

F.No.15/1009/2012-DGAD
Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Anti Dumping & Allied Duties
Udyog Bhawan, New Delhi

Dated the 6th January, 2014

NOTIFICATION

(Preliminary Findings)

Subject: Preliminary Findings in the anti-dumping investigation concerning imports of Sodium Nitrate originating in or exported from European Union, China PR, Ukraine and Korea RP-reg

No.15/1009/2012-DGAD- Having regard to the Customs Tariff Act, 1975 as amended from time to time (hereinafter referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995 thereof (hereinafter referred to as the Rules or the AD Rules):

A. BACKGROUND OF THE CASE

1. The Designated Authority (hereinafter referred to as the Authority) received a written application from M/s Deepak Nitrite Limited, Pune, on behalf of the domestic industry, requesting the Authority to initiate anti dumping investigation into the alleged dumping of Sodium Nitrate originating in or exported from the European Union, China PR, Ukraine and Korea RP causing injury to the domestic industry.

B. PROCEDURE

2. The procedure described below has been followed in this investigation:
 - (i) The Designated Authority (hereinafter referred to as the Authority) under the above Rules, after having received the written application

from M/s Deepak Nitrite Limited, Pune, (hereinafter referred to as the applicant) on behalf of the domestic industry, alleging dumping of Sodium Nitrate (hereinafter referred to as the subject goods or SNA or the product) originating in or exported from European Union, China PR, Ukraine and Korea RP (hereinafter referred to as the subject countries) causing injury to the domestic industry and on the basis of sufficient prima facie evidence submitted by the applicant justifying the initiation of the investigation, decided to initiate the investigation against imports of the subject goods from the subject countries.

- (ii) The Authority notified to the Delegation of the European Union to India, New Delhi, as also the Embassies of China, Ukraine and Korea RP in India about the receipt of the application of dumping allegation before proceeding to initiate the investigation in accordance with sub-Rule 5(5) of the AD Rules.
- (iii) The Authority issued a public notice No 15/1009/2012-DGAD dated 5th June 2013, published in the Gazette of India, Extraordinary, initiating anti-dumping investigation concerning imports of the subject goods from the subject countries. The Authority issued a corrigendum dated 6th July, 2013 to change the investigation period to October, 2011 – December, 2012.
- (iv) The Authority forwarded a copy of the public notice to all the known exporters (whose details were made available in the application) and gave them opportunity to make their views known in writing within forty days from the date of the communication about the initiation of the investigation in accordance with the Rule 6(2) of the AD Rules.
- (v) The Authority also forwarded a copy of the said public notice to all the known importers/users of the subject goods in India and advised them to make their views known in writing within forty days from the date of the communication about the initiation of the investigation.
- (vi) The Authority provided a copy of the non-confidential version of application to the known exporters, the Delegation of the European Union to India and the Embassies of China, Ukraine and Korea RP 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.
- (vii) The Authority sent questionnaires to the following known exporters in the subject countries (whose details were made available in the application) including the market economy treatment questionnaire to the known exporters from China PR to elicit relevant information in accordance with Rule 6(4) of the AD Rules:

- a) JSC "Concern Stirol", Ukraine
- b) Chemo Invest Trade Europe Kft, Hungary
- c) Shanxi Calcrete Chemical Co., Ltd., China
- d) Shandong Xinhao Chemicals Co., Ltd., China
- e) Xiangyand Zedong Chemical Group Co., Ltd., China
- f) Zigong Gold Way Chemicals Ltd., China
- g) Shandong Hailand Chemical Industry Co Ltd., China
- h) ST Chemical, S. Korea
- i) Toto International, S. Korea
- j) Metachem Corp, S. Korea
- k) Siman Ltd., Bulgaria
- l) Trade Success Ltd., Bulgaria

- (viii) None of the exporters / producers filed any questionnaire response or submissions.
- (ix) The Ministry of Economic Development and Trade of Ukraine submitted its comments on the investigation through the Embassy of Ukraine in New Delhi.
- (x) Questionnaires were sent to the following known importers/producers/users of subject goods in India (whose details were made available in the application) calling for necessary information in accordance with Rule 6(4) of the AD Rules:
 - a) Rajasthan Explosives & Chemicals Ltd., Dholpur, Rajasthan
 - b) Super Shiv Shakti Chemicals, Bhilwara, Rajasthan
 - c) Special Blast Ltd., Durg, Chhatisgarh
 - d) IDL Explosives Ltd., Hyderabad
 - e) Special Blast Ltd., Sidhi, M.P
 - f) Ideal Industrial Explosive Ltd., Secunderabad
 - g) Navbhart Explosive Ltd., Raipur, Chhatisgarh
 - h) Solar Industries India Ltd., Nagpur
 - i) Mahanadi Metals & Chemicals Pvt. Ltd., Sundar Garh, Orissa
 - j) Vetrivel Explosive Pvt Ltd., Thuraiyur, Salem
 - k) Keltech Energies Ltd., Bangalore
 - l) Grauer Weil (India) Ltd., Dadra
 - m) Indrajit Industries Ltd., Bangalore
 - n) Hardcastle Petrofer Pvt., Ltd., Umergaon, Valsad
 - o) Jaju Chemicals Pvt Ltd., Malegaon

- p) Jagatjit Industries, Sahibabad, Dist. Ghaziabad
- q) Schott Glass India Pvt Ltd., Bharuch, Gujarat
- r) Pooja Glass Works, Firozabad, Uttar Pradesh
- s) Saint Gobain Glass India Ltd., Sriperumbudur, Tamilnadu
- t) Geeta Glass Works, Firozabad, Uttar Pradesh
- u) Shri Bal Kishan Agrawal Glass Ind Ltd., Firozabad, Uttar Pradesh
- v) Meera Glass Work, Firozabad, Uttar Pradesh
- w) Bisazza India Pvt., Ltd., Budasan
- x) Jagdamba Glass Works, Firozabad, Uttar Pradesh
- y) Pragati Glass Works Ltd., Kosamba
- z) Advance Glass Works, Firozabad, Uttar Pradesh
- aa) Rashtriya Chemicals & Fertilizers Ltd, Mumbai
- bb) National Fertilizer Ltd, Noida

- (xi) Only three importers/users, namely, Rajasthan Explosives & Chemicals Ltd., Dholpur, Rajasthan; Schott Glass India Pvt. Ltd, Bharuch; and Sandeep Organics Pvt Ltd, Mumbai responded to the initiation notification. They made some submissions but did not submit any importer questionnaire response.
- (xii) 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.
- (xiii) Information provided by interested parties on confidential basis was examined by the Authority with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted, and such information has been considered 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.
- (xiv) Further information was sought from the applicant and other interested parties to the extent deemed necessary.
- (xv) The non-injurious price has been worked out the basis of the information furnished by the domestic industry based on its cost of production and cost to make and sell the subject goods in India, on the basis of laid down guidelines under Annexure III of the AD Rules so as to ascertain whether anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the Domestic Industry.

- (xvi) Investigation was carried out for the period of investigation (POI) starting from October 2011 to December, 2012. The examination of trends, in the context of injury analysis, covered the financial years 2009-10, 2010-11, 2011-12 and the POI.
- (xvii) Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods for the past three years, including the period of investigation, and the said information was obtained from the DGCI&S.
- (xviii) The Authority has examined the information furnished by the domestic producers to the extent possible on the basis of guidelines laid down in Annexure III to work out the cost of production and the non-injurious price of the subject goods in India so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- (xix) The submissions made by the interested parties considered relevant by the Authority have been analyzed and addressed in this Preliminary Findings Notification.
- (xx) *** in this Notification represents information furnished by the interested parties on confidential basis and so considered by the Authority under the Rules.
- (xxi) The exchange rate adopted for the POI is 1 US \$ =Rs 53.23

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

C.1 Views of the Domestic Industry

3. The production under consideration in the present investigation is Sodium Nitrate, a chemical compound with the formula NaNO_3 . This salt, also known as Chile saltpeter or Peru saltpeter, is a white solid which is soluble in water. The mineral form is also known as nitratine, nitratite or soda niter. Sodium Nitrate is derived as a co-product in the manufacture of Sodium Nitrite. Ammonia is converted into nitrous oxide at high temperature in the presence of catalyst and the nitrous oxide is then absorbed in caustic soda to get Sodium Nitrite and Sodium Nitrate.
4. There are no known grades of the product. Typical applications in which Sodium Nitrate can be used are Heat Transfer Salts and Flux; to manufacture various other Nitrate salts of Potassium & Barium; Agrochemicals; Bulk Intermediates; Manufacture of glass, Blasting powder, Slurry, Dynamite, Matches, FNS and Performance Chemicals, Leather Tanning Chemicals,

Imaging and Colour Intermediates, Pharmaceutical Intermediates, Rubber Chemical Intermediates etc. Sodium Nitrate can also be used in fertilizer as a source of nitrogen in production of fertilizers. In fact, it is for this reason that the product is classified under Chapter 31025000 and attracts zero customs duty. There are a number of products available to fertilizer industry in the market which can be used as a source of nitrogen. This includes Urea and Ammonium Nitrate. However, the total cost of nitrogen nutrient in Urea and Ammonium Nitrate in 2012-13 which is Rs 20 per kg and Rs 52 per kg respectively, is much less in comparison to the total cost of nitrogen nutrient in Sodium Nitrate which is Rs 159.68 per kg. It would be seen that if Sodium Nitrate is used as a source of Nitrogen, it would mean eight times cost that would be incurred by a consumer if they use Urea as a source of Nitrogen. Given such a significant difference, it follows that no consumer in fertilizer industry would use Sodium Nitrate as a source of Nitrogen. It is also pointed out that Sodium Nitrate as a product is not covered under Fertilizer Control Order. Thus, even when Sodium Nitrate, in theory, can be used as a source of Nitrogen in Fertilizer industry, in fact, none of the fertilizer industry consumers are using Sodium Nitrate. Further, the petitioner does not sell Sodium Nitrate to consumers in fertilizer industry. Given that 59% of the demand for the product in the Country is met by the petitioner, had there been a consumption of Sodium Nitrate in Fertilizer industry, the petitioner would have certainly supplied a significant volume of the same to such consumers.

5. Sodium Nitrate is classified under customs heading 31025000 under Chapter 31 of the Customs Tariff Act. The Customs classification is, however, indicative only and in no way binding on the scope of the present investigation. The imports of the product under consideration have also been reported under Chapter 28 under subheading 2834 (Nitrites and Nitrates). There is no known difference in subject product produced by the domestic industry and the subject product exported from the subject territory/countries. Both, the subject product produced by the petitioner and that exported from the subject territory/countries to India have comparable characteristics in terms of parameters such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification, etc. The two are technically and commercially substitutable. The consumers have used and are using the two interchangeably. There is no significant difference between the goods produced by the domestic industry and imported from subject countries. The alleged difference in values of purity, or difference in colour or

physical forms does not render the domestic product as dislike to the imported product.

C.2 Views of exporters, importers, consumers, users and other opposing interested parties

6. The opposing interested parties raised the following issues regarding the product under consideration and its scope:
 - i) There is difference in technical specification of material produced by Bulgaria, China and Ukraine and the domestic industry. The physical forms of the products is also different. Material from Bulgaria and China is Crystal form whereas domestic industry produces in powder form. Further, there is a difference in colour and purity of the product imported from these countries and domestically produced product.
 - ii) There are two Grades of Sodium Nitrate (NaNO_3) – Technical /Industrial & Fertilizer/Fertilizer Grade. There is difference in HS Code also and rate of VAT (Value added Sales Tax) also. There is also difference in Customs Duty. There is difference in the application also. HS Code of Technical / Industrial Grade is 28341010. Sales Tax is 5% VAT. There is 7.5% Basic Duty, 2% Cess & 1% Higher Secondary Cess on Imports. It is not used in Fertilizer / Fertilizer. HS Code of Fertilizer / Fertilizer Grade is 31025000. Sales Tax is 12.5% VAT. There is no Basic Duty, Cess & Higher Secondary Cess. It is not used for Technical / Industrial purpose.

C.3 Examination by the Authority

7. The Authority notes that none of the opposing interested parties filed any response in the form of exporter's/importer's questionnaire. It has been claimed that the purity of the product imported from China, Bulgaria and Ukraine was higher. Further, the imported product and domestic product differs in physical forms. Whereas the imported product is in Crystal form, the domestic product is in powder form. It has been claimed that the colour of the imported material is different from the colour of the material supplied by the domestic industry. It is, however, noted by the Authority that no information with regard to the nature of customers to whom the imported product has been sold was provided to the Authority, nor the impact of difference in physical forms or purity or colour was quantified. On the other hand, the domestic industry has contended that difference in physical form or purity or colour does not render the domestic product different from the imported

product. The domestic industry has contended that the domestic product is a like article to the imported product. Further, the domestic industry has contended that the opposing interested party making these comments should be considered as non cooperating.

8. The Authority notes that it has not been established that difference in purity, physical form or colour renders domestic product as dislike to the imported product. Nor the interested parties have quantified the impact of the alleged difference on the costs and prices of the product.
9. The Authority notes that it has also been claimed that fertilizer and technical/industrial grades are imported under different tariff codes and that whereas fertilizer grade attracts 0.0% basic customs duty, full customs duty is charged on imports reported under technical/industrial applications. The Authority notes that this information provided by the opposing interested parties is just of factual nature without specifically claiming to exclude one type or the other from the scope of the product under consideration. The petitioner has contended that though the product can be used as source of nitrogen in the fertilizer industry, they have neither consumed the product in fertilizer applications themselves nor sold to the consumers in India because it is not cost effective.
10. It is noted that Sodium Nitrate falls under dedicated classifications under 31025000 under Chapter 31. Further, it is observed from the transaction-wise import statistics that the imports of the product under consideration have also been reported under Chapter 28 under subheading 2834 (Nitrites and Nitrates).
11. The Authority, thus, holds that the product under consideration in the present investigation is Sodium Nitrate. Sodium Nitrate is a chemical compound with the formula NaNO_3 . This salt, also known as Chile saltpeter or Peru saltpeter, is a white solid which is very soluble in water. The mineral form is also known as nitratine, nitratite or soda niter. Sodium Nitrate is derived as a co-product in the manufacture of Sodium Nitrite. Ammonia is converted into nitrous oxide at high temperature in presence of catalyst and the nitrous oxide is then absorbed in caustic soda to get Sodium Nitrite and Sodium Nitrate. Typical applications, therefore, in which Sodium Nitrate can be used are Heat Transfer Salts and Flux, to manufacture various other Nitrate salts of Potassium & Barium, Agrochemicals, Bulk Intermediates, Manufacture of glass, Blasting powder, Slurry, Dynamite, Matches, FNS and Performance

Chemicals, Leather Tanning Chemicals, Imaging and Colour Intermediates, Pharmaceutical Intermediates, Rubber Chemical Intermediates etc.

12. Sodium Nitrate is classified under customs heading 31025000 under Chapter 31 of the Customs Tariff Act. Further, the imports of Sodium Nitrate have also been reported under Chapter 28 under subheading 2834 (Nitrites and Nitrates). The customs classification is, however, indicative only and in no way binding on the scope of the present investigation. The Authority proposes to include all imports of Sodium Nitrate whether reported under Chapter 28 or Chapter 31 in the scope of the product under consideration.

Like Article

13. Rule 2(d) of the AD Rules defines like article as follows:

“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 the characteristics closely resembling those of the articles under investigation”.

14. The applicant has claimed that there is no known difference in subject product produced by the domestic industry and the subject product exported from the subject territory/countries. Both, the subject product produced by the petitioner and that exported from the subject territory/countries have comparable characteristics in terms of parameters such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification, etc. The two are technically and commercially substitutable. The consumers have used (and are using) the two interchangeably.
15. The Authority has examined the matter and notes that there is no known difference in subject goods produced by the domestic industry and that imported into India from the subject territory/countries. The subject goods produced by the domestic industry and that imported from subject territory /countries are comparable in terms of physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably. None of the opposing interested parties has raised any

objection in this regard. In view of the same, the Authority provisionally treats the subject goods produced by the petitioner company as domestic like article to the product under consideration imported from the subject territory/countries in accordance with the anti dumping Rules.

D. SCOPE OF DOMESTIC INDUSTRY AND STANDING

16. Rule 2 (b) of the AD Rules defines the 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 exporters/importers/users and other opposing interested parties

17. None of the exporters/importers/users or other opposing interested party has made any substantive submissions in this regard, except the Ministry of Economic Development and Trade of Ukraine who submitted its comments on the standing of the Domestic Industry as under:

a. According to the petition of the domestic industry, the production of the domestic industry constitutes approximately 81% of the total Indian production of Sodium Nitrate; Rashtriya Chem and NFL being the other two producers. There are other producers such as Triveni Chemicals, Suvidhi Industries, Peri Nitrates Private Limited and Nikunj Chemicals. The investigating authority may thus determine the degree of support for the Petition and whether the petition has been made by or on behalf of the domestic industry.

18. Rajasthan Explosives & Chemicals Ltd., Dholpur, Rajasthan did not comment on the scope of the domestic industry and its standing and submitted that they are the user of Sodium Nitrate and during the period 2009-10, 2010-11 & 2011-12, had placed orders for the purchase of this material on different suppliers. They had given the details of the quantity ordered and sources of

purchase. They further confirmed that they had not imported this item till 18th July, 2013 and purchased only from indigenous manufacturers and suppliers.

D.2 Views of the Domestic Industry

19. The Domestic Industry has made the following submissions:

- (i) The petition has been filed by M/s Deepak Nitrite Ltd, Pune. There are two more known producers of the product during the POI in India, Rashtriya Chemicals & Fertilisers Ltd. and National Fertilizer Ltd.
- (ii) The production of the petitioner constitutes a major proportion in Indian production during the period of investigation.
- (iii) The petitioner constitutes domestic industry within the Rules.
- (iv) Petition has been filed by Deepak Nitrite Ltd. whose production constitutes a major share in Indian production. There is no opposition to the petition. None of the companies identified, in fact, are engaged in production of Sodium Nitrate. It is, however, possible that some of these companies are engaged in trading of the product under consideration. In any case, production of these companies cannot be so significant as to render the production of the petitioner so insufficient that the petitioner loses standing under the Rules.

D.3 Examination by the Authority

20. M/s Deepak Nitrite Limited has filed the application in the instant matter alleging dumping of 'Sodium Nitrate' originating in or exported from the European Union, China PR, Ukraine and Korea RP and requested for imposition of the anti-dumping duties. The company has not imported the product under consideration from subject countries or any other countries during investigation period or over the injury period. The petitioner is an eligible domestic industry within the meaning of the Rules. None of the interested parties has commented on this issue except the Ministry of Economic Development and Trade of Ukraine which have been examined. The Government of Ukraine has identified a number of other companies as producers of the product under consideration. The domestic industry has submitted that all these companies may be dealing in Sodium Nitrate but are not producers of Sodium Nitrate. In this regard, the Authority noted that Government of Ukraine has not provided documentary evidence to show that

these other entities identified by them are in fact producer of Sodium Nitrate in India. However, the Authority had sought this information directly from these entities identified by the Government of Ukraine. No one replied to the Authority except Nikunj Chemicals, Vadodara, who responded that they are not manufacturing this product. The Authority had sought relevant information about identities of Indian producers and their production/sales details of the product under consideration from the Administrative Ministry of Chemicals and Fertilizers, Government of India as well. The Ministry of Chemicals and Fertilizers has also not responded identifying the entities producing Sodium Nitrate in the country. The Authority notes that it has not been established that the other companies identified by Government of Ukraine are in fact producers of the product under consideration. The evidence on record does not establish that these companies are domestic industry within the meaning of Rule 2(b).

21. Production of the petitioner in the investigation period constituted 80% of Indian production. On the basis of information on record, the Authority determines that production of the applicant constitutes a major proportion in Indian production during the period of investigation and the petition has been made by the domestic industry. The Authority, after examining the facts, determines that the petitioner constitutes domestic industry within the meaning of Rule 2(b) of the Anti Dumping Rules, and the petition satisfies the criteria of standing in terms of Rule 5 of the Rules supra.

E. MISCELLANEOUS ISSUES

E.1 Views of the exporters/importers/users and other opposing interested parties

22. The Ministry of Economic Development and Trade of Ukraine raised the point that the periods of assessment for analysis were determined as 2009-10, 2010-11, 2011-12 and the POI which is October, 2011-December, 2012. Since the POI is more than 12 months, so indices of POI should not be compared with indices of other years. Further, the petitioner has stated that "Petitioner has no exports of the product under consideration". But according to International Trade Centre, there was export of Sodium Nitrate from India and Deepak Nitrite is one of the exporting countries.

23. Schott Glass India Pvt. Ltd did not submit any questionnaire response but only made certain submissions that the petitioner M/s Deepak Nitrate Ltd is regularly increasing its prices of the subject goods and in the last three years, basic price was increased by Rs 900 per MT which is around 39% and if such price increase continues, Schott Glass India Pvt. Ltd will need to develop such product from other competitive markets (domestic/overseas) in order to keep their finish goods' competitiveness and affordability to the domestic pharmaceutical companies. Under the umbrella of anti dumping duty, the manufacturers will get the opportunity to increase their prices as well as the quality standards may deteriorate. The Authority may, therefore, verify as to what kind of counter measures have been taken by the domestic manufacturers to mitigate price increase.
24. Sandeep Organics Pvt Ltd has raised the point that NEOCHIM PLC is the manufacturer in Bulgaria. Fertical Cyprus Ltd is the exporter. Price of Bulgaria is USD 450 PMT CFR Nhava Sheva for 100% Advance Payment.

E.2 View of the Domestic Industry

25. The Domestic Industry has made the following submissions:

- (i) Given that the investigation period is for 15 months, the petitioner has "annualized" the figures in order to enable comparison with the previous years.
- (ii) There is no response from the company in Bulgaria. Further, the information contained in the petition clearly shows that import price from Bulgaria is materially lower than the selling price of the domestic industry.
- (iii) The domestic industry considers two parameters for fixation of its prices. While domestic industry makes all efforts to realign its prices to the changes in costs on account of raw materials and utilities, the domestic industry is constrained in doing so from the prices offered by foreign producers. There has been significant increase in the costs on account of raw materials and utilities over the injury period because of increase in the prices of these major raw materials and utilities. Resultantly, the domestic industry was constrained to increase its prices for the product under consideration. However, whereas domestic industry should have ideally increased its prices in proportion to the increase in costs on account of raw materials, the domestic industry has been

prevented from increasing its prices to the extent of increase in costs on account of raw materials and utilities. In fact, the increase in price was much lower than the increase in costs on account of raw materials.

E.3 Examination by the Authority

26. The Authority has examined the above issues and notes that the contention of Government of Ukraine that POI is a period of more than 12 months, it is clarified that the Authority has compared the POI statistics with the preceding years after annualizing the data for POI. This is the consistent practice followed by the Authority in those situations where the POI is more or less than twelve months.
27. Regarding, the claim in the petition that “Petitioner has no exports of the product under consideration”, the Authority notes that in Proforma IV-A of the petition, the petitioner has shown exports of the product under consideration in the injury period and the Authority has taken due notice of that.
28. With regard to increase in price issue raised by Schott Glass India Pvt. Ltd and Sandeep Organics Pvt Ltd, it is noted that though the domestic industry has increased its selling price, the increase in its prices is due to increase in the cost of production. It is further noted that the increase in the cost of production is due to increase in input prices. In fact, it is found that the price increases are not in proportion to increase in costs. It is noted that imports are suppressing the prices of the domestic industry in the market.

F. ASSESSMENT OF DUMPING – METHODOLOGY AND PARAMETERS

Methodology For Determination Of Dumping Margin

F.1 Normal Value, Export Price and Dumping Margin

29. The Authority notes that none of the exporters/producers from European Union, China PR, Ukraine and Korea RP has responded to the initiation notification by filing exporter questionnaire in the manner and format prescribed and only the Ministry of Economic Development and Trade of Ukraine has made submissions in this regard.

F.2 Views of the domestic industry

30. It has been contended by the domestic industry that China PR should be treated as a non-market economy country, inter alia, stating that:

- i) Market economy status cannot be given in a situation where one of the major shareholders is a State owned/controlled entity: The European Commission has consistently held that possibilities of State interference cannot be ruled out in cases where there is significant share of a State owned/controlled entity. It is not only the question of past interferences alone but also possibilities of potential State interference in the future after the imposition of anti dumping duties that is relevant for granting market economy treatment.
- ii) Market economy status cannot be given unless the responding Chinese exporters establish that the prices of major inputs substantially reflect market values: The Domestic industry contends that “substantially reflect market values” has been widely interpreted to mean that the price of these inputs must be comparable to the prices prevailing in the international market. The Domestic Industry contends that the fact that such prices are comparable to the price prevailing in China PR is grossly insufficient.
- iii) Major inputs include utilities: The Domestic industry contends that production of the products concerned requires power and fuel as a major item of utility. Admittedly, while the power supplier is a State owned entity, insufficient information is available with regard to fuel supplier. It has not been established by the exporters that the prices of utilities reflect fair market values.
- iv) Market economy status cannot be given unless the responding exporters establish that their books are audited in line with international accounting standards: The Domestic industry contends that Chinese exporters have repeatedly disputed the treatment of European Commission to reject market economy treatment in such situations where Chinese exporters are unable to establish that their books are consistent with Chinese GAAP. Chinese companies in such cases have been contending that the requirement of insisting on compliance with International Accounting Standards is beyond law. The European Commission has held that the requirement on insisting compliance with International Accounting Standards is to ensure accuracy and adequacy of revenues and expenses, assets and liabilities expressed in the annual report. To quote the European Commission, reliability of the accounts is not established

with regard to this aspect unless the books are consistent with International Accounting Standards.

- v) Market economy status cannot be granted even if one of the parameters is not satisfied: The Domestic industry contends that the European Commission has repeatedly insisted that market economy status cannot be granted unless the responding Chinese exporters pass the test in respect of each and every parameter laid down under the Rules.
- vi) Onus/obligations: The Domestic industry contends that it is not for the Authority to establish that the responding companies are indeed operating under market economy environment and are entitled for market economy treatment. On the contrary, it is for the responding Chinese exporters to establish that they are operating under market economy conditions.
- vii) Transformation: The Domestic industry contends that in a situation where the current shareholders have not set up their production facilities themselves but have acquired the same from some other party, market economy status cannot be granted unless process of transformation has been completely established through documentary evidence.
- viii) Response from group as a whole: The Domestic industry contends that market economy status cannot be granted unless the responding company and its group as a whole make the claim. If one or more companies forming part of the group have not filed the response, market economy status must be rejected, regardless of the fact whether or not the other companies of the group are involved in production or sale of the product under consideration. It has been contended that the Designated Authority has applied such a test in the matter of Vitrified Tiles cases where the whole group has filed response in order to seek market economy status.
- ix) Failure to satisfy a number of conditions mentioned above by the responding Chinese exporters is sufficient to hold that market economy status cannot be granted to responding Chinese companies and, thus, the Normal value should be determined in accordance with Para-7 of the Rules.

31. It has been contended by the domestic industry that Ukraine should be treated as a non-market economy country, inter alia, stating that:

- i) Ukraine producers were not granted market economy status in the matter of soda ash.

- ii) The basis for presumption of treating Ukrainian producers as companies not operating in market economy environment is different in India and in Europe. In India, it must be established that a WTO member country has treated such country as market economy country on the basis of evaluation criteria prescribed under the Rules.
 - iii) It has not been established that US or EU has granted market economy status to Ukrainian producers on the basis of evaluation criteria laid down under the law.
 - iv) In any case, none of the producers in Ukraine has cooperated with the Authority nor the Ukrainian producers have established that market economy status is required to be given to them in the present case. Thus, the Designated Authority is not in a position to determine normal value on the basis of questionnaire response from Ukrainian producers.
32. It has been contended by the domestic industry that it could not collect any information/evidence such as price lists or quotations of producers of subject goods in the domestic markets of European Union, Ukraine and Korea RP due to lack of relevant information in public domain and, therefore, it has constructed the normal value in the case of imports from European Union, Ukraine and Korea RP. Further, none of the producers/exporters in the subject countries has responded in the course of investigations.

F.3 Views of the Ministry of Economic Development and Trade of Ukraine

33. Ukraine is treated as non market economy in the current investigation. In the case of anti dumping investigations on imports of soda ash from Ukraine, the Ukrainian authorities had provided to the Indian side with materials confirming market economy status of Ukraine according to Indian law. In addition, since 30.12.2005, the European Community has recognized the market status of the Ukrainian economy according to the Council Regulation of the EU No 2117/2005 [published in the Official Journal of EU No L340/17 of 23.12.2005] and Ukraine was excluded from the list of non market economies. Further, EU's criteria of assessment of market economy are similar to those specified in Indian law. Along with this, in February 2006, the US officially granted market economy status to Ukraine according to criteria defined in Art.771.18 of the US Tariff Act of 1930. The decision to grant market economy status to Ukraine was published in the Federal Register of the United States No 37 of 02.24.2006. Pursuant to the provision of Indian law, the competent authority has to consider Ukraine as a market economy country.

F.4 Examination of Market Economy claims in respect of China PR and Ukraine by the Authority

34. Para 7 of Annexure I of the Rule provides that:

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

35. Further, the relevant provisions laid down under Annexure I to the Anti-dumping Rules are as follows:

8. (1) The term “non-market economy country” means any country which the designated authority determines as not operating on market principles of cost or pricing structures, so that sales of merchandise in such country do not reflect the fair value of the merchandise, in accordance with the criteria specified in sub-paragraph (3).

(2) There shall be a presumption that any country that has been determined to be, or has been treated as, a non-market economy country for purposes of an anti-dumping investigation by the designated authority or by the competent authority of any WTO member country during the three year period preceding the investigation is a nonmarket economy country. Provided, however, that the non-market economy country or the concerned firms from such country may rebut such a presumption by providing information and evidence to the designated authority that establishes that such country is not a non-market economy country on the basis of the criteria specified in sub-paragraph (3).

(3) The designated authority shall consider in each case the following criteria as to whether:

(a) the decisions of the concerned firms in such country regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment, are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values;

(b) the production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts;

(c) such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms, and

(d) the exchange rate conversions are carried out at the market rate.

Provided, however, that where it is shown by sufficient evidence in writing on the basis of the criteria specified in this paragraph that market conditions prevail for one or more such firms subject to anti-dumping investigations, the designated authority may apply the principles set out in paragraphs 1 to 6 instead of the principles set out in paragraph 7 and in this paragraph”.

(4) Notwithstanding, anything contained in sub-paragraph (2), the designated authority may treat such country as market economy country which, on the basis of the latest detailed evaluation of relevant criteria, which includes the criteria specified in sub paragraph (3), has been, by publication of such evaluation in a public document, treated or determined to be treated as a market economy country for the purposes of anti dumping investigations, by a country which is a member of the World Trade Organization.”

36. The Authority notes that in the past three years China PR has been treated as a non-market economy country in anti-dumping investigations by India and other WTO Members. China PR has been treated as a non-market economy country subject to rebuttal of the presumption by the exporting country or individual exporters in terms of the AD Rules.
37. The Authority notes that none of the producers/exporters of the subject goods from China PR has submitted either questionnaire response or response to the market economy questionnaire consequent upon the initiation notice issued by the Authority or has sought to rebut the non-market economy presumption.

38. As far as the contention of the Government of Ukraine to treat Ukraine as a market economy country is concerned, the Authority notes that no detailed documents have been provided by the Government of Ukraine to establish that any WTO member has granted market economy status to Ukraine after following the evaluation criteria laid down under Para 8(3) and by publication of such evaluation in a public document as required under Para 8(4) of the Annexure-I to the Anti-dumping Rules. Furthermore, none of the producers/exporters from Ukraine has cooperated and submitted the market economy questionnaire response in rebuttal of non market-economy presumption. In view of the same, the Authority has determined the normal value for Ukraine as per the relevant Rules on the basis of best available information.

F.5 Determination of Normal Value for producers and exporters

F.5.1 Determination of Normal value in respect of Exporters / Producers from China PR

39. In the absence of any response from any producer/ exporter from China PR, the Authority proceeds to provisionally determine the Normal value in China PR on available facts basis in terms of second proviso of para 7 of Annexure 1 to the AD Rules. Accordingly, the ex-works Normal Value of the product under consideration has been provisionally determined based on constructed costs of production, duly adjusted to include selling, general & administrative costs and profits. The normal value so determined is *** US\$/MT.

F.5.2 Determination of Normal value in respect of Exporters / Producers from EU

40. As provided under the law, the Authority is required to consider selling price of the product when meant for consumption in the domestic market of EU for determining normal value in EU. The petitioner submitted that there is no evidence of actual selling price prevailing in the domestic market of the EU. None of the exporters in EU has cooperated with the Authority with questionnaire response. The Authority notes that in the absence of any response from any EU producer in the form and manner prescribed, the normal value cannot be determined on the basis of questionnaire response of a producer in the EU. The Authority has, therefore, provisionally constructed normal value by considering estimates of cost of production, duly adjusted to

include selling, general & administrative costs and profits. The normal value so determined is *** US\$/MT.

F.5.3 Determination of Normal value in respect of Exporters / Producers from Ukraine

41. The petitioner has contended that Ukraine should be treated as a non-market economy country. Further, the petitioner has submitted that there is no evidence of actual selling price prevailing in the domestic market of Ukraine. Also, none of the exporters in Ukraine has cooperated with the Authority with questionnaire response. In the absence of any response from any producer/exporter from Ukraine, the Authority proceeds to provisionally determine the Normal value in Ukraine on available facts basis in terms of second proviso of para 7 of Annexure 1 to the AD Rules. The Authority has, therefore, provisionally constructed the normal value by considering estimates of cost of production, duly adjusted to include selling, general & administrative costs and profits. The normal value so determined is *** US\$/MT.

F.5.4 Determination of Normal value in respect of Exporters / Producers from Korea RP

42. As provided under the law, the Authority is required to consider selling price of the product when meant for consumption in the domestic market of Korea RP for determining normal value in Korea RP. The petitioner submitted that there is no evidence of actual selling price prevailing in the domestic market of Korea RP. None of the exporters in Korea RP has cooperated with the Authority with questionnaire response. The Authority notes that in the absence of any response from any Korean producer in the form and manner prescribed, the normal value cannot be determined on the basis of questionnaire response of a producer in Korea RP. The Authority has, therefore, provisionally constructed normal value by considering estimates of cost of production, duly adjusted to include selling, general & administrative costs and profits. The normal value so determined is *** US\$/MT.

F.6 Determination of Export Price for producers and exporters

43. Since none of the exporters from any of the subject countries has responded to the Authority, the Authority has provisionally determined Export Price in respect of imports from EU, China PR, Ukraine and Korea RP on the basis of best information available in accordance with Rule 6(8) of the AD Rules. The

petitioner has determined export price on the basis of imports of the product under consideration in India, as reported by DGCI&S. The Designated Authority has also got the transaction wise import data from the DGCIS. The Designated Authority has considered the data received from DGCI&S and determined the export price considering all imports of the product under consideration in India. Price adjustments have been made on the basis of claims made by petitioner domestic industry in view of non cooperation from the exporters from China, EU, Korea RP and Ukraine. Provisional export price has been determined at ex-factory level as stated in the below table.

Particular	Unit	China PR	Korea RP	EU	Ukraine
Net Export Price	US\$/MT	***	***	***	***

F.7 DUMPING MARGIN

44. Considering the normal value and export price as determined above, the provisional dumping margin has been determined as follows. It is seen that the dumping margins are more than de-minimus and significant.

S.No	Particular	Unit	China PR	Korea RP	EU	Ukraine
1	Normal Value	US\$/MT	***	***	***	***
2	Net Export Price	US\$/MT	***	***	***	***
3	Dumping Margin	US\$/MT	***	***	***	***
4	Dumping Margin	%	***	***	***	***
5	Dumping Margin Range	%	45-55	40-50	70-80	60-70

ASSESSMENT OF INJURY AND EXAMINATION OF CAUSAL LINK

G.INJURY

45. The opposing interested parties have made the following submissions on injury to the domestic industry:

- i) The Authority should take note of the fact that the total imports of Sodium Nitrate to India declined on calendar year basis as per three sources, viz., International Trade Centre, UN COMTRADE and Ministry of Commerce & Industry of Republic of India. Total imports decreased by 48% in 2011-12 as compared to 2009-10. Imports from Ukraine declined by 82% in 2011-12 as compared to 2009-10. In 2010-11, there were no imports from Ukraine in India. Further, there is no supply of Sodium Nitrate from Ukraine to India in 2013. Thus, imports from Ukraine did not influence the Indian market in 2013. There was no significant increase in imports from Ukraine as well as in the total imports in India.
- ii) The petition states that “demand shows significant positive growth”. But there is a decreasing trend in demand. Decline in demand could be the reason that influenced the volume of production and sales of the petitioner.
- iii) The petition states that petitioner has no exports of the product under consideration. However, as per the website of International Trade Centre, the petitioner is one of the exporting companies. The petitioner tried to deceive the Authority by manipulating the statistical data
- iv) Profits of the petitioner had a positive trend and during the last period they increased by 56%. Administrative expenses increased significantly by 2.7 times between Mar’09 and Mar’13. Such expenses should be considered as other factors which are injuring the domestic industry. Production increased by 23.3% in 2011-12 as compared to 2009-10. Capacity utilization increased by 8% in 2011-12 as compared to 2009-10. Domestic sales increased by 24% in 2011-12 as compared to 2009-10. Productivity per day increased by 20% in 2011-12 as compared to 2009-10. Export increased by 24% in 2011-12 as compared to 2009-10 and wages increased 2 times in 2011-12 as compared to 2009-10.
- v) Considering the above, imposition of anti dumping measures against Ukrainian import of Sodium Nitrate to India will be unreasonable due to

the absence of sufficient evidences of causal relationship between dumped import and injury to the domestic industry.

46. The domestic industry has submitted that:

- a) Subject imports have increased substantially in absolute terms.
- b) Subject imports have increased in relation to total imports and consumption and production in India.
- c) Subject imports are undercutting the prices of domestic industry to a significant extent.
- d) Price undercutting has prevented the domestic industry from increasing the prices. Imports are suppressing the prices of the domestic industry in the market.
- e) Performance of the domestic industry has deteriorated in terms production, domestic sales, capacity utilization, market share, inventories, profits, return on investment and cash profits to a very significant extent.
- f) There is a threat of further increase in the volume of dumped imports, which would further aggravate the injury being caused to the domestic industry if anti dumping measures are not imposed.
- g) Given that the investigation period is for 15 months, the petitioner has “annualized” the figures in order to enable comparison with the previous years.
- h) Cumulative assessment of injury is appropriate. Import volumes were higher in some country in some period and lower from that country in some other period. In case of Ukraine, the share of Ukraine in total imports was high in 2009-10, while no imports were reported in 2010-11. Thereafter, share of imports from Ukraine has increased in the subsequent two years. Thus different countries have been competing with each other in the Indian market. Further, in period of investigation, Ukraine was one of the major suppliers of the product in the Indian market. In fact, imports from Ukraine individually constitutes single largest share in total imports of the product in the country.
- i) The Government of Ukraine has selectively compared increase in production, capacity utilization, domestic sales, productivity, exports and wages in 2011-12 with 2009-10. It would be seen from the information submitted that production, capacity utilization, domestic sales and productivity first increased and then declined in the POI.

Examination by the Authority

47. Annexure II para (iii) of the AD Rules requires that in case imports of a product from more than one country are being simultaneously subjected to anti dumping investigations, the Designated Authority will cumulatively assess the effect of such imports, if it determines that: -

- a. the margin of dumping established in relation to the imports from each country is more than two per cent expressed as percentage of export price and the volume of the imports from each country is three per cent of the import of like article or where the export of individual countries is less than three per cent, the imports collectively accounts for more than seven per cent of the import of like article and
- b. cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles.

48. In this regard, the Authority notes that:

- a. The margins of dumping from each of the subject countries are more than the limits prescribed under the Rules;
- b. The volume of imports from each of the subject countries is more than the limits; and
- c. It is appropriate to cumulatively assess the effects of imports of the subject goods from European Union, China PR, Ukraine and Korea RP on the domestically produced like article in the light of conditions of competition between the imported article and the like domestic article.

49. Annexure-II of the AD Rules provides for an objective examination of both, (a) the volume of dumped imports and the effect of the dumped imports on prices, in the domestic market, for the like articles; and (b) the consequent impact of these imports on domestic producers of such articles. With regard to the volume effect of the dumped imports, the Authority is required to examine whether there has been a significant increase in dumped imports either in absolute term or relative to production or consumption in India. With regard to the price effect of the dumped imports, the Authority is required to examine whether there has been significant price undercutting by the dumped imports as compared to the price of the like product in India or whether the effect of such imports is otherwise to depress the prices to a significant degree or prevent price increases which would have otherwise occurred to a significant degree.

50. The Authority has considered the views of the interested parties and addressed the same appropriately.
51. Government of Ukraine contended that imports have declined. The Authority notes that the volume of imports from Ukraine had in fact declined in 2010-10 and 2011-12 as compared to the base year 2009-10 but the annualized figures in the period of investigation show that the volume of imports from Ukraine increased in the period of investigation even when the demand had declined in the period of investigation. Further, Government of Ukraine has disputed the claim of the petitioner with regard to injury suffered by the domestic industry. It is noted that the Government of Ukraine has considered the performance of the domestic industry during the year 2011-12 and compared the same with the preceding year, thus, ignoring performance of the domestic industry in the period of investigation. The Authority notes that the purpose of fixation of the period of investigation is to determine dumping margin during the period of investigation and thereafter assess whether it could be concluded that the domestic industry has suffered injury in the period of investigation, having regard to the performance of the domestic industry in preceding period. Thus, it is the period of investigation wherein the performance of the domestic industry must be considered. The preceding years serve as a basis for comparison.
52. It is noted that since the conditions specified under the rules for cumulative assessment of the injury are satisfied in the present case, the Authority has assessed injury to the domestic industry by cumulatively considering imports from the subject countries and not from Ukraine alone.
53. It is noted that market share in demand in the POI increased slightly as compared to the preceding year. The imports, however, increased significantly and disproportionately. Thereafter, whereas demand declined in 2011-12, imports increased. Further, whereas there was some increase in demand in the POI, the increase in imports was far more than the increase in demand. It is thus seen that after 2010-11, the imports have increased more than the increase in demand.
54. The argument advanced by Government of Ukraine with regard to existence of injury to the domestic industry and performance of the domestic industry as reflected in various economic parameters were also examined. It is noted that arguments of Government of Ukraine with regard to parameters such as profit/loss and administrative expenses are based on overall operations of the domestic industry. It is noted that the domestic industry is a multi product

company and has been engaged in production and sale of a number of products. The Authority is required to consider information only relating to the product under consideration. Overall performance of the domestic industry which is reflective of the situation of domestic industry cumulatively for various products is not relevant to decide the consequence impact of the dumped imports on the domestic industry. It is also noted that the Government of Ukraine has compared performance of the domestic industry between 2009-10 and 2011-12 and has ignored the performance of the domestic industry during the present period of investigation. It is noted that the Authority has fixed the period of investigation in order to determine dumping margin and injury margin that was prevailing in respect of imports made into India during the period of investigation. Further, the Authority is required to examine performance of the domestic industry in the period of investigation vis-à-vis the previous years. The information for the previous period in this regard serves as a benchmark to decide whether performance in the period of investigation could be described as injurious.

G.1 Volume Effect of dumped imports and Impact on domestic Industry

a) Assessment of Demand and Market Share

55. The Authority has determined demand as the sum of domestic sales of the domestic industry, sales of other Indian producers and imports of the subject goods in India from all sources (as per DGCIS data). The demand so assessed can be seen in the table below:

Description	Unit	2009-10	2010-11	2011-12	POI	POI (annualized)
Sales of Domestic Industry	MT	7,793	10,855	9,624	11,465	9,172
Sales of Other Indian Producers	MT	3,953	2,568	2,580	3,225	2,580
Imports from Subject countries	MT	4,073	3,093	2,413	4,663	3,730
China PR	MT	1,917	2,012	378	560	448
Korea RP	MT	0	762	1,038	919	735

EU	MT	931	319	797	1,613	1,290
Ukraine	MT	1,226	0	200	1,571	1,257
Other Countries	MT	409	140	63	25	20
Total Demand	MT	16,228	16,656	14,679	19,379	15,503
Market Share in Demand						
Domestic industry	%	48.02	65.17	65.56	59.16	59.16
Other Producers	%	24.36	15.42	17.58	16.64	16.64
Subject countries:	%	25.10	18.57	16.44	24.06	24.06
China PR	%	11.81	12.08	2.58	2.89	2.89
Korea RP	%	0.00	4.57	7.07	4.74	4.74
EU	%	5.73	1.91	5.43	8.32	8.32
Ukraine	%	7.55	0.00	1.36	8.11	8.11
Other Countries	%	2.52	0.84	0.43	0.13	0.13

56. It is seen from the above table that demand for the subject goods has declined in the POI as compared to the base year. However, the same has increased as compared to previous year. The Authority further notes that the market share of the subject countries in demand has declined in 2010-11 and increased thereafter up to the POI. On the other hand, market share of the domestic industry increased in 2010-11, but declined thereafter till the period of investigation. It is noted that while the market share of the domestic industry during the POI has increased as compared to the base year, the market share of the imports from the subject countries declined marginally in the POI as compared to the base year.

b) Volume Effects of Dumped Imports: Import volumes and market shares

57. Volume of imports and imports in relation to production and consumption in India are given in the table below:

Import Volume	Unit	2009-10	2010-11	2011-12	POI	POI (annualized)
China PR	MT	1,917	2,012	378	560	448
Korea RP	MT	0	762	1,038	919	735
EU	MT	931	319	797	1,613	1,290
Ukraine	MT	1,226	0	200	1,571	1,257
Subject Countries	MT	4,073	3,093	2,413	4,663	3,730
Other Countries	MT	409	140	63	25	20
Total Imports	MT	4,482	3,233	2,476	4,688	3,751
Imports from Subject Countries in relation to:						
➤ Total Imports	%	91%	96%	97%	99%	99%
➤ Consumption	%	25%	19%	16%	24%	24%
➤ Production	%	46%	25%	22%	36%	36%

58. It is noted that from the above table that there were no imports from Korea RP in 2009-10. However, there were significant imports from EU, China and Ukraine in this year. Imports from China PR were significant during 2009-10 and increased in 2010-11. The same has declined thereafter till 2011-12 and again increased during the period of investigation. There were no imports from Korea RP in 2009-10, but the same has increased till 2011-12 and declined during the POI. The Imports from EU declined in 2010-11 and increased thereafter till the period of investigation. The Imports from Ukraine were significant in 2009-10, and declined to NIL in 2010-11, then increased thereafter till period of investigation. The Imports from Ukraine during the POI increased as compared to the base year and significant in comparison to the previous year. It is further noted that the volume of imports cumulatively from the subject countries declined in till 2011-12 and then increased significantly during the POI.

G.2 Price Effect of the Dumped imports on the Domestic Industry

a) Price Undercutting and Price Underselling

59. With regard to the effect of the dumped imports on prices, Annexure II (ii) of the Rules lays down as follows:

"With regard to the effect of the dumped imports on prices as referred to in sub-rule (2) of rule 18 the Designated Authority shall consider whether there has been a significant price undercutting by the dumped imports as compared with the price of like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increase which otherwise would have occurred to a significant degree."

60. With regard to the effect of the dumped imports on prices, the Authority examined whether there has been a significant price undercutting by the dumped imports as compared with the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. In this regard, a comparison was made between the landed value of the product concerned and the average selling price of the domestic industry. This comparison showed that during the period of investigation, the subject goods originating in or exported from the subject countries were imported in the Indian market at prices which were lower than the domestic industry selling prices. It is, thus, noted that imports of subject goods were undercutting the domestic.

61. The price undercutting is determined as below:

China PR

Particular	Units	2009-10	2010-11	2011-12	POI
Landed price of imports	Rs/MT	20,821	21,022	26,712	27,923
Net Sales Realisation	Rs/MT	***	***	***	***
Price Undercutting	Rs/MT	***	***	***	***
Price Undercutting (%)	%	***	***	***	***
Price Undercutting (% Range)	%	15-25	5-15	0-10	5-15

Korea RP

Particular	Units	2009-10	2010-11	2011-12	POI
Landed price of imports	Rs/MT	-	***	***	***

Net Sales Realisation	Rs/MT	-	***	***	***
Price Undercutting	Rs/MT	-	***	***	***
Price Undercutting (%)	%	-	***	***	***
Price Undercutting (% Range)	%	-	0-10	5-15	0-10

EU

Particular	Units	2009-10	2010-11	2011-12	POI
Landed price of imports	Rs/MT	23,556	21,329	23,922	26,090
Net Sales Realisation	Rs/MT	***	***	***	***
Price Undercutting	Rs/MT	***	***	***	***
Price Undercutting (%)	%	***	***	***	***
Price Undercutting (% Range)	%	5-15	5-15	10-20	10-20

Ukraine

Particular	Units	2009-10	2010-11	2011-12	POI
Landed price of imports	Rs/MT	23,953	-	24,656	26,829
Net Sales Realisation	Rs/MT	***	-	***	***
Price Undercutting	Rs/MT	***	-	***	***
Price Undercutting (%)	%	***	-	***	***
Price Undercutting (% Range)	%	0-10	-	5-15	10-20

Subject Countries

Particular	Units	2009-10	2010-11	2011-12	POI
Landed price of imports	Rs/MT	22,389	21,318	24,716	27,132

Net Sales Realisation	Rs/MT	***	***	***	***
Price Undercutting	Rs/MT	***	***	***	***
Price Undercutting (%)	%	***	***	***	***
Price Undercutting (% Range)	%	5-15	5-15	5-15	5-15

62. The Authority notes from the above that the landed prices of the subject goods were below the selling price of the domestic industry showing significant price undercutting being caused by the dumped imports from the subject countries.

63. The price underselling is determined as below:

S.No.	Particular	Units	China PR	Korea RP	EU	Ukraine
1	Non Injurious Price (NIP)	US\$/MT	***	***	***	***
2	Landed Price	US\$/MT	524.55	544.70	490.11	503.99
3	Price Underselling	US\$/MT	***	***	***	***
4	Price Underselling - %	%	***	***	***	***
5	Price Underselling Range	%	25-35	20-30	35-45	30-40

b) Price Suppression and Depression

64. In order to determine whether the dumped imports are suppressing or depressing the domestic prices and whether the effect of such imports is to suppress prices to a significant degree or prevent price increases which otherwise would have occurred to a significant degree, the Authority considered the changes in the costs and prices over the injury period. The trends in this regard are summarized below:

Description	Unit	2009-10	2010-11	2011-12	POI
Cost of Sales	Rs/MT	***	***	***	***

<i>Trend</i>		100	100	140	159
Net Sales Realization	Rs/MT	***	***	***	***
<i>Trend</i>		100	93	110	122
Landed price of imports – subject countries as a whole	Rs/MT	***	***	***	***

65. It is noted that the net sales realization during the injury period has increased except in 2010-11. However, it is lower than the increase in the cost of sales during the same period. The landed value during the injury period except 2010-11 has also increased. However, the increase in landed value is far lower than the increase in the cost and selling price. Thus, dumped imports are causing suppressing effect on the prices of domestic industry.

G.3 **Economic Parameters of the Domestic Industry**

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

a) Capacity, Production, Capacity Utilization and Sales

67. Information on capacity, production, capacity utilization and sales volumes of the domestic industry has been as under:-

Description	Unit	2009-10	2010-11	2011-12	POI	POI
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						(annualized)
Plant Capacity	MT	44,000	44,000	44,000	55,000	44,000
Plant Production (SNI+SNA)*	MT	38,151	42,810	41,106	50,287	40,230
Plant Capacity Utilization	%	86.71	97.30	93.42	91.43	91.43
Production - PUC	MT	8,952	12,365	11,042	13,099	10,479
Domestic Sales Volume - PUC	MT	7,793	10,855	9,624	11,465	9,172

*SNI – Sodium Nitrite, SNA - Sodium Nitrate

68. The Authority notes that the product under consideration is jointly produced with sodium nitrite. Since the production facilities are common and the products are co-produced, capacity utilization has been examined by considering combined production of sodium nitrite and sodium nitrate. The petitioner has claimed that the capacity of 44,000 MT is combined capacity of both sodium nitrite and Sodium Nitrate. Therefore, for the purpose of evaluation of utilization of production capacities, the Authority has considered production of both sodium nitrite and sodium nitrate and determined capacity utilization.
69. It is noted from the above table that the domestic sales, production and capacity utilization of the domestic industry increased up to 2010-11 and declined thereafter.

b) Profits, Return on Capital Employed and Cash Profit

70. The profits, return on investment and cash flow of the domestic industry have been examined as under:

Description	Unit	2009-10	2010-11	2011-12	POI (annualized)
Cost of Sales	Rs/MT	***	***	***	***
<i>Trend</i>		<i>100</i>	<i>100</i>	<i>140</i>	<i>159</i>
Selling Price	Rs/MT	***	***	***	***
<i>Trend</i>		<i>100</i>	<i>93</i>	<i>110</i>	<i>122</i>

Profit/ Loss	Rs/MT	***	***	***	***
<i>Trend</i>		100	(2)	(332)	(419)
Profit/ Loss	Rs. Lacs	***	***	***	***
<i>Trend</i>		100	(3)	(410)	(493)
Profit before interest and tax	Rs. Lacs	***	***	***	***
<i>Trend</i>		100	20	(295)	(348)
Cash Profit	Rs. Lacs	***	***	***	***
<i>Trend</i>		100	60	(236)	(287)
Return on Capital Employed (NFA basis)	%	***	***	***	***
<i>Trend</i>		100	17	(219)	(264)

71. The Authority notes from the above as under:

- (i) Both the net selling price and cost of sales of the domestic industry increased over the injury period. However, the increase in cost of sales of the domestic industry was much higher than the increase in the selling price. The profitability of the domestic industry declined throughout the injury period.
- (ii) As a result of decline in profits, the return on investment and cash profits declined significantly during the POI as compared to the base year as well as previous year. It is noted that the domestic industry had cash losses and negative return on capital employed during 2011-12 and the POI.

c) Employment and Wages

72. The status of employment levels and wages of the domestic industry has been as under:

Description	Unit	2009-10	2010-11	2011-12	POI	POI (annualized)
Employment	Nos.	***	***	***	***	***
<i>Trend</i>		100	121	112	116	116
Salary and Wages	Rs.Lacs	***	***	***	***	***
<i>Trend</i>		100	182	213	196	156
Wage per unit	Rs./Kg	***	***	***	***	***

73. It is noted from the above that the employment level increased in 2010-11 and then declined and again increased in POI. It is further noted that there was increase in wages up to 2011-12 which declined in the POI. The wage per unit increased up to 2011-12 and declined in the POI.

d) Productivity

74. The productivity of the domestic industry is given in the following table:

Description	Unit	2009-10	2010-11	2011-12	POI
Productivity Per Employee	MT	***	***	***	***
Productivity Per Day	MT	***	***	***	***

75. The Authority notes that the productivity per employee and the productivity per day increased in 2010-11 and thereafter declined.

e) Inventories

76. The Authority has examined the inventory level of the domestic industry which is given in the following table:-

Description	Unit	2009-10	2010-11	2011-12	POI
Average Stock	MT	***	***	***	***
<i>Trend</i>		<i>100</i>	<i>227</i>	<i>439</i>	<i>191</i>

77. It is noted from the above table that the inventory of the domestic industry increased up to 2011-12 and declined in the POI.

f) Magnitude of Dumping

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

g) Factors Affecting Domestic Prices

79. Consideration of the import prices from the subject countries and other countries, change in the cost structure, competition in the domestic market, factors other than dumped imports that might be affecting the prices of the domestic industry in the domestic market show that the landed value of imported material from the subject countries is below the selling price of the domestic industry causing significant price undercutting in the Indian market. Cost of production of the subject goods is increasing as a result of increase in the costs on account of raw materials. The domestic industry has increased its prices. However, the price increases are less than cost increases. It is further noted that imports of subject goods from other countries are at much higher prices. Thus, the principal factor affecting the domestic prices is the dumped imports of the subject goods from the subject countries.

h) Ability to raise capital

80. The Authority notes that the domestic industry is a multi-product company. The Petitioner has argued that given the current state of affairs where the

product is consistently not performing well because of persistent dumping, any fresh investment is not envisaged.

i) Growth

81. With regard to the growth of the domestic industry, the position is as under:

Year by year growth	Unit	2009-10	2010-11	2011-12	POI
Production	%	-	38.13	(10.70)	(5.10)
Domestic Sales	%	-	39.28	(11.34)	(4.69)
Cost of Sales	%	-	(***)	***	***
Selling Price	%	-	(***)	***	***
Profit per MT	%	-	(***)	(***)	(***)
Return on Investment (NFA)	%	-	(***)	(***)	(***)

82. The Authority notes that the production, sales volume, profits and the return on investment of the domestic industry show negative growth over the injury period. Overall growth of the domestic industry over the injury period was adverse.

G.4 Other Known Factors and Causal Link

83. As per the AD Rules, the Designated Authority is, inter alia, required to examine any known factors other than the dumped imports which at the same time are injuring the domestic industry, so that the injury caused by these other factors must not be attributed to the dumped imports. Factors which may be relevant in this respect include, inter alia, the volume and prices of imports not sold at dumping prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology, export performance and the productivity of the domestic

industry. The Authority has examined whether other factors listed under the AD Rules could have contributed to injury to the domestic industry.

84. The examination of causal link has been done as follows:

(a) Imports from third countries and other known factors

85. The Authority notes that the volume of imports from the countries other than the subject countries has been insignificant in the injury period.

(b) Contraction in demand and / or change in the pattern of consumption

86. There has been some decline in demand over the injury period. However, the domestic industry suffered injury primarily on account of dumped imports than on account of any change in the demand. From the available information, it is noted that the volume of dumped imports increased even when the demand declined.

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

87. It is noted that there is a single market for the subject goods where dumped imports from the subject countries compete directly with the subject goods supplied by the domestic industry. It is also noted that the imported subject goods and domestically produced goods are like articles and are used for similar applications/end uses. There is no evidence of trade restrictive practices of and competition between the foreign producers and domestic producers causing injury to the domestic industry.

(d) Developments in Technology

88. There is no allegation of developments in technology, nor has the investigation so far shown that possible injury to the domestic industry could have been caused by developments in technology.

(e) Export performance

89. The Authority notes that the volume of exports of the petitioner company forms nearly 10% of the total sales of the product. However, the injury information pertains to the domestic performance of the petitioner company. Therefore, the losses to the domestic industry during the injury period and the period of investigation cannot be attributed to possible deterioration in the export performance of the domestic industry.

(f) Productivity of the domestic industry

90. The Authority notes that the decline in productivity is attributed to decline in production caused by increase in the volume of dumped imports.

91. The Authority notes that while listed known other factors do not show that injury to the domestic industry has been caused by these factors, the following parameters show that injury to the domestic industry has been caused by the dumped imports.

- (a) There has been a significant increase in the volume of dumped imports from the subject countries at the absolute level. The market share of dumped imports from the subject countries in total imports of subject goods is nearly 100% in the POI.
- (b) The imports were significantly undercutting the domestic prices. Resultantly, the price undercutting created price pressures on the domestic industry. Resultantly, profitability of the domestic industry deteriorated.
- (c) The dumped imports have had significant adverse price effect in terms of price suppression. As a result of significant price difference and inability of domestic industry to raise its prices in proportion to cost increases, the performance of the domestic industry deteriorated in terms of profits, cash profits and return on investments. Thus, the deterioration in performance of the domestic industry in respect of profits, cash flows and return on investment is due to dumping of the product in the Country.
- (d) Growth of the domestic industry became negative in respect of volume and price parameters.

- (e) Whereas volume of imports and its market share increased in 2010-11 and the investigation period, the domestic industry lost market share. Consequently, production, sales, capacity utilization of the domestic industry deteriorated.

G.5 Conclusion on Injury and Causation

92. From the above examination of injury and causal link, it is noted that the market share of dumped imports in the total imports of subject goods in the POI has remained almost the same. The market share of the domestic industry during the same period has increased. However, the dumped imports have had significant adverse price effect in terms of price suppression and price underselling. The situation of the domestic industry has shown a material deterioration over the injury period which was substantially due to dumped imports of the subject goods from the subject countries. There is significant decline in profits, return on capital employed and cash flow which establish that injury to the domestic industry was caused by dumped imports. In view of the same, the Authority provisionally concludes that the domestic industry has suffered material injury and this injury has been caused significantly by price effects of dumped imports of the subject goods from the European Union, China PR, Ukraine and Korea RP.

Magnitude of injury and injury margin

93. The Authority has determined non-injurious price for the domestic industry taking into consideration the cost of production of the domestic industry. This non-injurious price of the domestic industry has been compared with the landed values of the subject imports from the subject countries to determine injury margin. The injury margins have been worked out as follows:

Injury Margin

S.No.	Particular	Units	China PR	Korea RP	EU	Ukraine
1	Non Injurious Price (NIP)	US\$/MT	***	***	***	***
2	Landed Price	US\$/MT	524.55	544.70	490.11	503.99

3	Injury Margin	US\$/MT	***	***	***	***
4	Injury Margin - %	%	***	***	***	***
5	Injury Margin Range	%	25-35	20-30	35-45	30-40

94. The level of dumping margins and injury margins, as determined, are considered significant.

H. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES

95. The Authority notes that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to reestablish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping measures would not restrict imports from the subject countries in any way and, therefore, would not affect the availability of the product to the consumers.

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

I. CONCLUSION

97. After examining the submissions made by the interested parties and issues raised therein; and considering the facts available on record, the Authority provisionally concludes that the product under consideration, Sodium Nitrate, has been exported to India from the European Union, China, Ukraine and Korea RP below its associated normal value, thus, resulting in dumping of the product. The domestic industry has suffered material injury in respect of the

subject goods. The material injury has been caused by the dumped imports from the European Union, China PR, Ukraine and Korea RP.

J. RECOMMENDATIONS

98. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the exporters, importers and other interested parties to provide positive information on the aspects of dumping, injury and the causal link. Having initiated and conducted a preliminary investigation into dumping, injury and the causal link thereof in terms of the AD Rules and having provisionally established positive dumping margins as well as material injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of provisional anti dumping duty is required to offset dumping and consequent injury, pending completion of the investigation. Therefore, the Authority considers it necessary to recommend imposition of provisional anti dumping duty on imports of the subject goods from the European Union, China PR, Ukraine and Korea RP in the form and manner described hereunder.

99. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of provisional anti dumping duty equal to the lesser of the margin of dumping and the margin of injury so as to remove the injury to the domestic industry. Accordingly, provisional anti dumping duty as per amount specified in the table below is recommended to be imposed from the date of the Notification to be issued by the Central Government on all imports of the subject goods originating in or exported from the European Union, China PR, Ukraine and Korea RP.

Duty Table

S. No.	Heading/ Subheading	Description of goods	Country of Origin	Country of Exports	Producer	Exporter	Duty Amount	Unit	Currency
1	2	3	4	5	6	7	8	9	10
1	3102 50 00 & 2834	Sodium Nitrate	China PR	China PR	Any	Any	0.15	Kg	USD
2	3102 50 00 & 2834	Sodium Nitrate	China PR	Any	Any	Any	0.15	Kg	USD

3	3102 50 00 & 2834	Sodium Nitrate	Any country other than the subject countries	China PR	Any	Any	0.15	Kg	USD
4	3102 50 00 & 2834	Sodium Nitrate	European Union	European Union	Any	Any	0.19	Kg	USD
5	3102 50 00 & 2834	Sodium Nitrate	European Union	Any	Any	Any	0.19	Kg	USD
6	3102 50 00 & 2834	Sodium Nitrate	Any country other than the subject countries	European Union	Any	Any	0.19	Kg	USD
7	3102 50 00 & 2834	Sodium Nitrate	Ukraine	Ukraine	Any	Any	0.17	Kg	USD
8	3102 50 00 & 2834	Sodium Nitrate	Ukraine	Any	Any	Any	0.17	Kg	USD
9	3102 50 00 & 2834	Sodium Nitrate	Any country other than the subject countries	Ukraine	Any	Any	0.17	Kg	USD
10	3102 50 00 & 2834	Sodium Nitrate	Korea RP	Korea RP	Any	Any	0.13	Kg	USD
11	3102 50 00 & 2834	Sodium Nitrate	Korea RP	Any	Any	Any	0.13	Kg	USD
12	3102 50 00 & 2834	Sodium Nitrate	Any country other than the subject countries	Korea RP	Any	Any	0.13	Kg	USD

K. Further Procedure

100. The following procedure will be followed subsequent to notification of the preliminary findings by the Central Government:-

- (a) The Authority invites comments on these findings from all interested parties and the same would be considered to the extent deemed necessary in the final findings;
- (b) The exporters, the importers, the applicants and other interested parties known to be concerned are being addressed separately by the Authority, who may make known their views, within forty days from the date of the dispatch of these Preliminary Findings. Any other interested party may also make known its views within forty days from the date of publication of these findings;
- (c) The Authority would hold an oral hearing to hear the views of various interested parties;
- (d) The Authority would conduct further verification to the extent deemed necessary; and
- (e) The Authority would disclose essential facts as per the AD Rules before announcing the Final Findings.

J S Deepak

Designated Authority