictive. Had it been the intention of the law drafters that the imports by the domestic producers are to be examined only for the subject countries, they could have simply used the words ‘subject country (ies)’ in place of the words ‘dumped article’”.
- The examination and use of imports from Qatar forming basis of conclusion in the current investigation clearly establishes the fact that the examination of imports by the domestic industry cannot be restricted to subject countries but are required to be examined for the other countries also. Therefore, in view of the significant imports by the domestic industry of as high as 40% in the POI, the current investigation, in the first place, could not have been initiated had the complete information of imports been provided prior to the initiation as the imports by the domestic industry of such high volumes clearly establishes the fact that the over reliance of the domestic industry is being placed on the imports. Thus, the domestic industry lacks the standing in the current investigation.
- The facts and methodology for the determination of CNV for the subject countries namely EU, Iran and Japan have been mixed up and are not clearly

understood. We request the Hon'ble Authority to please appropriately clarify them in the final findings. Without prejudice, it is submitted that we are not able to appreciate the logic and rational of using the cost of the domestic industry for CNV. It may be seen that as per the practice followed for the determination of CNV, the COP of the domestic industry is invariably adjusted for cost of raw materials on the basis of international prices and by adopting the best consumption norms of raw materials. It may also be seen that COP of the domestic industry may not to be used in the current investigation as the cost of the subject goods is available from the EU findings for the year 2015-16 that is more reliable and authentic as compared to the COP of the domestic industry and may be adjusted for raw material prices of Urea for 2016-17, consumption norms of Urea from domestic industry information and profit @ 5%. Therefore, we request the Hon'ble authority for not to utilize the cost information of the domestic industry for the CNV. We also request that CNV for POI 2016-17 based on the domestic prices of European Union for 2015-16 from the EU findings after adjusting them for the difference between the spot prices of Melamine in ICSLOR in 2016-17 over 2015-16 may please also not to be utilized in view of the following:

- (a) It is not clear as to whether the adjustment to the EU prices for 2015-16 has been made on the basis of difference between ICSLOR price for 2015-16 and 2016-17 considering the spot prices in EU or the difference between the global prices from WTA by EU for 2015-16 and 2016-17. It is submitted that determination of CNV on any of the above two bases is not correct as it is not clear whether the prices reported in the EU findings or ICSLOR are of the traders/producers, whether there is any credit period involved, whether the prices are at ex-factory level or at some other level of trade and whether the same are in the ordinary course of trade or not. Further, as per our information, the prices reported in ICSLOR are for the whole Europe but not for the EU alone. It may be seen that Europe also include several other countries which are not part of the EU. Therefore, in the absence of such vital information for the EU alone, the EU prices as reported in EU findings and adjusted for ICSLOR prices for the POI cannot be considered for the CNV for EU as well as for Iran and Japan. The Hon'ble CESTAT in its order in the case of Dye Stuff Manufacturers Association of India Vs. Govt. of India 2003 (157) E.L.T. 154 (Tri. - Del.) also held that the normal value for a subject country cannot be determined on the basis of incomplete information.
- (b) The Spot prices are always as matter of fact higher than the contractual prices and there is no indication that the prices in EU are spot basis. It may be seen that the prices in the domestic market are generally contractual prices.

(c) The best method to compute the CNV for EU is to utilize the cost of Melamine as disclosed in EU findings and duly adjusted for Urea prices for 2016-17. In the original investigation also, the determination of CNV was made on the basis of international prices of Urea, other cost and profit @ 5%. The determination of CNV for Iran and Japan may also be made on the basis of international prices of raw material Urea or from the DGCI&S imports data and other costs from aforesaid EU findings and profit @ 5%. We are not able to appreciate for changing the methodology in the current investigation. The details of the CNV for EU on the above basis and the evidences already submitted as part of our rejoinder submissions.

- CNV compared as per European Commissions cost data and 5% profit comes to 1045\$/MT. CNV for EU as computed by us may also be extended to Iran and Japan.
- We are also not able to appreciate the rational and logic of the contents of the para 20 of the disclosure statement for utilizing the third country prices of the subject countries for CNV for POI and post POI. However, no details of the CNV on the basis of 3rd countries prices for POI and post POI have been disclosed in the current investigation. It may also be seen that before relying upon the 3rd countries prices the same are required to pass the OCT test which again cannot be carried out in the absence of cost of the subject goods. We would, therefore, request for determination of CNV on the basis of EU costs and international raw material prices and profit @ 5%.
- There are also no details on the determination of normal value for Iran and Japan in the disclosure statement. We request the Hon'ble Authority for the disclosure of the same in the final findings. We also request that the normal value for Iran and Japan may also be constructed on the basis of international Urea prices, other costs from EU and profit @ 5%.
- In paras 21-23 of the disclosure statement, the details of the determination of ex-factory export price of European Union, Iran and Japan have been disclosed. It is submitted that the adjustments for ocean freight for EU, overseas insurance proposed to be made from the CIF prices appear to be on the higher side and for credit cost, no adjustment may please be made.
- There appears to be some error in computation of EX-EP which may be rechecked length of post POI may be mentioned.
- In para 28 of the disclosure statement, it has been recorded that the NIP for POI and post POI has been computed. However, the specific period for which NIP for post POI has been determined not disclosed. We request for disclosing the post POI period in the final findings.
- In para 32 of the disclosure statement, it has been recorded that the imports from subject countries have reduced after imposition of ADD and that their share has also come down. It is submitted that the imports from subject countries in the POI have marginally declined as compared to the imports in the

base year 2013-14. Therefore, the imports from the subject countries are more or less at the same level in the POI as compared to base year.

- The details of the price underselling for the POI have been provided which are significantly negative for the subject countries. However, the details of the landed value, NIP and price underselling for the Post POI period have not been provided.
- We request the Authority to please also record in the final findings that the domestic industry has placed over reliance on imports to the extent of 40% of their production, therefore any analysis with regard to capacity, production and capacity utilization is misleading and misnomer under the facts and circumstances of the current investigation.
- With regard to profitability, cash flows and ROI, we request the Authority to please also record in the final findings that there is a significant improvement in these factors over the injury investigation period.
- The Authority may record in the final findings the details on the conclusion of the dumping margin for the POI as well as for the Post POI.
- The Authority has rightly recorded in the disclosure statement that the protection for future production plan which is still to come up cannot be addressed in the ongoing SSR wherein the assessment on likelihood of injury to the existing manufacture base needs to be examined. The level playing field for the additional capacity of Domestic Industry whenever it comes up can be considered by the Authority based on the circumstances prevailing at that time and as per the provisions of AD Rules.
- The disclosure statement, states that the details of the imports volume and prices by GSFC have been provided. Since such a vital and significant information was willfully concealed by the domestic industry and not provided as part of the application prior to the initiation of the current investigation in all fairness, the current investigation could not have been initiated.
- The Authority has rightly recorded in the disclosure statement that even though Qatar is not a Subject Country, the imports from Qatar by GSFC is also a trendsetter of prices in the country which the exporters from Subject Countries would no doubt benchmark. Therefore trend of import prices from the Subject countries cannot only be attributed to the pricing policy of the producers/exporters from the Subject Countries but is also expected to be impacted by the import prices from Qatar which were largely by GSFC.
- In the disclosure statement, it has been recorded that the performance parameters of Domestic Industry are stable and no injury due to imports from subject countries seems to exist. We request the Authority to please also record in the final findings that there is a significant improvement in the performance of the domestic industry over the injury investigation period.
- In the disclosure statement, it has also been recorded that imports from Qatar have been carried out by domestic industry at similar prices, indicate that such import prices are non-injurious and negative injury margin both during POI and

post POI further substantiate this aspect. We request the Authority to please record in the final findings as part of conclusion that the prices of imports from Qatar by the domestic industry are significantly lower than the prices from subject countries. It is also submitted that the negative injury margin in the POI and post POI indicates that there is no injury to the domestic industry nor there is any likelihood of injury to the domestic industry in the current investigation.

- It may be seen that as per Section 9A(5) of the Customs Tariff Act and Rule 23(1B) of the Indian Anti-dumping Rules, the anti-dumping duties in sunset review investigation can be extended only when the domestic industry has established that there is a likelihood of recurrence or continuation of both dumping and injury. The duties cannot be extended and the duties are required to be withdrawn in case any of the two conditions i.e. likelihood of dumping or likelihood of injury is not present in a sunset review investigation. It is submitted that there is an absence of likelihood of continuation or recurrence of both dumping and injury in the current investigation. Therefore, the duties may please be revoked in the current investigation.
- In the disclosure statement, the details on the likelihood of dumping margin and injury margin on the basis of Post POI period has been made which may be specified in the Final Finding. It is submitted that as stated above the CNV for the subject countries for the post POI may also please not to be determined on the basis of the COP of the domestic industry and CNV may please be determined on the basis of the raw material prices of Urea, the other cost based from the EU findings and profit margin at the rate of 5%. It may be seen that the normal value in the original investigation was also constructed on the basis of the international prices of Urea. We, therefore, request for determining CNV on the similar basis in the current investigation for post POI as well. It will indicate that there is negative dumping margin and there is no likelihood of dumping in case of withdrawal of duties. Even on the basis of the details disclosed, it appears that the dumping margin is not significant and negative. It also indicates that there is no likelihood of dumping in case of withdrawal of duties.
- The details of the CIF prices and the landed values for the subject countries EU, Iran and Japan for post POI have not been disclosed. We request for their disclosure in the final findings as has been disclosed for the POI. We request the Authority to record in the final findings that since the injury margin for each of the subject countries is significantly negative there is no likelihood of injury to the domestic industry in the current investigation in case of withdrawal of duties.
- The prices by the subject countries of the subject goods in other markets are higher than the Indian market, there is no likelihood of getting the same directed to Indian market and there is no likelihood of injury to domestic industry after withdrawal of duties.

- We request the Authority for the termination of the current investigation and recommend for withdrawal of duties.

65. M/s Century Plyboard (I) Ltd.

- The observation by Designated Authority with regard to imports made by the Domestic industry; in para 13 of Disclosure Statement and on injury in para 48 have been mentioned.
- Respondent interested party had made submissions with analysis that the injury margin in POI as well as third country is negative. The Designated Authority in para 60 of Disclosure statement has noted regarding the injury margins being negative in POI and post POI.
- The observation of Authority in para 61 of Disclosure have been mentioned
- Further submissions are as under:
 - a. There is no justification for continuation of anti-dumping duty for the reason that there is insufficient evidence that there is likelihood of dumping and consequent injury to the domestic industry in the event of withdrawal of anti-dumping duty.
 - b. The landed price of imports from subject countries is significantly higher than the fair price that can be expected by GSFC. Thus, the injury margin in the current period in respect of each of the subject countries is negative.
 - c. There are no imports of Melamine from Indonesia over the entire injury period. Further, the petition does not contain any evidence of likelihood of recurrence of injury from imports from Indonesia
 - d. Comparison of landed price of imports from subject countries with the selling price of the domestic industry and the NIP of the domestic industry clearly shows that the selling price of the domestic industry was consistently and significantly above landed price of imports, cost of production and the NIP of domestic industry.
 - e. While the demand assessed by GSFC is in the region of 64,086 MT, the capacity with GSFC is only 15,000 MT and no efforts have been made by GSFC in expanding the capacities. Despite assurances, GSFC is making no efforts in increasing its capacity to fill in the demand supply gap. The Authority has considered the argument of the domestic industry of capacity expansion and have held in the Disclosure Statement that proposed expansions cannot be a concern in the ongoing anti dumping investigation. It is submitted that even when GSFC is making public statements in the market for the past, about a decade, for expansion of capacities, the fact has remained that the company has not expanded its capacity till date.
 - f. Import price from Qatar is in fact lower than import price from subject countries. If import price of subject countries are higher than import price from Qatar, and if a significant proportion of these imports are by GSFC, imports from subject countries can also not cause injury to domestic industry, as has also been held by the Authority.

- g. Imports have declined in absolute as well as relative terms. There is negative price undercutting without adding anti-dumping duty in landed price from subject countries during POI and as well as Post POI. It shows no price effect of the imports on the domestic industry. Production, sales and utilization are at optimum levels. Profits, cash flow and ROI has increased significantly over the injury period. Thus there is no continued injury to the domestic industry.
- h. The authority has recommended withdrawal of anti-dumping duty on the grounds that injury margin in POI in respect of imports from subject countries is negative in cases such as White Cement, Zinc Oxide from China, Acetone from Japan and Thailand, Phenol from Japan and Thailand and Caustic Soda from Chinese Taipei.
- i. GSFC admitted that there is no import of melamine from Indonesia. In fact, GSFC was informed by some unknown person, whose authority is also not known, that the plant in Indonesia might be idle. Yet, GSFC has claimed likelihood of injury without showing what are exports from Indonesia to rest of the world and despite the fact that Melamine has dedicated customs classification. Authority has rightfully concluded that the producers/ exporters in Indonesia have closed their operations thus there is no likelihood of dumping and injury from Indonesia.
- j. Authority has observed exports from Iran and Japan to an extent of 10000 MT and 49000 MT. However, what is pertinent to note here is also the price at which these goods have been exported. We had earlier placed on record submissions and data establishing that there is negative injury margin in terms of third country exports by EU, Iran and Japan. Global trade is not barred at fair price is not condemned. Thus, in the present situation injury margin in POI, post POI and third country exports is all negative warranting cessation of anti dumping duties.
- k. Further, it is also noted from the Disclosure Statement that the domestic industry have claimed that capacity in EU, Iran and Japan is 450000MT, 20000 MT and 90000 MT respectively. The melamine review findings referred in the Disclosure Statement for the capacity in EU also states as follows:

Despite this significant market share, imports from third countries did not have an injurious effect on the Union industry as it can be seen from the development of the injury indicators as explained below. The reason is that even though their average price level was somewhat below the MIP (in the range of 1 000 EUR/tonne throughout the period considered) (2) it was never as low as the Chinese prices observed during the original investigation or the current Chinese export prices to the rest of the world (around 855 EUR/tonne adjusted to CIF Union frontier). Even more importantly, all these sources have rather limited production capacity (mostly in the range of 50 000 tonnes to 60 000 tonnes annually) (3) which means that they do not have the same destabilising impact on the supply/demand balance of the melamine market as the PRC was able to exert in the original investigation

- Further, as noted in the past review finding of the Authority such as Aniline, had held that the fact of mere availability of surplus capacity does not in itself

sufficient to conclude a finding that the dumping from a subject country would recur or continue and cause injury to the domestic industry in case of withdrawal of duties.

- It is submitted that the domestic industry is not suffering any material injury, performance of the domestic has improved significantly, there is no evidence of likelihood of dumping and injury and further petitioner itself is importing significant volumes from Qatar at a price comparable or even lower than subject countries and not feeling injured from these prices. Such being the case, petitioner is unlikely to suffer injury from the present subject countries. Therefore there is no justification for continuation of anti-dumping duties and the present measures should be allowed to cease.

Examination by the Authority

The Authority has examined submissions made by various interested parties in response to the disclosure as under:

66. The Authority notes various submissions regarding not holding M/s Gujarat State Fertilizers & Chemicals Limited as Domestic Industry as per rule 2 (b) of AD Rules on account of imports made by it from Qatar. The Authority holds that the instant case is of Sunset Review and despite substantial imports of PUC from Qatar, GSFC has not discontinued production of PUC post imposition of ADD measure rather it is in the process of enhancing capacity of the same in near future. Further it is the only producer of Melamine in the country. The anti-dumping duty was levied in the original investigation to ensure a level playing field for M/s Gujarat State Fertilizers & Chemicals Limited who was identified as a Domestic Industry at that point of time as per Rule 2 (b) of AD Rules. Post levy of ADD, M/s Gujarat State Fertilizers & Chemicals Limited undertook imports from Qatar a non-subject country in significant volume. The Authority holds that while Rule 2 (b) requires evaluation of applicant's domestic industry's standing considering import of dumped article and relationship with exporters/importers, the issue of any imports or relationship with other sources not claimed/identified to be dumped would require appropriate examination on a different trajectory of causality to ensure that genuine causes of injury to Domestic Industry are identified fairly. Therefore the issues of GSFC's standing as Domestic Industry are misplaced and Authority holds that on account of non-importation of PUC from subject countries during POI, GSFC meets the requirements of Rule 2 (b), it is reiterated that significant imports by GSFC from Qatar have been appropriately examined under injury to domestic industry and causality of imports from subject countries on injury to domestic industry.
67. The Authority notes that various interested parties have questioned the methodology of computation of CNV, for 3 Subject Countries EU, Iran and Japan during POI and post POI. M/s International Trade Remedies & Practices representing Agarwal Chemicals have stated that CNV on Domestic Industry's Cost of Production,

secondary sources like ICSLOR and World Trade Atlas (3rd country prices), domestic prices reported in European Union findings are all not appropriate and that only Cost of Production reported in European Union with 5% profit or international raw material prices of urea be adopted. Further it has been mentioned that ordinary course of trade test needs to be applied when 3rd country prices are adopted for CNV. Adjustments may be involved in such a methodology.

68. In this regard, the Authority notes that M/s Agarwal Chemicals have not provided any evidence of adjustments. Further M/s Agarwal Chemicals as an Interested Party at a belated stage requested to participate in oral hearing and while many submissions have been made by them, no evidence has been provided by them to substantiate any adjustment being advocated by them on different aspects. Further when none of the producers/exporters have participated, the Authority as per Rule 6 (8) and WTO provisions has appropriately referenced best available information and has adopted appropriate methodology for computation of normal value. In case of EU, the availability of EU's finding provides a credible document for referencing. The secondary sources like ICSLOR and World Trade Atlas have been adopted by Authority in past as source of reasonably credible data for purpose of validation depending in specific cases where such data is reasonably available. The Authority has constructed CNV based on Domestic Industry data adopting its consistent methodology as done in such cases and also at the same time noted existence of other data in EU's finding, ICSLOR, World Trade Atlas data which corroborates the CNV computed by Authority for POI and post POI i.e. 1/4/2017 to 30/9/2017. The post POI considered in disclosure and the final findings is 6 months period as consistently adopted by the Authority in SSR cases. The submission that cost reported in EU's finding be adopted and only 5% profit be added is not appropriate since as per provisions of Annexure 1 of AD Rules and WTO Article 2.2.2, the normal profits are referenced for normal value and not 5%. In the instant case the EC's findings have published the prevailing domestic prices which includes actual profits. Also ordinary course of trade test can be applied on a producer's/exporter's specific cost and price data and not on an average basis, collectively for all non-cooperating producers/exporters. The Authority confirms that the methodology adopted for POI and post POI is appropriate.

69. As regards certain errors reported in Exep and request to disclose CIF prices of post POI period i.e. 1/4/2017 to 30/9/2017 as well, slight correction in Exep have been appropriately done in foregoing paras, which do not lead to any significant change in the dumping margin as reported in the disclosure statement. The post POI CIF import prices have also been stated in para 59 under post POI examination. As regards computation of 'CNV' in post POI from secondary sources as well, the Authority holds that the evaluation of critical parameters of Dumping and Injury in POI and thereafter non-injurious import prices from subject countries renders further computation of CNV on other secondary sources trivial.

70. As regards recomputing NIP especially by re-examination of working capital and pricing of by product melamine in the production process, as submitted by Domestic Industry, the Authority noting the provision of para (Viii) of annexure III holds that M/s GSFC is a multi-product/location company and has two business segments namely fertilizers products and Industrial products. Since no working capital details are available with respect to Melamine the notional calculation of working capital has been done as per Audited annual accounts of the company for the year 2016-17. The net current asset as per Audited annual accounts of the company for the year 2016-17 has been worked out in the percentage ratio of sales revenue of Melamine to the total sales revenue of GSFC notionally as per practice followed in DGAD. The calculation of working capital provided by DI seems to be based on certain assumption which are neither supported and are not clear.
71. As regards by product in cause on ammonia, the company consumed Natural Gas as raw material and by routing through various processes like Synthesis Gas - Ammonia – Sulphuric Acid – Urea produced Melamine in their two plants in Baroda Unit. The NG requirement for IP products are based on Natural Gas purchased at market price which is non-subsidized and therefore valuation of Ammonia recovered from Melamine was valued at the charging rate of Ammonia.
72. The Natural Gas price are based on end use. Natural Gas rates for fertilizer use are on Administered Price Mechanism (APM) and for industrial product as per market rate. The average Natural Gas rates were Rs. *** for fertilizer use and Rs. *** per unit for industrial use during 2016-2017 as per data of GSFC and the corresponding Ammonia rate for fertilizer products were Rs. *** /- MT and for Industrial product Rs. *** /-MT as per Cost Audit Report of the Company. The pricing of Ammonia is uniform and there in no grades in the Books of account of the company. The accounts do not show any costing based on inert gas contents.
73. In any case by product price of Rs. ***/MT is suppressed price of subsidized Ammonia. Domestic Industry has itself admitted that the average CFR price of Ammonia was US \$ *** per ton during 2015-16 as compared to US \$ *** per ton during 2016-17. The price is comparable with the price of by product considered for non-subsidized product in the working of NIP. The Authority therefore confirms the NIP already disclosed on a confidential basis to the Domestic Industry.
74. Further same importers have sought disclosure of NIP to them as well. The Authority holds that as per provisions of confidentiality in AD rules and its consistent practice it has provided the non-confidential methodology on NIP computation to all Interested Parties and no further disclosure is warranted. Claims by certain interested parties regarding non-availability of certain submissions by an importer in public file, the Authority holds that the public file was updated time to time and in any case the generic submissions of all Interested Parties were mentioned in the disclosure for benefit of all interested parties which were essentially of overlapping nature.

Conclusions and Recommendations:

75. Having examined the contention of various interested parties and on the basis of the above facts, circumstances, limitations and analysis, the Authority concludes as under:

- (i) The economic financial parameters of domestic industry post levy of Anti-Dumping Duty are stable and healthy. There is no injury due to imports from subject countries i.e. EU, Iran and Japan during POI. Imports from Indonesia are Nil during injury period and POI and even post POI. Further there is no injury due to imports from subject countries in post POI.
- (ii) The imports made by GSFC from Qatar have been significant during injury period, POI and post POI which are either at a price lower than import price from subject countries or comparable. Therefore price depression if any cannot be attributed to exports from the subject countries.
- (iii) Protection of Anti-Dumping was for existing capacity of GSFC to address material injury on account of dumped imports from subject countries and cannot be extended for protecting additional capacity of product under consideration being set up by GSFC which is yet to come up.
- (iv) The Authority in view of the above does not consider it appropriate to recommend continuance of existing Anti-Dumping Duty on the subject goods from EU, Iran, Indonesia and Japan and hereby terminates this investigation in accordance with Rule 14 (b) of AD Rules.

(Sunil Kumar)
Additional Secretary & Designated Authority