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Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Anti-Dumping & Allied Duties)
4th Floor, Jeevan Tara Building
5 Parliament Street, New Delhi – 110001**

Dated 01st August, 2017

Notification

Final Findings

Subject: Anti-dumping investigation concerning imports of Ammonium Nitrate, originating in or exported from Russia, Indonesia, Georgia and Iran.

A. Background of the Case

No.14/1/2016-DGAD:- Having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter also 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, as amended from time to time, (hereinafter also referred to as the Rules) thereof:

2. Whereas Deepak Fertilizers and Petrochemicals Corporation Limited and Smartchem Technologies Limited, (hereinafter also referred to as the petitioners or the applicants or domestic industry) have jointly filed an application before the Designated Authority (hereinafter also referred to as the Authority) in accordance with the Act and the Rules, for initiation of Anti-dumping investigation concerning imports of “Ammonium Nitrate” (hereinafter also referred to as the subject goods), originating in or exported from Russia, Indonesia, Georgia and Iran (hereinafter also referred to as the Subject Countries), alleging dumping and consequent injury and requested for levy of anti-dumping duty on the imports of the subject goods from the Subject Countries.
3. And whereas, the Authority on the basis of sufficient evidence, submitted by the applicant issued a public notice vide Notification No. 14/1/2016-DGAD dated 5th August, 2016, published in the Gazette of India, Extraordinary, initiating the subject investigation in accordance with the sub Rule 5 of the Rules, to

determine the existence, degree and effect of the alleged dumping and to recommend the amount of anti-dumping duty, which, if levied, would be adequate to remove the injury to the domestic industry.

B. Procedure

4. The procedure described herein below has been followed by the Authority with regard to the subject investigation:
 - (i) The Designated Authority, under the above Rules, received a written application from the Applicants on behalf of the domestic industry, alleging dumping of Ammonium Nitrate originating in or exported from the Subject Countries.
 - (ii) Preliminary scrutiny of the application revealed certain deficiencies, which were subsequently rectified by the Applicants and revised and updated petition was filed by the applicant. The application was, therefore, considered as properly documented.
 - (iii) The Authority notified the embassy of the Subject Countries in India about the receipt of the present anti-dumping application before proceeding to initiate the investigation in accordance with Rule 5 supra.
 - (iv) The Authority issued a public notice dated 5th August, 2016 published in the Gazette of India Extraordinary, initiating anti-dumping investigation concerning imports of the subject goods.
 - (v) The Authority sent a copy of the initiation notification to the embassy of the Subject Countries in India, known producers/exporters from the Subject Countries, known importers/users and the domestic industry as well as other domestic producers as per the addresses made available by the applicants and requested them to make their views known in writing within 40 days of the initiation notification.
 - (vi) The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the embassy of the Subject Countries in India in accordance with Rule 6(3) of the Rules supra.
 - (vii) The embassy of the Subject Countries in India was also requested to advise the exporters/producers from their countries to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the producers/exporters was also sent to them along with the names and addresses of the known producers/exporters from the subject countries.
 - (viii) The Authority sent exporter's questionnaires to elicit relevant information to the following known producers/exporters in accordance with Rule 6(4) of the Rules:
 - a. Shiraz Petrochemical, Tehran, Iran
 - b. Eurochem, Moscow, Russia
 - c. Uralchem, Moscow, Russia

- d. PT Kaltim Nitrate Indonesia, Indonesia
- e. Rustavi Azot, Georgia
- (ix) The following producers/exporters from the Subject Countries filed exporter's questionnaire response in the prescribed format:
 - a. JSC Azot, Russia
 - b. Drey Moor Fertilizers Overseas PTE Ltd., Singapore
 - c. Rustavi Azot LLC, Georgia
 - d. Joint Stock Company United Chemical Co. Uralchem, Russia
 - e. SIA Uralchem Trading, Latvia
 - f. Uralchem Trading House LLC, Russia
 - g. NevinnomysskyAzot (Nevinka), Russia
 - h. EuroChem Trading GmbH, Switzerland
 - i. Novomoskovskaya (NakAzot), Russia
- (x) The Authority sent Importer's Questionnaires to the following known importers/users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rules:
 - a. Solar Industries Limited, Nagpur
 - b. Special Blast Limited, Raipur (C.G.)
 - c. IDL Industries Limited, Hyderabad, Andhra Pradesh
 - d. Indian Explosives Pvt. Limited (Orica), Kolkata, West Bengal
 - e. Black Diamond, Asansol, West Bengal
 - f. Vetrivel Explosive Pvt. Ltd., Salem, Tamilnadu
 - g. Salvo Explosives & Chemicals, Secunderabad
- (xi) Importer's questionnaire response have been filed by the following:
 - a. Black Diamond Explosives Pvt. Limited, Dhanbad
 - b. Indian Oil Corporation Limited (IBP Division)
 - c. Solar Industries India Limited, Nagpur
 - d. IDL Explosives Limited, Telangana.
 - e. Vetrivel Explosives Limited, Salem, Tamil Nadu.
 - f. Indian Explosives Limited, Kolkata, West Bengal
 - g. Special Blasts Limited, Raipur, Chattisgarh.
 - h. AKS Expo-Chem Private Limited, New Delhi
 - i. Ideal Industrial Explosives Limited, Telangana.
- (xii) Apart from the exporters, importers, domestic industry and other domestic producers, submissions have been received by the Russian Federation during the course of this investigation.
- (xiii) 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;
- (xiv) The applicant had furnished transaction-wise imports data from IBIS source and the Authority had relied upon the same prima facie for initiating the investigation. Post initiation, the Authority also obtained transaction-wise

- imports data from the DGCI&S for the past three years, and the period of investigation, and has now relied upon the same in these findings.
- (xv) The Non-injurious Price (NIP) based on the cost of production and cost to make & sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) and Annexure III to the Anti-dumping Rules has been worked out so as to ascertain whether Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to the Domestic Industry.
 - (xvi) Verification of the information provided by the applicant domestic industries, to the extent deemed necessary, was carried out by the Authority. Only such verified information with necessary rectification, wherever applicable, has been relied upon for the purpose of present findings.
 - (xvii) The Period of Investigation for the purpose of the present 1st April, 2015 to 31st March, 2016 from (12 Months). The injury investigation period has however, been considered as the period from 2012-13, 2013-14, 2014-15 and the POI.
 - (xviii) The submissions made by the interested parties during the course of this investigation, wherever found relevant, have been addressed by the Authority, in these findings.
 - (xix) Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
 - (xx) Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded the disclosure statement on the basis of the facts available.
 - (xxi) *** In this statement represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
 - (xxii) The exchange rate adopted by the Authority for the subject investigation is 1 US \$= Rs65.91
 - (xxiii) In accordance with Rule 6(6) of the AD Rules, the Authority also provided opportunity to all interested parties to present their views orally in a hearing held on 20th December, 2016 and thereafter on 15th June, 2017. All the parties who had attended the oral hearing were advised to file written submissions of the views expressed orally. The parties were advised to collect copies of the views expressed by the opposing parties and were advised to offer their rebuttals. A number of interested parties attended the hearing.

- (xxiv) The arguments made in the written submissions/rejoinders received from the interested parties have been considered in the present findings.
- (xxv) In accordance with the Rules, the Authority disclosed the essential facts of the present investigation to all interested parties vide a disclosure statement issued on 13th July, 2017, and advised them to file the comments on the disclosure statement by 27th July, 2017. The comments received from the domestic industry and other interested parties have been addressed in this findings to the extent considered relevant.

C. Product Under Consideration and Like Article

5. The product under consideration in the present investigation is “ammonium nitrate”, whether prilled, granular, or in other solid form, with or without additives or coating, and having bulk density in excess of 0.83 g/cc. Ammonium nitrate is a chemical compound with the formula NH_4NO_3 . It is composed of nitric acid and salt of ammonia. The nitrogen content exceeds 28% of weight in solid form. At room temperature, ammonium nitrate appears in a white crystalline colourless form. Its melting point is 169.6 degrees Celsius or 337.3 degrees Fahrenheit.
6. Ammonium nitrate is produced from ammonia and nitric acid, in various forms, such as melt, prills, flakes, granules, lumps, etc. The subject goods are ammonium nitrate in solid form having density above 0.83 g/cc. Ammonium nitrate in liquid or melt form and Ammonium Nitrate having bulk density equal to or below 0.83 g/cc i.e. low density ammonium nitrate is beyond scope of the present investigation and product under consideration.
7. Subject goods are classified under chapter 31 of Customs Tariff Act, 1975 under the sub-heading 3102 30 00. The Custom classification is indicative only and not binding on the scope of investigation.

C. 1 Submissions made by the Domestic industry

8. The submissions made by the domestic industry with regard to product under consideration and like article and considered relevant by the Authority are as follows:
 - (i) Ammonium nitrate is a chemical compound with the formula $\text{NH}_4 \text{NO}_3$. It is composed of nitric acid and salt of ammonia. The nitrogen content exceeds 28% of weight in solid form. In room temperature, ammonium nitrate appears in a white crystalline colourless form. Its melting point is 169.6 degrees Celsius or 337.3 degrees Fahrenheit.

- (ii) Ammonium nitrate is produced from ammonia and nitric acid, in various forms, such as melt, prills, flakes, granules, lumps, etc.
- (iii) The product under consideration in the present investigations is ammonium nitrate in solid form - whether prilled or granular, or in any other solid form, with or without additives or coating; having density above 0.83 g/cc. Specifically excluded from the scope of product under consideration, is solid ammonium nitrate, having bulk density equal to or below 0.83 g/cc or low density ammonium nitrate, and ammonium nitrate in melt form.
- (iv) The PUC is what remains, after taking away the exclusions, which are well defined in terms of density, and physical form.
- (v) The subject goods are used in India, predominantly in the manufacture of explosives, such as emulsion explosives, whereas they are used as fertilisers in many other parts of the world.
- (vi) Low density ammonium nitrate is a distinct product, having low density, porosity, and high oil absorption, which give it a low critical diameter, optimum sensitivity, and velocity of detonation. These properties, make it suitable for the relevant applications, such as for blasting agents, like ANFO. It is evident from the specifications of major producers in the world that the density of LDAN is invariably below or upto 0.83 g/cc. Thus, the exclusion or cut-off has been appropriately defined so as to exclude low density ammonium nitrate.
- (vii) There would not be any difficulties in implementation of proposed anti-dumping duties on the PUC as there are many entries in the tariff as well as notifications, which are contingent upon the process of manufacture, predominance by weight of a particular input material in the imported article, end use, etc. When such goods are imported, the importer/exporter makes a declaration in this regard, duly supported by necessary evidence. The Customs Authorities, usually assess the goods, based on the declaration, and in case of doubt, or on a random/selective basis, samples are sent for test to Government Labs (CRCL), to verify the accuracy of the declaration.
- (viii) In case of several previous investigations, the product had been defined with regard to certain specifications, which may require ascertainment at the stage of import.
- (ix) The petitioner placed on record various documents to show that while exporting the subject goods, the domestic industry declares the density in the export documents, consistent with the international practice. Where density is not given, it would be safe to consider such exports as other than LDAN.
- (x) The domestic industry is not aggrieved by imports of LDAN, the same has been excluded from the scope of product under consideration, keeping in view the nomenclature in international trade and technical specifications for the product.

- (xi) Since there is no guidance under the Act or the Rules to define PUC, the DA may, keeping in view activity of dumping and causal injury, define product under consideration, as covering several types / categories of a broader description, and there is no requirement that all the articles falling within scope of PUC need to be internally homogenous.
- (xii) Fertilizer grade ammonium nitrate necessarily has density above 0.83 g/cc, as low density ammonium nitrate is not suitable for use in fertilizer applications. Thus, if the company has produced ammonium nitrate for fertiliser applications, it must necessarily have density above 0.83 g/cc.
- (xiii) None of the interested parties contested the scope of PUC during the second hearing, even after when the Designated Authority posed a specific query with respect to the same. Thus, the scope of PUC is no longer an issue of dispute.
- (xiv) The domestic industry produces the like article to the PUC that is; prilled ammonium nitrate having bulk density above 0.83 g/cc. DFPCL is engaged in production of OPTIFORM, OPTISPAN, OPTIMEX and OPTIBLAST, of which OPTIFORM and OPTISPAN come under the category of like article. In case of STL, Vertex Supreme, Norma and Crystal have high density, and are like to the PUC. The goods produced by the domestic industry are commercially and technically substitutable to the imported goods, and are used by the same users for the same applications. As against the claims of some importers/users, it has been demonstrated during the course of verification that the density of its production, is above 0.83 g/cc. Various evidences were also placed on record in this regard.
- (xv) During the second oral hearing, the opposing parties have accepted that the domestic industry has undertaken production of HDAN. Further, in order to determine density, the produced goods are tested batch-wise and records are being maintained which have been submitted to the Authority and have been duly verified.
- (xvi) The agreements entered into by M/s DFPCL with its buyers establish that the M/s DFPCL has supplied high density ammonium nitrate or subject goods during the period of investigation.
- (xvii) A perusal of the WTO Panel Report in US - Lumber V (WT/DS264/R) and argued that when the identical article, solid ammonium nitrate having density above 0.83 g/ml, is available; it is not necessary to consider ammonium nitrate in liquid or melt form as a similar article for defining the like article. Even otherwise, ammonium nitrate in liquid or melt form is not like article to the subject goods, as it is not a commercial substitute for the latter.
- (xviii) Further, in the earlier investigations, the interested parties had argued that ammonium nitrate in melt form is not 'like article' to high density ammonium nitrate in prill form. In this regard, reference was made to the submissions

made by M/s. Special Blasts Pvt. Ltd., and M/s. Indian Explosives Ltd., as recorded in the preliminary findings.

- (xix) In the earlier investigations, the Designated Authority had, vide Final Findings dated March 19, 2004, found that ammonium nitrate in melt form was not like article to the solid forms of ammonium nitrate.

C.2 Submissions made by Exporters, Importers, Users and other Interested Parties

9. The submissions made by the exporters, importers, users and other interested parties with regard to product under consideration and like article, and considered relevant by the Authority, are as follows:

- (i) The petitioners do not manufacture the product under consideration.
- (ii) For the classification of the PUC, there is no commercial, legal basis, satisfactory explanation, logical basis or support of any technical literature and the petitioner has failed to provide any rationale for the same.
- (iii) In order to include their product in the category of "HDAN" prills, the petitioner has deliberately misled the DA by prescribing a density of 0.83 g/cc.
- (iv) Even though the bulk density of the subject goods is not a relevant criterion amongst the technical specification of the product, the Petitioner has unnecessarily and arbitrarily created a density-based segregation and classification. Purity, moisture content, PH and not density are the stipulated specifications of ammonium nitrate.
- (v) As per the website of the one of the petitioning companies, STL, the density of LDAN manufactured by it is in the range of 0.75 - 0.85 gm/cc. As soon as this was pointed out by the opposing parties, the same was changed in the website subsequent to the date of hearing. This has been done only to justify their density claim filed in the petition which has no technical significance
- (vi) Density of the subject goods was never a criterion for purchase of ammonium nitrate by the respondent.
- (vii) The plants of M/s Deepak Fertilizers and Petrochemicals Corporation Limited (K-1 and K-8) are meant for the manufacture of low density ammonium nitrate, as evident from their Annual Report for the year 2013-14. By prescribing the cut-off limit at density of 0.83 g/cc, the domestic industry has attempted to include low density ammonium nitrate as like article to the product under consideration
- (viii) Ammonium Nitrate, on the basis of density, is not being defined by the ITC HS and customs classification. In fact, the import data provided by the petitioner does not mention any density in the product description.
- (ix) If the present arbitrary definition is accepted and the anti-dumping duty is imposed, the same will increase the burden of the custom officials and the

transaction costs of the importers and it is likely to lead to duty circumvention.

- (x) The petitioners, during the oral hearing, claimed that their product OPTIFORM was tested to have a density above 0.83 g/cc. As per the Annual Report of DFPCL, it is mentioned that they have tried magnesium nitrate as additive and coating agent to improve the quality by which they could reduce complaints in last three quarters. Product tested today for density cannot be representative of the product density existing during POI.
- (xi) Many manufacturing plants that were forced to rely on imported ammonium nitrate in the last decade have customized their handling system for imported prills and now any substitution with agglomerated prills/crystals results in approx. 20 % loss on production capacity per day plus additional cost of sizing.
- (xii) OPTIFORM manufactured by DFPCL has been tested to have a Bulk Density much lower than 0.83 g/cc whereas imported prills are always having a density of 0.94 g/cc and above.
- (xiii) The petitioners have not sold the product mentioned in PUC with density specification in public/customer domain.
- (xiv) There is no evidence in the application for supporting the argument that the product originating from Russia is alike the ammonium nitrate manufactured in India.
- (xv) There is difference in process technologies of both the articles, which directly affects the prime cost of the final product. Same is the case with scope of applicability.
- (xvi) The application doesn't specify any information on the share of product use in India for any other purpose than industrial.
- (xvii) The applicant industry is not manufacturing the entire range i.e. above 0.85g/cc, on which anti-dumping duties are proposed to be levied, for which, decision in Ammonium Nitrate vs. Union of India &Ors. may be taken into account which notes that DFPCL & STL produces LDAN and not HDAN. Also, the product range of STL also categorically states that their density range is from 0.75 to 0.85g/cc.
- (xviii) The scope of the product under consideration should be re-defined and restricted to "Ammonium nitrate" of prilled, granular, or in other solid form, with or without additives or coating, and having bulk density in excess of 0.83 g/cc but not exceeding 0.85 g/cc."
- (xix) The product should be defined as per nitrogen discharge which should be 34% in fertilizer grade.

C.3 Examination by the Authority

10. The Authority has noted submissions made by various interested parties with regard to scope of the product under consideration and like article offered by

the domestic industry. With respect to the product under consideration, the Authority notes:

- (i) The product under consideration in the present investigation is “Ammonium nitrate” whether prilled, granular, or in other solid form, with or without additives or coating, and having bulk density in excess of 0.83 g/cc, classified under chapter 31 of Customs Tariff Act, 1975 under the sub-heading 3102 30 00.
- (ii) Ammonium Nitrate, a chemical compound with the formula NH_4NO_3 is composed of nitric acid and salt of ammonia. The nitrogen content exceeds 28% of weight in solid form. In room temperature, ammonium nitrate appears in a white crystalline colourless form. Its melting point is 169.6 degrees Celsius or 337.3 degrees Fahrenheit.
- (iii) Ammonium nitrate is produced from ammonia and nitric acid, in various forms, such as melt, prills, flakes, granules, lumps, etc. The subject goods are ammonium nitrate in solid form having density above 0.83 g/cc. Ammonium Nitrate in any form having bulk density upto 0.83 g/cc and Ammonium Nitrate in melt or liquid form in any density is beyond the scope of the product under consideration.
- (iv) The subject goods are used in India, predominantly in the manufacture of explosives, such as emulsion explosives, whereas they are used as fertilizers in many other parts of the world. In fact, the interested parties have contended that the product under consideration can be only used for the manufacture of explosives in India.
- (v) As regards scope of the product under consideration, the Authority notes that the product under consideration has been considered based on the facts available before the Authority. In the present case, ammonium nitrate, excluding ammonium nitrate having density equal to or below 0.83 g/cc and Ammonium Nitrate melt is the product under consideration. In market parlance, while the terms “high density” or “low density” may be used, there are no domestic or international standards in this regard. However, a product is being described in market parlance as high or low density ammonium nitrate on the basis of some understanding about the density of the product and that is with reference to the understanding and the users/ consumers. As regards the consideration of 0.83 g/cc as the relevant parameter, the Authority notes that the domestic industry has provided copies of production records, including certificate of analysis of the product. It is noted that the petitioners have produced ammonium nitrite having density above 0.83 g/cc and as high as 0.94 g/cc. It was, therefore, appropriate to consider density as criteria to define PUC.
- (vi) None of the parties have brought to the notice of the Authority that imports having density equal to or below 0.83 g/cc, have been included in the import figures. The Authority also notes that the interested parties had earlier at the time of previous investigation contended that LDAN or Ammonium Nitrate

melt cannot be imported. None of the importers or exporters has shown that LDAN or Ammonium Nitrate melt has been imported in India. Even the domestic industry has maintained separate records of production and sale of HDAN, LDAN and AN Melt in the form of brand names being used by the petitioners for producing and selling the product.

- (vii) The Authority, notes that the domestic industry is required to be engaged in production of "like article", which may be identical in all characteristics to the product under consideration or in the absence of the same, having characteristics closely resembling the imported product under consideration. Thus, absence of identical article produced by the petitioners does not imply that the petitioners are not eligible domestic industry to seek remedy under the law. Authority further notes that none of the interested parties have established with verifiable documents that the goods produced by the domestic industry are not commercially and technically substitutable to the imported goods, and were not used interchangeably. As against the claims of some importers/users, the petitioners have demonstrated during the verification that they produce Ammonium Nitrate of density higher than 0.83 g/cc and the petitioners have produced and supplied Ammonium Nitrate to those consumers who have also imported the product under consideration from amongst subject countries. There are number of consumers of the product who have bought the subject goods from both the petitioners and exporters from the subject countries to be used for similar application. The like article produced by the domestic industry and product under consideration imported from subject countries are comparable in terms of essential product characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. Consumers can use and are using the two interchangeably. The Authority therefore treats the subject goods produced by the petitioners as 'Like Article' to the subject goods being imported from the subject countries.
- (viii) As regards Ammonium Nitrate melt produced by some other Indian producers, the Authority notes that the interested parties even agreed that Ammonium Nitrate melt has not been imported in India during the relevant period, nor the scope of the product under consideration includes Ammonium Nitrate melt. Like article has been defined under Rule 2(d) and provides that like article should either have characteristics identical to the imported product under consideration, or in the absence of the same, another article, which has characteristics closely resembling the product under consideration. When an article most closely resembling the imported product is available, Authority can-not consider another article in the scope of like article. Thus, in this case, when domestic industry produces identical article to article imported into India, the Authority cannot look at another product (Ammonium Nitrate melt) holding characteristics resembling the

product under consideration. It is noted in this regard that the interested parties agree that the Ammonium Nitrate melt cannot be imported due to inherent disadvantages associated with its transportation and some of the consumers while buying from other domestic producers even get it converted into solid before transportation. This itself establishes that Ammonium Nitrate melt and product under consideration are not identical in all respect. Thus, the product under consideration in the present investigation is "Ammonium nitrate" whether prilled, granular, or in other solid form, with or without additives or coating, and having bulk density in excess of 0.83 g/cc, classified under chapter 31 of Customs Tariff Act, 1975 under the sub-heading 3102 30 00.

D. Scope of Domestic Industry & Standing

D.1 Submissions made by the Domestic industry

11. The submissions made by the domestic industry during the course of the investigation with regard to scope of domestic industry & standing are as follows:
 - (i) The petitioners are the only producers of the like article in India accounting for 100% of the domestic production and therefore they satisfy the criteria for qualifying as "domestic industry" in terms of Rule 2(b) of the Rules.
 - (ii) Even if ammonium nitrate in melt form is considered to be like article, DFPC and STL would continue to remain eligible as domestic industry in terms of Rule 2(b) of the Rules as both constitutes "major proportion" of the total domestic production.

D.2 Submissions made by Exporters, Importers, Users and other Interested Parties

12. The producers/exporters/importers/other interested parties during the course of the investigation have made the submission that AN Melt is a like product to the PUC and to the petitioner's product also. The definition of "domestic industry" should be construed keeping in view the producers of AN Melt i.e. GNFC and RCF also. Thus, the initiation itself needs to be reconsidered.
13. As decided by Panel in EC Salmon, any methodology for determining domestic industry that results in wholesale exclusion of a section of the domestic industry cannot be considered as consistent with the WTO.

D.3 Examination by the Authority

14. The submissions made by the interested parties with regard to the scope of domestic industry & standing of the petitioners to file the present petition and considered relevant by the Authority are examined and addressed as follows.
- (i) Authority notes that Rule 2(b) provides as
“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”
 - (ii) With regard to the issue raised regarding standing, the Authority notes that during the spot verification conducted at the premises of the domestic industry, the documents with regard to production of Ammonium Nitrate by the petitioners and density tests of the production routinely conducted by them shows that the petitioners produce Ammonium Nitrate having density above 0.83. Authority also notes that interested parties did not substantiate with evidence that the petitioners do not produce Ammonium Nitrate having density above 0.83. Thus, Authority notes that the goods produced by the petitioners are like article to the imported product under consideration based on the information available before the Authority.
 - (iii) Ammonium Nitrate melt cannot be included as like article to the imported product under consideration and it is noted that the interested parties themselves have contended that Ammonium Nitrate cannot be imported in melt form. Further, since there is production and sale of solid Ammonium Nitrate having density above 0.83, it is inappropriate to consider another article as like article to the imported product under consideration. Only in a situation where there was no production of solid Ammonium Nitrate in the country with density above 0.83, Ammonium Nitrate melt could be considered as like article to the imported product under consideration.
 - (iv) With regard to AN solids converted out of AN melt, Authority notes, since none of the interested parties provided any verifiable evidence of such production of solid Ammonium Nitrate from AN Melt, the Authority is not in a position to take such AN solid as part of the domestic industry. The Authority is required to examine whether the product constitutes like article to the product under consideration, which is possible only when relevant information has been provided and has been quantified. Since these interested parties have neither quantified the production nor provided any information to establish that it constituted like article to the imported product under consideration, the Authority could not take cognizance of their production.

- (v) As per Anti-dumping Rules, the Authority is required to examine whether (a) domestic producers expressly supporting the application account for more than twenty five percent of the total production of the like article by the domestic industry; and (b) the application is supported by those domestic producers whose collective output constitute more than fifty percent of the total production of the like article produced by that portion of the domestic industry expressing either support for or opposition to the application. The applicants M/s Deepak Fertilizers & Petrochemicals Corporation Ltd. and M/s Smartchem Technologies Ltd., themselves constitute 100% of the total domestic production of the like article
 - (vi) The applicants declared that they have neither imported the product under consideration, nor any of their related parties in India have imported the product during the POI. It was further declared that the applicants are not related to any of the importers of the subject goods in India or exporters of the subject goods from the subject countries. None of the interested parties contended that the petitioners are ineligible domestic industry within the meaning of Rule 2(b). The Authority has considered the petitioners as eligible domestic industry within the meaning of Rule 2(b).
15. The Authority thus notes that production by Deepak Fertilizers & Petrochemicals Corporation Limited and Smartchem Technologies Limited account for “a major proportion” of the total domestic production of the subject goods during the POI and constitute domestic industry within the meaning of the Rule 2 (b) and they satisfy the criteria of standing in terms of Rule 5 (3) of the Anti-dumping Rules.

E. Confidentiality

E.1 Submissions made by the Domestic industry

16. With regard to the confidentiality, the domestic industry while quoting Rule 7 of the Rules and WTO Panel in its report in the case of Guatemala — Cement II (WT/DS156/R), submitted as follows:
- (i) Most of the exporters have claimed confidentiality on the information which is not confidential or business sensitive in nature. Also, neither the non-confidential summary/indexed form nor any reason for not providing it has been given.
 - (ii) The decisions of the Hon’ble Supreme Court of India and CESTAT make it clear that the claims with regard to confidentiality of the interested parties must be scrutinized; and only such information should be allowed to be claimed confidential, which if revealed, may prejudice the interests of the interested party.
 - (iii) While replying to the arguments of the other parties, petitioners submitted that have claimed only such information as confidential, disclosure of which

is not possible due to confidentiality of the information and confidentiality of which is permitted under the rules. The authority has factual data on record and can make appropriate assessment of the same. Further, the exporters and consumers are very well aware of the price at which the goods have been exported from subject countries and the correctness of the same can be commented by these parties.

- (iv) Consumption norms of the petitioners are confidential business sensitive information and therefore cannot be disclosed.

E.2 Submissions made by Exporters, Importers, Users and other Interested Parties

17. The submissions made by the producers/exporters/importers/other interested parties with regard to confidentiality and considered relevant by the Authority are as follows:

- (i) Excessive confidentiality has been claimed by the petitioners on a number of details without showing good cause for the same or providing non-confidential summary of the same.
- (ii) Name and addresses of various plants of the petitioners are not being provided and putting the respondents in such a position so that they cannot comment on the alleged injury suffered by domestic industry and the same could be attributed to various regional reasons, such as electricity shortage or water scarcity.
- (iii) With respect to Normal Value, the Petitioners have failed to provide the consumption norms of the DI as used by them for calculation of Normal Value.
- (iv) At one place, the Petitioners have stated that they have considered raw material cost on the basis of the experience of the domestic industry, corroborated by the prices of Fertecon and at another place, CRU Report. The two data sources are not the same and it is confusing whether actual data of the Petitioners has been used or CRU prices have been used or Fertecon prices have been used.
- (v) Utility cost has been taken on basis of experience of the domestic industry while also considering the power rates reported in the World Bank Group Flagship Report. However, the constructed Normal Value states "Price in the Country". This is vague and misleading.
- (vi) The Petitioners have claimed confidentiality with respect to the calculation of the export price.
- (vii) Due to confidentiality on the provided data on prices, the respondents can't comment on price undercutting.
- (viii) The non-confidential version of the costing information relating to the domestic industry has not been supplied. Moreover, details pertaining to Costing of the applicant industry, Information pertaining to Technical

- Specifications and Density of the subject goods manufactured have been claimed as confidential in the petition without showing any good cause.
- (ix) Consumption norms used to calculate the normal value have not been provided.

E.3 Examination by the Authority

18. With regard to confidentiality of information, Rule 7 of Anti-dumping Rules provides as follows:-

Confidential information: (1) Notwithstanding anything contained in sub-rules (2), (3) and (7) of rule 6, sub-rule(2) of rule 12, sub-rule(4) of rule 15 and sub-rule (4) of rule 17, the copies of applications received under sub-rule (1) of rule 5, or any other information provided to the designated authority on a confidential basis by any party in the course of investigation, shall, upon the designated authority being satisfied as to its confidentiality, be treated as such by it and no such information shall be disclosed to any other party without specific authorization of the party providing such information.

(2) The designated authority may require the parties providing information on confidential basis to furnish non-confidential summary thereof and if, in the opinion of a party providing such information, such information is not susceptible of summary, such party may submit to the designated authority a statement of reasons why summarization is not possible.

(3) Notwithstanding anything contained in sub-rule (2), if the designated authority is satisfied that the request for confidentiality is not warranted or the supplier of the information is either unwilling to make the information public or to authorise its disclosure in a generalized or summary form, it may disregard such information.

19. Submissions made by the domestic industry and other opposing interested parties with regard to confidentiality to the extent considered relevant were examined by the Authority and addressed accordingly. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis was directed to provide sufficient non confidential version of the information filed on confidential basis. The Authority made available the non-confidential version of the evidences submitted by various interested parties in the form of public file. The Authority also notes that all interested parties have claimed their business related information as confidential.

F. Miscellaneous Submissions

F.1 Submissions made by the Domestic industry

20. The miscellaneous submissions made by the domestic industry are as follows:
- (i) With respect to the contention of the interested parties that PT Kaltim Nitrate has not exported the subject goods to the Indian markets, the domestic industry submitted that the imported goods have been cleared under Chapter No. 31, which is applicable for Fertilizers or PUC. In case of imports of LDAN, the description of goods would reflect that it is low-density, and exporter's brand name for LDAN and pril would have been mentioned in the import invoice, which is not so in the case of imports from Indonesia. The exporter needs to adduce positive evidence establishing that it has exported LDAN, in support of its claim for seeking exclusion of its exports to India.
 - (ii) The Indonesian plant and machinery can be used for the production ammonium nitrate having density equal to or below 0.83 g/cc and subject goods. There is no dispute that the goods imported from Indonesia have been used interchangeably, with the like article produced by the petitioning domestic industry.
 - (iii) Without admitting or accepting the claim of PT Kaltim Nitrate, if the goods produced and exported by them are not subject matter of investigation, they would not be affected by the duties, if any, which may be imposed. They can hence, have no grievance or objection to the present investigations. If in the present investigation, their claim is accepted, they would not have any locus in the proceedings, as they are not an interested party, in terms of the Rules. Petitioner referred to CESTAT's decision in Merino Panel Products Ltd. vs. Designated Authority while arguing this point.
 - (iv) M/s PT Kaltim Nitrate, Indonesia has filed a response to the Exporters Questionnaire, on June 21, 2017, at the very fag end of the investigations.
 - (v) Certificate of analysis as mentioned by PT Kaltim has not been made available.
 - (vi) The exporter from Indonesia had not filed questionnaire response within the stipulated time and is non-cooperative. If it has exported goods other than PUC (Non PUC), it does not have any right to seek termination of the investigation on that basis. The contention of the company is that they have supplied Non PUC, but the same has not been established.
 - (vii) With respect to the claim of other parties regarding projected combined capacity, the petitioners submit that the capacities claimed are for various kinds of AN and therefore, these are not only capacities reported but also achievable level of production. A statement showing month by month production during the POI is already on record.

- (viii) The law envisages a situation where separate identification of the production is not possible and provides the methodology that should be followed in such a situation, i.e., the effects of the dumped imports should be assessed by the examination of the production of the narrowest group or range of products, which includes the like product, for which the necessary information can be provided.
- (ix) The production capacities are in respect of AN in different form and therefore un-utilized capacities have been determined on the basis of production of AN in various forms and the capacity with the domestic industry for production of AN in all forms.
- (x) The application proforma doesn't require the petitioner to declare their plant wise and product wise capacities. The application proforma requires the petitioners to provide information in respect of domestic industry as a whole. The application proforma does not require separate information for each constituent of the domestic industry
- (xi) Regarding the claim of other parties about shortage of power and machinery, the petitioners submitted that there was no shortage of power and plant & machinery breakdowns at any point of time. There was a strike in K1 plant of DFPCL for 4 months. However, the plant operated at normal level. In STL, there was a major breakdown for 4 months, which has affected production in STL.
- (xii) Regarding the claim of the interested parties regarding unjust hindrance to the consumers, the petitioner submitted that there is no linkage between capacity with the domestic industry and alleged unjust hindrance to user industries and mining industry. If any exporters/consumers wish to export/import the product and meet the demand of the product in the country, they are free to do so, but not at the dumped prices.
- (xiii) Regarding the contention of the interested parties related to demand and supply gap, the petitioners contended that they have not sought any ban on imports. As held by the CESTAT and repeatedly held by the authority, demand supply gap for the product in the country does not in any manner affect the rights of the domestic industry to seek remedial measures against the dumped imports from subject countries.
- (xiv) With regard to the contention of the interested parties regarding supplying of "their" capacities by the domestic industry, the petitioners submitted that they have clearly provided combined data for determination of capacity utilization for the reason that the same capacity can be utilized for production of different kinds of AN and can be fully utilized to produce AN having density above 0.83 g/cc.
- (xv) Responding to the arguments of the other interested parties, it was submitted that since the imports from Ukraine were below the limits prescribed under Rule 14(d) during the POI, it could not be treated as a subject country.

- (xvi) Regarding contentions of the interested parties that TPM Consultants is not authorized in the present matter, the petitioners submitted that TPM Consultants are duly authorized and copy of authorization letter is already placed on record.
- (xvii) The contentions of the interested parties relating to defects in the domestic industry's product were denied and disputed on the basis that the domestic industry has been engaged in the production and sale of the subject goods for the last several years. If the goods would have been defective, they would not have been consumed in such large volumes.
- (xviii) Regarding contention of one of the interested parties that the DFPCL's Industry product is not stabilized, the petitioners submitted that the domestic industry catered to 60% of the demand over the injury period which itself shows that the goods produced by the domestic industry are being consumed in India.
- (xix) Introduction of AN Rules 2012 has not led to any distortion and have not affected the demand for the product. When demand declined, profits improved and when the demand increased, profits declined. Thus, the decline in profits of the domestic industry is not due to contraction in demand. Evidently, AN Rules 2012 in any way is irrelevant to the present investigations.
- (xx) Regarding the adverse impact of proposed ADD on PSU Consumers, as contended by one of the interested parties i.e. Black Diamond, the petitioners submitted that it is mere statement without any justifications. If the import price of AN for the period is considered, it would be clear that if ADD is imposed, the import price for the product shall still remain below the import prices that were prevailing in 2013-14. Moreover, Black Diamond is not a PSU consumer and therefore, cannot contend about other PSU consumers and should restrict itself to only their operations.

F.2 Submissions made by Exporters, Importers, Users and other Interested Parties

21. The submissions made by the producers/exporters/importers/other interested parties with regard to miscellaneous issues during the course of the investigation are as follows:
- (i) PT Kaltim Nitrate is a manufacturer and exporter of ammonium nitrate with a bulk density of 0.757 to 0.772 g/cc which is specifically excluded from the scope of the subject investigation. Thus, they should be excluded from the scope of investigation, as the same are not within the scope of the PUC.
 - (ii) Since there is only one exporter from Indonesia, the current investigation against Indonesia must be terminated immediately.
 - (iii) The petition indicates only the combined capacity of the domestic industry, which is not appropriate. .

- (iv) The Authority must conduct on the spot verification and verify the actual capacity of both the Petitioners.
- (v) Petitioners are manufacturers of multiple products and their capacity for production of subject goods should be considered as per the actual dedicated capacity for the production of subject goods and not of various grades of AN.
- (vi) The Petitioners have consistently produced under capacity because of the shortage of power and plant & machinery breakdowns at various points.
- (vii) Considering this capacity as the actual capacity, misrepresents the quantum of AN that can be supplied domestically and would unjustly hinder user industries and mining industry as well. Explosives are consumed by mining industries which form the backbone of various industries. Thus, ADD won't be in public interest.
- (viii) In order to meet the demand in India, the import of Ammonium Nitrate is absolutely mandatory. Even if the petitioners produce at full capacity, the demand in India can't be met.
- (ix) The petition is deficient on various parameters which calls for terminating the investigation.
- (x) No evidence of adjustments made in export price has been provided
- (xi) The basis on which transaction-wise data received from IBIS has been sorted is not clear.
- (xii) It is impossible to segregate data with respect to bulk density of the PUC on the basis of the IBIS data supplied by the Petitioners. The data is not segregated to exclude imports of AN having bulk density less than 0.83 g/cc and thus, the data is extremely unreliable.
- (xiii) The Petitioner has withheld major exporting countries, in its calculation of 'other countries'. Prior to the implementation of AN Rules, 2012, major quantities of AN were imported into India from Ukraine in loose form.
- (xiv) TPM Consultants are not authorized to make any submissions on behalf applicant industry.
- (xv) The product of the domestic industry is inherently defective.
- (xvi) Information about other producers of Melt and Ammonium Nitrate 'Solid/ Prills have been withheld from the Authority, even when DFPCL, in its Annual Report, claims to have "surpassed" the industry growth.
- (xvii) 1,60,000 tons of AN melt produced by GNFC is converted into AN solid (density ~ 1.0 g/cc) near their plant at Bharuch in Gujarat with the assistance of licensed converters at Bharuch into solid crystalline AN which best fits the classification of PUC and this information is deliberately suppressed by the petitioner.
- (xviii) The petitioners have suppressed vital facts like there is no recent developments which have affected demand or that were no imports between January and July 2013 and the imports and consequently, the demand

drastically reduced in the year 2013-14 due to the introduction of AN Rules, 2012.

- (xix) Imposition of Anti-dumping measures would severely impact the PSU consumers of the final product and the national economy.
- (xx) The petitioners have deliberately misrepresented that Ammonia prices have been increasing, which is not the case.
- (xxi) Rustavi Azot does not sell Ammonium Nitrate to India directly and have an agreement with Drey Moor that further sells to other countries. Rustavi is not a party to the commercial negotiations between Drey Moor and its buyers.
- (xxii) JSC Azot procures natural gas at market prices and enjoys a natural cost advantage in using natural gas as a feedstock and with its more efficient production process, is price competitive globally. These factors cannot be the basis for alleging that it is dumping Ammonium Nitrate.
- (xxiii) There is only one transaction of direct sales to India during the POI. This was done at market driven prices. All other sales are done through Drey Moor Fertilizers. JSC is not a party to the commercial negotiations between Drey Moor and its customers.
- (xxiv) In Nov, 2003, Russia was excluded from the list of countries with NME in Indian Customs Tariff Rules, 1995 and later, Indian officials assured Russia that India has already accepted de-facto market status of Russia which was reassured on various occasions.
- (xxv) The list of producers provided by the petitioners along with the density of LDAN, in their written submissions dated 3rd January, 2017, do not have any consistency in the range of density. Moreover, the data given is unsourced, so there is no way of ascertaining its reliability.

F.3 Examination by the Authority

22. Various submissions made by the interested parties with regard to miscellaneous issues and considered relevant by the Authority are examined and addressed as follows:

- (i) As regards termination of investigation against Indonesia, Authority notes that PT Kaltim Nitrate did not file exporter's questionnaire response and merely advanced arguments. However, the company claimed that they have not exported the product under consideration but they did not provide any information whatsoever with regard to the product they have exported in the EQ to enable the Authority to verify their claim that the goods exported by them are beyond the scope of the product under consideration. The Authority notes that in the absence of verifiable information with regard to the goods exported by the company, the Authority cannot satisfy itself with regard to the product exported by them and whether the same falls beyond the scope of the product under consideration. The Authority therefore, could not establish that the imports of Ammonium Nitrate from Indonesia are not

Ammonium Nitrate having density above 0.83 g/cc. However, based on the submission filed by them, the Authority notes that the anti-dumping duty, if levied, will attract duty only against the imports of PUC i.e. ammonium nitrate”, whether prilled, granular, or in other solid form, with or without additives or coating, and having bulk density in excess of 0.83 g/cc.

- (ii) Regarding the combined capacity reported by the petitioners, the Authority notes that the same capacity is utilised for production of subject product and non-subject product Ammonium Nitrate. Therefore, reporting combined capacity and total production is appropriate for the purpose of determination of capacity utilisation. As regards the disclosure of plant-wise capacity and production, the Authority notes that the Authority is required to examine injury to the domestic industry by considering domestic industry as a whole and not injury to a particular constituent of the domestic industry.
- (iii) As regards the contention that the proposed ADD would unjustly cause hindrance to the mining industry and user industries, the Authority notes that if any exporters/consumers wish to import the product and meet the demand of the product in the country, they are free to do so, albeit at un-dumped prices, as the purpose of AD duty is generally to ward off the injurious affect, if any.
- (iv) As regards the contention of the interested parties regarding gap in demand and supply, the Authority notes that the ADD doesn't put restriction on imports rather it just provides a level playing field to the domestic industry and protects it from the dumped products.
- (v) As regards the imports from Ukraine, the Authority notes that the same has been excluded from the ambit of the present investigations as the imports from Ukraine are below the de-minimis level of 3% of total imports.
- (vi) As regards the contention that the product produced by domestic industry is defective, the Authority notes that none of the parties have substantiated their argument with any evidence and therefore these claims have no merits. The Authority also notes that the goods produced by the domestic industry are being consumed in India by a large number of consumers as can be demonstrated by the fact that it catered 60% demand in India, over the injury period.
- (vii) As regards the non-disclosure of the fact that GNFC and RCF are major AN melt manufacturers, the Authority notes that since AN melt is not part of the PUC, it is not desirable to examine the non PUC item and none of the interested parties substantiated their claim with facts.
- (viii) As regards the impact of AN Rules, 2012, the Authority notes that the same has not led to any distortion and have not affected the demand for the product, rather it is demonstrated by the fact that when demand declined, profits improved and when the demand increased, profits declined. Thus, the decline in profits of the domestic industry is not due to contraction in demand.

G. Normal Value, Export Price and Dumping Margin

23. Under Section 9A(1)(c), normal value in relation to an article means:-

- (i) the comparable price, in the ordinary course of trade, for the like article when meant for consumption in the exporting country or territory as determined in accordance with the rules made under 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 transhipped through the country of export or such article is not produced in the country of export or 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.

G.1 Submissions by Domestic Industry

24. Following submissions made by the domestic industry with regard to Normal Value:

- (i) Even after making best efforts, the petitioners were not able to gather information relating to domestic sales, in the country of export and thus, were left with no option but to construct the cost of production for the exporter. The CIF Price has been taken from the IBIS data for the POI. The rates of overseas freight are based on the quotation obtained from Seashell Logistics. Inland freight and port charges are estimated based on*

experience. The same methodology has been widely applied globally and in India also.

- (ii) Ammonia is a marketable product having significant trade globally. In a situation where a producer is backward integrated and is producing ammonia captively, the authority must consider valuation of ammonia in such cases at market price. No discrimination can be created between integrated and non-integrated producer. Further, in a situation where ammonia is a captive input, its valuation based on records of the company may be highly distorted. The authority should therefore establish that ammonia has been valued by such companies at fair market values.
- (iii) There is no requirement of positive evidence in the petition and at the stage of initiation. On the contrary, the requirement of positive evidence is with regard to determination made by the authority and not for the contents of the application. The argument of the parties implies that the Designated Authority can make determination at the stage of initiation itself.
- (iv) The authority may kindly compare consumption norms reported by the petitioners with the consumption reported by the exporters. While petitioners have reported consumption of raw material for entire injury period, exporters have reported consumption norms only for the POI.
- (v) Export price has been determined in accordance with Section 9A of the Customs Tariff Act, 1975. In fact, in the initiation notification, the authority noted that the petition contained sufficient evidence of export price.
- (vi) IBIS data does not report approximate CIF prices. It reports actual CIF prices. Further, the authority may kindly call DG systems data and co-relates the QR of exporters with the DG systems data.
- (vii) Natural gas is not an input for production of the PUC but for production of ammonia which is largely trade-able commodity. There are significant imports of ammonia in the country, which clearly establishes marketability of ammonia as product. Thus, even if the producers of PUC are backward integrated and are producing their own ammonia from natural gas, the authority is required construct the cost of PUC and by considering the purchase price of ammonia as raw material cost.
- (viii) Natural gas is a major raw material input used for the manufacture of ammonia and nitric acid, and is also used as a source of energy. Majority of gas produced in Russia is by the government controlled Gazprom. Russian Federation domestic gas prices continue to remain artificially low due to the intervention of the Russian government (via the FTS) to fix natural gas prices. Thus, a "particular market situation" prevails in the Russian Federation. The petitioner also referred to the Australian Investigating Authority's observations in this regard, in the investigations relating to Ammonium Nitrate exported from the Russian Federation either directly or via Estonia. Since the domestic prices of natural gas are not reliable, normal value should be constructed on a reasonable basis.

- (ix) The exporters and producers of the subject goods in Iran, as well as some producers in other subject countries, have not submitted a response to the Questionnaire. In such a situation, an adverse inference must be drawn, on account of non-cooperation by the foreign producer/exporter.

G.3 Submissions made by Exporters, Importers, Users and other Interested Parties

25. The submissions made by the exporters, importers and other interested parties are summarized below:

- (i) Normal value cannot be constructed for market economy countries i.e. Russia, Indonesia and Iran.
- (ii) Even by the yardstick of constructing Normal value for a Non-Market Economy (in the case of Georgia), the Petitioners methodology is inconsistent with AD Rules as neither any efforts have been made to obtain data to calculate the normal value for Georgia nor mention of the efforts undertaken by the Petitioners to find the domestic prices in the third country for the purposes of calculating the normal value.
- (iii) Petitioners have failed to select an appropriate market economy third country or provide details on the manner in which the normal value on the basis of price in India has been arrived at.
- (iv) Most exporters generate Ammonia from Natural Gas within an integrated Ammonium Nitrate Plant. In such a case, Ammonia is an intermediate product and its direct cost cannot be calculated based on CRU price which is a market price for Ammonia.
- (v) No positive evidence or the basis on which certain costs were adopted has been adduced by the Petitioners, thus failing the test of evidentiary requirement under the WTO ADA.
- (vi) The consumption norms of the participating exporter must be considered in the present investigation for determination of normal value.
- (vii) Basis of export price determination is erroneous.
- (viii) The methodology used for construction of Normal Value is flawed because as the exporters use Natural Gas whereas the petitioners have used Ammonia as a raw material which is a more expensive and inefficient production process; the petitioners have considered their depreciation and their plants have been recently set up, thereby making their cost of depreciation higher as compared to that of the exporters and the capacity of the plants of the exporters is much greater than the petitioners because of which the exporters enjoy economies of scale that decrease their cost of production.
- (ix) Rustavi Azot procures natural gas at prices greater or equal to market prices that are based on those reflected in an International publication. It enjoys a natural cost advantage in using natural gas as a feedstock due to its

proximity to vast natural gas reserves and with its more efficient production process, is price competitive globally which cannot be the basis for alleging that it is dumping Ammonium Nitrate

- (x) There are four major producers of AN in Russia and every one of them is a private joint stock company with no government interference.
- (xi) Prices in the gas market in Russia are being determined by correlation of supply and demand and follow the market signals and have nothing to do with the present investigation.
- (xii) Electricity prices in Russia have nothing to do with the present investigation. Distributors and sales companies selling electricity and capacity to industrial consumers except household in retail markets at free market prices. The govt. regulates only some components of the final price in particular services which is conducted in accordance with antimonopoly legislation.
- (xiii) Export prices submitted by petitioners on the basis of IBIS data is not suitable as IBIS Reports contains only approximately CIF/FOB prices and DGAD should base its assumptions on the basis of data submitted by Russian Exporters.
- (xiv) The calculation of constructed normal value is not in consonance with the provisions Article 2.2 of the Antidumping Agreement

G.4 Examination by the Authority

Examination of the Authority

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

- (i) The comparable price, in the ordinary course of trade, for the like article, when meant for consumption in the exporting country or territory as determined in accordance with the rules made under 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);

27. The Authority sent questionnaires to the known exporters from the subject countries, advising them to provide information in the form and manner prescribed. However, barring the following producer and exporters, none of the other

producers/exporters from subject countries co-operated in this investigation by filing the prescribed questionnaire responses,

- a. Novomoskovskaya (NakAzot), Russia (Producer), EuroChem Trading GmbH, Switzerland (Exporter) and Rawfert Offshore Sal
- b. JSC Azot, Russia (Producer), SBU-Nitrotrate AG and Drey Moor Fertilizers Overseas PTE Ltd., Singapore (Exporter)
- c. Rustavi Azot LLC, Georgia (Producer) and Drey Moor Fertilizers Overseas PTE Ltd., Singapore (Exporter)
- d. Joint Stock Company United Chemical Co. Uralchem, Russia (Producer) And SIA Uralchem Trading, Latvia (Exporter)

28. Since the above mentioned producers/exporters have filed the questionnaire response, the Authority proposes to determine individual dumping margin in respect of cooperative exporters. The general methodology adopted by the Authority for determination of Normal Value for these exporters is to first examine whether the domestic sales of the subject goods by the responding exporters in their home markets were representative and viable for permitting determination of Normal Values on the basis of domestic selling prices and whether the ordinary course of trade test was satisfied as per the data provided by the respondents. Normal value has been constructed based on the best of the Russia Cooperative Producers.

29. In the case of non-cooperating exporters in the subject countries, the Authority proposes to determine the normal value on the basis of facts available in terms of Rule 6 (8) of AD Rules read with Article 6.8 of the Agreement.

30. The Authority proposes to determine the normal value, export price and dumping margin in respect of producers/exporters of the subject goods as follows:

G.4.1 Dumping margin in case of Russia

A. Normal Value of M/s Novomoskovskaya (NakAzot), Russia (Producer),

31. The questionnaire response filed by NakAzot has been examined and it is found that the respondent has provided domestic sales price details of the subject goods in Appendix-1 of their response. It was also noted that the weighted average domestic selling price so determined was more than the weighted average domestic cost of production and the profit making transactions were taken for determination of normal value. Therefore, the Authority has proceeded to determine the normal value based only on the profitable sales in terms of the provisions of Annexure I of the AD Rules. The adjustments on account of packing, inland freight, credit cost claimed by NakAzot has been verified and accepted to the extent found correct. The proposed Normal value of NakAzot so determined works out to US\$ *** per MT.

Export price of M/s Novomoskovskaya (NakAzot), Russia (Producer) and EuroChem Trading GmbH, Switzerland (Exporter)

32. As per the exporter's questionnaire response (EQR), M/sEuroChem Trading GmbH exported the subject goods to the Indian customer M/s Black Diamond through Rawfert, produced by M/s.NakAzot. As per the EQ responses, during the POI,NakAzot has exported subject goods to India through EuroChem Trading GmbH. It is noted by the authority that NakAzot ships the finished subject goods directly to India and only the commercial invoicing is done through M/s EuroChem Trading GmbH and Rawfert Offshore Sal. Adjustment on account of inland freight, overseas freight, packing charges, and credit cost, bank charges has been claimed and the same have been accepted after necessary verification. The authority has also made adjustment of SG&A and profit of trader for determination of export price. The proposed export price has been determined as US\$ *** per MT.

B. Normal Value of M/s JSC Azot, Kemerovo Russia (Producer)

33. The questionnaire response filed by JSC Azot has been examined and it is found that the respondent has provided domestic sales price details of the subject goods in Appendix-1of their response. It was noted that the weighted average domestic selling price so determined was more than the weighted average domestic cost of production and the profit making transactions were taken for determination of normal value. Therefore, the Authority has proceeded to determine the normal value based only on the profitable sales in terms of the provisions of Annexure I of the AD Rules. The adjustments claimed on account of inland freight and packing cost has been verified and accepted to the extent found correct. As all the transactions were on 100% pre-payment, there was no incidence of credit cost. The proposed Normal value of JSC Azot so determined works out as US\$ *** per MT.

Export price of M/s JSC Azot, Kemerovo Russia (Producer), SBU Nitrotrade AG and Drey Moor Fertilizers Overseas PTE Ltd., Singapore (Exporter)

34. As per the exporter's questionnaire response (EQR), M/s Drey Moor Fertilizers Overseas PTE Ltd exported the subject goods to the Indian customer produced by M/s. JSC Azot from Russia. As per the EQ responses, during the POI, JSC Azot has exported the subject goods to India through SBU Nitrotrade AG and Drey Moor Fertilizers Overseas PTE Ltd. SBU Nitrotrade AG has also directly exported one consignment to the Indian customer. However,It is noted that JSC Azot ships the finished subject goods directly to India and only the commercial

invoicing is done through SBU Nitrotrade AG and M/s Drey Moor Fertilizers Overseas PTE Ltd respectively. Adjustment on account of inland freight, commission packing and overseas freight has been claimed and the same have been accepted after necessary verification. As goods are sold on 100 % pre-payment basis, there is no incidence of credit cost and bank charges. The authority has also made adjustment of SG&A and profit of trader for determination of export price. The Authority found it appropriate to determine the weighted average export price for the exporter/trader produced by JSC (Azot). The proposed weighted average export price has been determined for as US\$ *** per MT.

C.M/s Joint Stock Company United Chemical Co. Uralchem, Russia (Producer) and SIA Uralchem Trading, Latvia (Exporter)

35. As per the exporter's questionnaire response (EQR), M/s SIA Uralchem Trading exported the subject goods to the Indian customer through a Hong Kong based trader who did not file the EQR, produced by M/s. Joint Stock Company United Chemical Co. Uralchem from Russia. In absence of the information from the Hong Kong based trader, authority could not determine individual dumping margin due to incomplete information of exports from producer to Indian customer, the authority treated them as non-cooperative.

All other Producers/Exporters from Russia

36. In respect of all other exporters from Russia who are treated to be non-cooperative, the Authority determined normal value and export price as per facts available in terms of Rule 6(8) of the Rules. The normal value and export price so determined comes to **US\$ *** /MT and US\$ ***/MT** respectively.

G.4.2 Dumping margin in case of Georgia

37. Rustavi Azot LLC, Georgia filed response to questionnaire. However, after filing initial questionnaire response, the company did not respond to the Authority's request to file complete information. In view of non-submissions of entire information with regard to the cost and relevant information, the Authority treated them as non-cooperative and Normal value for the purpose has been determined on the basis of constructed cost of production, after addition for selling, general & administrative costs and reasonable amount of profits as per facts available in terms of Rule 6(8) of the Rules. Export price has also been determined as per facts available in terms of Rule 6(8) of the Rules. The normal value and export price so determined all the exporters/producers comes to **US\$ *** /MT and US\$ *** /MT** respectively.

G.4.3 Dumping margin in case of Indonesia

38. None of the producers/exporters from Indonesia filed the complete response to questionnaire. However, M/s PT Kaltim, Indonesia has filed incomplete EQ response. Therefore, the Authority treated them as non-cooperative. In view of no cooperation from the producers/exporters from Indonesia, the Authority is not able to determine individual dumping margin for producers/exporters and is constrained to proceed with the principles of best available information with regard to determination of dumping margin. In view of non-cooperation of the exporters, the Authority determined normal value and export price as per facts available in terms of Rule 6(8) of the Rules. Normal value for the purpose has been determined on the basis of constructed cost of production, after addition for selling, general & administrative costs and reasonable amount of profits. Export price has also been determined as per facts available in terms of Rule 6(8) of the Rules. The normal value and export price so determined comes to **US\$ *** /MT and US\$ *** /MT** respectively.

G.4.4 Dumping margin in case of Iran

39. None of the producers/exporters from Iran filed response to questionnaire. In view of no cooperation from the producers/exporters of product in Iran, the Authority is not able to determine individual dumping margin for producers/exporters on the basis of their questionnaire response and is constrained to proceed with the principles of best available information with regard to determination of dumping margin. In view of non-cooperation of the exporters, the Authority determined normal value and export price as per facts available in terms of Rule 6(8) of the Rules. Normal value for the purpose has been determined on the basis of constructed cost of production, after addition for selling, general & administrative costs and reasonable amount of profits. Export price has also been determined as per facts available in terms of Rule 6(8) of the Rules. The normal value and export price so determined comes to **US\$ *** /MT and US\$ *** /MT** respectively.

G.4.5 Determination of Dumping Margin

40.

Countries	Russia	Russia	Russia	Georgia	Indonesia	Iran
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Exporter/ Producer	M/s Novomoskovskaya (NakAzot), (Producer) and EuroChem Trading GmbH, Switzerland (Exporter) through Rawfart Offshore Sel	M/s JSC Azot, Kemerovo (Producer) SBU Nitrotrade AG (Exporter)	M/s JSC Azot, (Producer) through SBU Nitrotrade AG and Drey Moor Fertilizers Overseas PTE Ltd., Singapore (Exporter)	Other Exporters/Producers (Russia)	All Exporter/Producers (Georgia)	All Exporters/Producers (Indonesia)	All Exporters/Producers (Iran)
Normal Value (US\$/MT)	***	***	***	***	***	***	***
Net Export Price (US\$/MT)	***	***	***	***	***	***	***
US\$/MT	***	***	***	***	***	***	***
Dumping Margin%	***	***	***	***	***	***	***
Range	(-5)- (-10)	0-10	10-20	30-40	5-15	25-35	

H. Injury Determination

H.1. Injury Examination

41. The Authority notes that the petition for imposition of antidumping duty has been filed by DFPCL and STL, whose production constitutes a major proportion in Indian production of the subject goods in India. In terms of Rule 2(b) of the Rules, the petitioners have been treated as the domestic industry for the purpose of this investigation. Therefore, for the purpose of determination the cost and injury, information of the petitioners, constituting the domestic industry as defined in Rule 2(b), has been examined.

H.2 Submissions made by domestic industry

42. The following submissions with regard to injury and causal link have been made by the domestic industry:

- (i) The domestic industry has suffered injury due to the severe dumping of the subject goods by the exporters in subject countries. The injurious effect of the dumped imports may be analysed on a cumulatively basis for the

- subject countries, in view of Para (iii) of Annexure II of the Rules, as the conditions laid down in same are being met in the present investigation.
- (ii) The quantum of imports from subject countries has shown increase of 61% in POI when compared to the base year and an increase of more than 107% as compared to previous year.
 - (iii) 2.52% of the total imports appear to have been made from UAE. As per the best available information with the petitioning domestic industry, there are no producers of the subject goods in that country. It appears that these imports are actually trans-shipments from Iran, and thus, may be considered as imports from Iran itself.
 - (iv) The market share of the imports has nearly tripled in the POI as compared to 2013-14. The imports from subject countries account for 97% of the total imports entering the Indian markets.
 - (v) The imports from the subject countries as a percentage of domestic production increased by 97% in POI as compared to previous year.
 - (vi) The demand has increased substantially during the POI as compared to immediately preceding year, and the incremental demand has been met largely by the low priced imports, resulting in a decline in the market share of the domestic industry. The injury is therefore, on account of the dumped imports.
 - (vii) The landed value of imports has also declined by about 14% during the POI as compared to immediately preceding year which has prevented the domestic industry from increasing its prices, in line with the increase in costs. There is significant price undercutting during the POI, and the low price of the imports has had an adverse price effect on the domestic industry.
 - (viii) Both the landed value and the net sales realization of the domestic industry have decreased during 2014-15 and the period of investigation but the fall in former is much steeper. As a consequence, the market share of the domestic industry has declined, in spite of offering the subject goods at lower prices.
 - (ix) In view of the increased demand, the petitioners were able to increase its production of the subject goods, thereby increasing the overall capacity utilization as well.
 - (x) Since it is producing different types of products in one plant, the domestic industry has determined capacity utilization after including production of other products as well. Thus, the Authority, may determine the capacity utilization considering either the production of other products and the total capacity of the plant; or after segregating the capacity of different products on a reasonable basis. Either approach can be adopted in the present case or they shall lead to similar results. The same has been done in several previous investigations.

- (xi) In spite of an increase in the size of the Indian market, the incremental demand has been largely captured by the exporters of the subject countries by selling at dumped prices, affecting adversely growth prospects of the domestic industry.
- (xii) The domestic industry has been losing contracts due to its inability to compete with the low priced imports from the subject countries.
- (xiii) There is significant price effect of the imports, with a price undercutting in the range of 10% to 20% for Russia, Georgia and Indonesia; and 20-30% for Iran during the period of investigation.
- (xiv) The price underselling from the subject countries is in the range of 30% to 40%, which is significant and positive.
- (xv) The profitability of the domestic industry has taken a severe blow as the industry has slid into losses in POI from a situation of profit in 2013-14.
- (xvi) While the net sales realization of domestic industry has increased during the injury period, it is not commensurate with the increase in cost. The losses have increased to colossal levels impacting the ability of the domestic industry to continue production and sale of the subject goods in the long run.
- (xvii) Return on investment is negative and declining further.
- (xviii) The inventories of the domestic industry have increased substantially in the POI as compared to 2012-13.
- (xix) The magnitude of dumping is significant, and warrants imposition of anti-dumping duties for protecting the domestic industry from the injurious effects of the imports.
- (xx) The future investment in this sector is also marred by the presence of dumped imports from the subject countries. The negative profitability reduced cash flows and no returns clearly indicate that the ability of the domestic industry to raise capital investment for the sector is jeopardized by the dumped imports.

- (xxi) There are no trade restrictive practices on account of which there is injury to the domestic industry. There are also no recent developments which have adversely affected the demand for the product. The like article produced by the domestic industry continues to be used interchangeably with the subject goods. As regards the competition between the foreign and domestic producers, it is submitted that the domestic industry is suffering only on account of unfair trade practices of the exporters in the subject countries. If the imports take place at fair market prices, the domestic industry is in a position to face the competition from the imports.
- (xxii) As regards the export performance, it constitutes a very small proportion (around 1%) of the total sales of the domestic industry and, therefore, has not had any significant impact nor can it be considered to be a cause of injury.

- (xxiii) As regards the productivity of the domestic industry, it has improved during the period of investigation and, therefore, is not a cause for injury.
- (xxiv) As against the contention of the interested parties, the steep fall in market share of the domestic industry from 82% to 55% cannot be referred as stability.

H.3 Submissions made by Exporters, Importers, Users and other Interested Parties

43. The following submissions with regard to injury and causal link have been made by the Exporters, Importers, Users and other Interested Parties:

- (i) The imports have not increased commensurate with the growth of the domestic demand / market when the same has increased in pure quantum. The general increase of product imports from the countries affected by the investigation is due to the increase in demand for the product in India.
- (ii) Imports remained unduly suppressed during 2013-14 and 2014-15 because of the introduction of AN Rules, are merely recovering to levels previous to imposition of the AN Rules, 2012 and have not shown any abnormal increase.
- (iii) Data pertaining to the anomalous intervening years may be disregarded and examination may be done on the basis of the years prior to 2012-13 when imports were relatively stable and the POI (2015-16) when the imports re-stabilized again.
- (iv) Within the period of 2012-15, the product imports from Russia have decreased by 36% in value terms from 117,765 to 77,065 tons in quantitative terms. Imports ratio of product from the Russia has decreased against the total imports by 8% in 2014 as compared to 2014.
- (v) DA should consider injury to GNFC and RCF during POI for making a fair injury assessment to the domestic industry. In particular, the price and volume analysis is to be conducted based on data relating to all domestic producers of the like article or the domestic market.
- (vi) For the determination of Injury margin, the Petitioners' Non-Injurious Price (NIP) should be re-determined for proper comparison with the Landed Value.
- (vii) Economic parameters of the Petitioners show positive growth and are not suffering any price injury. The application doesn't provide any explicit and conclusive explanation stating how the positive trends with the DI can outweigh by several trends under other indices.
- (viii) A uniform price undercutting cannot give rise to such fluctuations in profit.
- (ix) The depreciation of domestic industry has increased significantly in the year 2014-15 without increase in any fixed assets, which is the cause of alleged injury.
- (x) Factors other than dumped imports are causing injury, if any, to the petitioners.

- (xi) The petitioners have been facing issues in the quality of the products.
- (xii) Alleged injury is due to costs incurred towards procurement of Natural Gas by the Petitioners.
- (xiii) Alleged injury is due to the high costs of Litigation of the Petitioners against the Government, to get their natural gas supply restarted
- (xiv) Other factors like volatile energy pricing, coal mining restrictions, implementation of ammonium nitrate rules, inter-se competition between domestic producers of like articles, cheap exports made by the petitioners, shut-down of plant of STL, as mentioned in the Annual Report for the year 2015-16 of the DFPCL, are the causes of the alleged injury,
- (xv) On one hand the petitioners claim in the petition that 'the negative profitability reduced cash flows and no returns clearly indicates that the ability of the domestic industry to raise capital investment for the sector is jeopardized by the dumped imports' and on the other hand, the petitioners are evaluating the possibilities of setting up a new plant.
- (xvi) Ammonium Nitrate import is not permitted under OGL. Since the part of handling cost is necessarily incurred to comply with the mandatory regulatory provisions, DA should consider the regulatory cost heads at port on actual as cost of imports for making injury assessment.
- (xvii) The petitioner has not established existence of dumping, injury and causal link.
- (xviii) The petitioners have not suffered any material injury.
- (xix) Petitioners are making contradicting statements by saying that their sales continue to increase and at the same time, losing contracts due to the import of the subject goods
- (xx) Petitioners are making huge profits as evident by Annual Report for FY 2012-13, 2015-16 and a press release of 21st January issued by DFPCL.
- (xxi) The petitioners abused their dominant position, due to which the importers were forced to pay higher prices of the product under consideration, when the same could have been procured at much lower and reasonable prices from the foreign suppliers.
- (xxii) Despite decline in prices of the major raw material of Ammonium Nitrate, the petitioners have not been able to reduce cost of sales in proportion to the decline in raw material prices.
- (xxiii) The fall in prices of imports is on account of a global fall in the price of natural gas, which is a cheaper feedstock to use than Ammonia for producing AN.
- (xxiv) There is no correlation between inventories and imports.
- (xxv) The application doesn't provide any satisfactory evidence of the dumped imports or products originating from the Russian Federation, of any injury and causal link.
- (xxvi) The applicant has assessed injury based on cumulative data on imports from all countries affected by the investigation but doesn't provide any proof

- evidencing the potential application of such methodology in the course of investigation.
- (xxvii) There's no price suppression or depression.
 - (xxviii) Incorrect Injury assessment has been done on the basis of limited figures provided in the Petition.
 - (xxix) Production capacity has remained stable throughout the period considered, while production and capacity utilization increased by more than 125%.
 - (xxx) Decrease in the applicant's market share and parallel increase in the market share of imports can be justified by the considerable growth in demand, when the applicant is not capable of cater the domestic market.
 - (xxxi) Any negative impact in terms of profitability is not linked to imports from the subject countries, but to the negative evolution of their costs of production.
 - (xxxii) The increase in the applicant's costs of production, and the correlated decrease in profitability thereof, is justified by the fact that the Indian government stopped providing raw materials to the applicant industry at subsidized prices.
 - (xxxiii) The applicant voluntarily accepted to decrease its profitability, from an accounting point of view, with a view to seek the imposition of anti-dumping measures in a context of increasing prices and booming demand, so as to yield higher profits in the long-term.
 - (xxxiv) Employment and productivity increased considerably over the period considered.
 - (xxxv) The Annual Report tends to indicate that the applicant decided to focus on export markets, whereas they are already not in a position to fully supply the whole of the domestic demand for Ammonium Nitrate.
 - (xxxvi) The applicant claims that "in order to retain its customers, it is forced to match the lowest price of the subject goods from the alleged dumped sources," This statement is misleading since the applicant has in fact significantly increased its sales volumes, as a positive result of the increase in demand, evidencing that it has no issue maintaining customers and even gaining customers.
 - (xxxvii) Any profitability issue must in addition be assessed in light of the situation back in 2012-2013, where the applicant industry was already loss-making, despite any pressure from imports. With the increase in consumption came an increase in competition on the Indian market, which warranted naturally a price decrease.
 - (xxxviii) There is no volume or price pressure caused by imports from Russia.
 - (xxxix) Without having information of other producers' relating to sales, profitability and cost, no meaningful injury analysis can be done. Without having regard to the information of other producers, injury margin also cannot be determined.
 - (xl) The applicant intentionally chose not to provide any details on the other producers of like articles, who sell the subject goods at much cheaper rates

- compared to the applicant and yet make good profits, the requirements of Annexure II cannot be said to have been met with.
- (xli) Dumping takes place in specific market circumstances i.e. when a new player wants to enter a market, when an established player wants to deter the entry of new entrants, or, when an existing player has excessive inventories. None of the situations exist in the Indian AN market.
 - (xlii) India accounts for less than 2.5% of the production of Russian exporters. Thus, the Indian market is too small for them, and hence, the question of dumping is absurd. Further, the exporters sell AN through Dreyamoor Fertilizers, and the prices are fixed based on the global price of AN.
 - (xliii) The petitioners have considered 2013-14 as the base year for trend analysis, despite the fact that this was the year AN Rules and bagging requirements were prescribed.
 - (xliv) Despite making losses, the petitioners declared a dividend of 50%.
 - (xlv) The petitioners are facing injury due to internal competition with the licensed converters converting ammonium nitrate in melt form to solid form
 - (xlvi) There is no correlation between imports and profit/losses of the petitioner.
 - (xlvii) It wasn't duly analysed why the domestic industry consumption was holding a stable position at the level of 57-82%.
 - (xlviii) The production during the investigation period increased by 126%
 - (xlix) The employment level and salaries in the domestic industry have demonstrated a stable standing.

H.4 Examination of the Authority

44. The submissions made by the domestic industry and other interested parties during the course of investigations with regard to injury and causal link and considered relevant by the Authority are examined and addressed as below.

A. Cumulative Assessment:

45. Article 3.3 of WTO agreement and Para (iii) of Annexure II of the Anti-dumping Rules provide that in case where imports of a product from more than one country are being simultaneously subjected to anti-dumping investigations, the Authority will cumulatively assess the effect of such imports, in case it determines that:

- a. the margin of dumping established in relation to the imports from each country is more than two percent expressed as percentage of export price and the volume of the imports from each country is three percent (or more) of the import of like article or where the export of individual countries is less

than three percent, the imports collectively account for more than seven percent 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.

46. The Authority notes that:

- a. The subject goods are being dumped into India from subject countries. The margins of dumping from each of the subject countries are more than the de minimis limits prescribed under the Rules.
- b. The volume of imports from each of the subject countries is individually more than 3% of total volume of imports.
- c. Cumulative assessment of the effects of imports is appropriate as the exports from the subject countries not only directly compete inter se but also with the like articles offered by the domestic industry in the Indian market.

47. In view of the above, the Authority considers it appropriate to assess injury to the domestic industry cumulatively from exports of the subject goods from the subject countries.

48. Rule 11 of Antidumping Rules read with Annexure II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, "... taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles...". In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, stock, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the Anti-dumping Rules.

B. Volume Effect of the Dumped Imports on the Domestic Industry

i. Demand and Volume of Imports

49. The Authority has taken into consideration, for the purpose of the present investigation, demand or apparent consumption of the product in India as the sum of domestic sales of the Indian Producers and imports from all sources. The

demand so assessed shows increase throughout the injury period, as is given in the table below:

Particulars	UOM	2012-13	2013-14	2014-15	2015-16
Imports from subject countries (dumped)	MT	1,14,470	37,563	89,756	1,82,033
Imports from subject countries (un-dumped)	MT	-	-	-	2,000
Imports from other countries	MT	1,07,261	7,788	276	5,602
Sales of domestic industry	MT	1,08,614	2,16,626	2,30,820	2,49,775
Total Demand	MT	3,30,345	2,61,977	3,20,852	4,39,410

50. It is seen that the imports of the product under consideration increased in absolute terms from subject countries over the injury period. For the purpose of injury analysis, the un-dumped imports from Russia, that is, imports from M/s Novomoskovskaya (NakAzot), (Producer), through M/s EuroChem Trading GmBH, Switzerland (Exporter) have been excluded.

Country of Import	UOM	2012-13	2013-14	2014-15	2015-16
Georgia	MT	-	-	-	46,743
Indonesia	MT	-	-	5,000	10,000
Iran	MT	100	-	35,558	40,726
Russia (dumped)	MT	1,14,370	37,563	49,198	84,564
Subject Countries (dumped)	MT	1,14,470	37,563	89,756	1,82,033
Russia (un-dumped)	MT	-	-	-	2,000
Subject Countries (Total)	MT	1,14,470	37,563	89,756	1,84,033
China P RP	MT	-	79	276	506
Korea RP	MT	189	209	-	-
U Arab Emts	MT	-	-	-	5,096
Ukraine	MT	1,07,072	7,500	-	-
Other Countries	MT	1,07,261	7,788	276	5,602
Grand Total	MT	2,21,731	45,351	90,032	1,89,635

ii. Market Share in Demand

51. Considering imports from various sources and sales of the domestic industry, market share of subject imports in demand in India was examined. The Authority

notes that while the market share of the imports from the Subject Countries increased in POI as compared to base year and previous year. In fact the share of dumped imports from subject countries has been highest in POI during the injury period. It is thus seen that the imports of the product under consideration have increased in relation to consumption in India.

Particulars	UOM	2012-13	2013-14	2014-15	2015-16
Total Demand	MT	3,30,345	2,61,977	3,20,852	4,39,410
Share of subject countries (dumped)	%	35%	14%	28%	41%
Share of subject countries (un-dumped)	%	-	-	-	0.5%
Share of other countries	%	32%	3%	0%	1%
Share of domestic industry	%	33%	83%	72%	57%

iii. Market share in imports

52. The Share of imports from subject/other countries are as under:

Particulars	UOM	2012-13	2013-14	2014-15	2015-16
Imports from subject countries (dumped)	MT	1,14,470	37,563	89,756	1,82,033
Imports from subject countries (un-dumped)	MT	-	-	-	2,000
Imports from other countries	MT	1,07,261	7,788	276	5,602
Total Imports	MT	2,21,731	45,351	90,032	1,89,635
Share of imports from subject countries in total imports	%	52%	83%	100%	97%
Share of imports from other countries in total imports	%	48%	17%	0%	3%

53. It is seen that the share of dumped imports from subject countries in imports of the product under consideration in India increased substantially over the period. Imports from subject countries accounted for 97% of the total imports in POI.

iv. Share of imports in relation to production

Particulars	UOM	2012-13	2013-14	2014-15	2015-16
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Imports from subject countries (dumped)	MT	1,14,470	37,563	89,756	1,82,033
Production of domestic industry	MT	1,10,209	2,20,693	2,34,748	2,47,479
Share of dumped imports in relation to production	%	104%	17%	38%	74%

54. It is seen that the dumped imports from Subject Countries have marginally declined in relation to the production of the domestic industry in POI as compared to base year. However, the dumped imports from subject countries increased in relation to production in the POI as compared to 2013-14 and 2014-15.

C. Price Effect of the Dumped imports on the Domestic Industry

55. With regard to the price effect, the Designated Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared with the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. For the purpose of this analysis, the weighted average cost of sales (COS), weighted average Net Sales Realization (NSR) and the weighted average Non-Injurious Price (NIP) of the domestic industry have been compared with the weighted average landed cost of imports of the subject goods from the Subject Countries.

Price Undercutting

56. The net sales realization has been arrived after deducting outward freight and taxes. Landed value of imports has been calculated by adding 1% handling charge and applicable basic customs duty including applicable cess to the CIF value of subject imports. The landed value of imports was compared with net sales realization of the domestic industry and it was found that the price undercutting from each of the Subject Countries is positive during the POI. The Authority has determined the landed value of the subject goods at ex-port level and the net sales realization of the domestic industry at ex-factory level as per the established practice.

Particulars	Landed Value	Selling Price	Price Undercutting	Price Undercutting %	Price Undercutting Range
Russia- (Eurochem)	***	***	***	***	10-20
Russia (JSC AZOT)	***	***	***	***	20-30
Russia (Residual)	***	***	***	***	35-45

Georgia	***	***	***	***	20-30
Iran	***	***	***	***	20-30
Indonesia	***	***	***	***	10-20

Price Underselling

57. The Authority notes that the price underselling is an important indicator of assessment of injury. Non injurious price has been worked out and compared with the landed value of the subject goods to arrive at the extent of price underselling. The non-injurious price has been determined considering the cost of production of the domestic industry for the product under consideration during the POI, in accordance with Annexure III of the Anti-dumping Rules. The weighted average NIP and weighted average Landed Value have been worked out and compared. The analysis shows that during the POI the landed value of subject imports were below the non-injurious price of the domestic industry, as can be seen from the table below, demonstrating positive price underselling effect.

Figures in Rs. /MT

Particulars	Landed Value	NIP	Price Underselling	Price Underselling %	Price Underselling Range
Russia (Eurochem)	***	***	***	***	10-20
Russia (JSC Azot)	***	***	***	***	15-25
Russia (All)	***	***	***	***	20-30
Georgia	***	***	***	***	15-25
Iran	***	***	***	***	15-25
Indonesia	***	***	***	***	5-15

Price suppression/depression

58. The Authority examined whether the effect of the dumped imports was to depress the prices of the like article in India, or prevent price increases which would have otherwise occurred.

Particulars	UOM	2012-13	2013-14	2014-15	2015-16
Cost of Sales	Rs./ MT	***	***	***	***
Cost of Sales	Indexed	100	104	128	131
Selling Price	Rs./ MT	***	***	***	***
Selling Price	Indexed	100	111	118	113

59. It is seen that while the cost of production of domestic industry has increased from 100 to 133 from 2012-13 to POI, their selling price increased only from 100 to 113 during the same period. Landed price of the imports increased by 12% over this period. Thus the domestic industry's prices were suppressed on account of dumped imports, as the domestic industry was not able to increase its prices in proportion to increase in its costs.

D. Economic Parameters relating to the Domestic Industry

60 .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.

(i) Capacity, production and capacity utilization

61. Capacity and capacity utilization of the domestic industry over the injury period is given in the following table:-

Particulars	UOM	2012-13	2013-14	2014-15	2015-16
Capacity	MT	4,83,600	4,83,600	4,83,600	4,83,600
Production of subject goods	MT	1,10,209	2,20,693	2,34,748	2,47,479
Production of other goods	MT	1,38,135	1,30,197	96,845	1,01,767
Total Plant Production	MT	2,48,343	3,50,890	3,31,592	3,49,246
Capacity Utilization	%	51%	73%	69%	72%

62. It is seen that production and capacity utilization of the domestic industry has increased over the injury period.

(ii) Sales volume

63. Sales volume of the domestic industry is given in the following table:

Particulars	UOM	2012-13	2013-14	2014-15	2015-16
Sales	MT	1,08,614	2,16,626	2,30,820	2,49,775
Sales	Indexed	100	199	213	230
Demand	MT	3,30,345	2,61,977	3,20,852	4,39,410
Demand	Indexed	100	79	97	133

64. It is seen that the sales volume of the domestic industry has increased over the injury period. However, with the dumping of the product in the POI, the increase in sales was not commensurate with the increase in demand, even when the domestic industry had capacities available with them.

(iii) Profit/Loss

65. The profitability of the domestic industry is given in the following table:

Particulars	UOM	2012-13	2013-14	2014-15	2015-16
Profit/(Loss)	Rs./MT	***	***	***	***
Profit/(Loss)	Indexed	***	***	***	***
Profit/(Loss)	Rs.Lacs	***	***	***	***
Profit/(Loss)	Indexed	***	***	***	***
Return on Capital Employed	%	***	***	***	***
Return on Capital Employed	Range	0-10%	5-15%	Negative	Negative

66. It is seen that profitability of the domestic industry declined significantly over the injury period and the domestic industry suffered significant financial losses in POI and preceding year, which led to negative return on capital employed.

(iv) Cash Flow

67. Authority has examined the trends in cash profits in order to examine the impact of dumping on cash flow situation of the domestic industry. Information regarding cash profit of the domestic industry is given in the following table. It is seen that the performance of the domestic industry deteriorated over the injury period and the domestic industry suffered significant cash losses in POI.

Particulars	UOM	2012-13	2013-14	2014-15	2015-16
Cash Profits	Rs. lacs	***	***	***	***
Cash Profits	Indexed	100	1,086	(1,277)	(2,667)

(v) Inventories

68. Inventories with the domestic industry moved as follows:

Particulars	UOM	2012-13	2013-14	2014-15	2015-16
Average Stock	MT	***	***	***	***
Average Stock	Indexed	100	125	293	223

69. It is seen that average inventories with the domestic industry increased over the period.

(vi) Productivity

70. Authority notes that productivity of the domestic industry, productivity per day as well as per employee increased over the period.

Particulars	UOM	2012-13	2013-14	2014-15	2015-16
Productivity per Day	KG/Day	***	***	***	***
Productivity per employee	KG/Nos	***	***	***	***

(vii) Employment and Wages

71. It is seen from that the employment level first increased upto 2014-15 and then declined during the POI. However, wages paid have increased over the period .

Particulars	UOM	2012-13	2013-14	2014-15	2015-16
Employment	Nos	***	***	***	***
Wages	Rs. Lacs	***	***	***	***
Wages	Indexed	100	142	164	

(viii) Magnitude of Dumping

72. 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 margins determined in respect of the Subject Countries are above de-minimis and significant, except in the case of exports made by M/s Novomoskovskaya (NakAzot), (Producer), through M/s EuroChem Trading GmbH, Switzerland (Exporter).

(ix) Growth

73. The Authority notes that growth of the domestic industry in respect of profit/loss, ROI, cash profits, market share, inventories was negative, whereas the growth was positive as regards production, sales and capacity utilisation.

(x) Ability to raise capital investment

74. Domestic industry contended that the future investment in this sector is marred by the presence of dumped imports from the subject countries. The negative profitability, reduced and negative cash flows and increased losses however, indicate that the ability of the domestic industry to raise capital investment for the sector will be impacted by persistent dumping, if not addressed.

(xi) Factors Affecting Domestic Prices

75. The examination 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, etc shows positive price undercutting and underselling effects. Further, the demand for the subject goods has increased over the injury period. Therefore, it cannot be the cause for the decline in domestic prices. Thus, the principal factor affecting the domestic prices is the landed value of the imports of dumped subject goods from subject countries.

I. Conclusion on injury

76. It is thus seen that performance of the domestic industry has deteriorated over the injury period, as summarized below:

- a. Imports from the subject country have increased not only in absolute terms but also in relation to production and consumption in India.
- b. Imports are significantly undercutting the prices of the domestic industry.
- c. Imports are leading to significant price depression in the market.
- d. Performance of the domestic industry has deteriorated in terms of market share, inventories, profits, cash profits, and return on investment.
- e. While the market share of the domestic industry declined in the POI that of imports increased, despite domestic industry having unutilized capacities, due to increase in imports from subject countries.
- f. The injury margin is significant.

77. Thus, various parameters relating to domestic industry collectively and cumulatively establish that the domestic industry has suffered material injury.

J. Causal Link and Other Factors

78. Having examined the existence of material injury, volume and price effects of dumped imports on the prices of the domestic industry, in terms of its price underselling and price suppression, and depression effects, other indicative parameters listed under the Indian Rules and Agreement on Anti-Dumping have been examined to see whether any other factor, other than the dumped imports could have contributed to injury to the domestic industry. Accordingly, the following parameters have been examined:-

- (i) **Volume and value of imports from countries other than the Subject Countries-** Imports from countries other than the subject countries are not significant in volumes as either de-minimis or at higher prices. Imports from third countries are not causing any injury to the domestic industry.
- (ii) **Contraction of demand or Changes in the pattern of consumption-** The Authority notes that despite increased demand for the subject goods in the country, the domestic industry suffers from unutilized capacity. Moreover, the market has not demonstrated any change in the pattern of consumption as well. Therefore, possible contradiction of demand or changes in the pattern of consumption cannot be construed as the cause for injury to the domestic industry.
- (iii) **Development in Technology-** None of the interested parties have furnished any evidence to demonstrate significant changes in technology that could have caused injury to the domestic industry.
- (iv) **Trade restrictive practices and competition between supply from various sources-** The Authority notes that the subject goods are not subjected to any trade restrictive practices in India. Moreover, apart from the competition that is obvious in any market economy, no inter se competition or competition between supplies from various domestic and international sources exhibit any such impact that could be construed as injurious to the domestic industry.
- (v) **Export performance-** Performance of the domestic industry has been segregated for domestic and export market. Therefore, any possible decline in export performance is not a cause of injury to the domestic industry.

K. Factors establishing causal link:-

79. All Parameters enumerated above clearly establish that injury to the domestic industry has not been caused by the other factors. Under such a situation, petitioner submits that the following parameters establish that the injury to the domestic industry has been caused by the dumped imports.

- i. Imports from the subject countries are being dumped in the domestic market at prices lower than domestic industry
- ii. It is evident from the price undercutting and price suppression that the injury suffered by the petitioning domestic industry is on account of the dumped imports from the subject countries. Although the petitioning domestic industry has tried to align its prices and compete with the cheap imports, it has nevertheless lost out on market share.
- iii. Inability of the domestic industry to increase its prices in proportion to the cost led to significant decline in profitability.
- iv. Decline in profits as a result of price undercutting/underselling led to decline in return on investment and cash profits to such an extent that both became negative in the period of investigation. Deterioration in these parameters is therefore due to dumping from the subject countries.
- v. Market share of the imports increased significantly. As a direct consequence of dumping, the market share of the domestic industry declined.

L. Magnitude of Injury And Injury Margin

80. The non-injurious price of the subject goods produced by the domestic industry determined has been compared with the landed value of the exports from the subject country for determination of injury margin during POI. The injury margin determined are as under:-

S.No	Country	Producer	Exporter	Non Injurious Price Rs/MT	Landed price Rs/MT	Injury Margin Rs/MT	Injury Margin %	Injury Margin Range %
1	Russia	Novomoskovskaya (NakAzot)	EuroChem Trading GmbH, Switzerland through Rawfert Offshore Sel	***	***	***	***	5-15
2	Russia	JSC Azot, Kemerovo	SBU Nitrotrade AG SBU Nitrotrade AG through Dreymoor Fertilizers Overseas PTE Ltd.,	***	***	***	***	15-25

			Singapore					
3	Russia	Any	Any	***	***	***	***	20-30
4	Georgia	Any	Any	***	***	***	***	15-25
5	Indonesia	Any	Any	***	***	***	***	5-15
6	Iran	Any	Any	***	***	***	***	15-25

M. POST DISCLOSURE STATEMENT SUBMISSIONS BY THE INTERESTED PARTIES

M.1 Submissions by Domestic Industry

81. The domestic industry, in its post disclosure submissions has submitted as follows. For the sake of brevity, comments made by the domestic industry, to the extent they are reiterations of the earlier submissions and already dealt with hereinabove, have not been repeated hereunder.

- (i) Certain essential facts, relating to dumping margin, verification of exporters and communications with the exporters have not been disclosed, due to which an effective opportunity to make comments has been denied.
- (ii) The product under consideration and like article has been rightly defined by the Authority.
- (iii) The converters cannot be treated as producers of like article for the reason that (a) such production would not qualify as production of like article, as the product is solidified only for ease of transportation and the product otherwise is ammonium nitrate in melt form, (b) such converters would not qualify as eligible producers within the meaning of Rule 2(b) Anti-Dumping Rules as they are engaged in conversion on job work basis on behalf of the importers. Moreover, even by liberal estimates about the production of these converters, production of such converted Ammonium Nitrate in solid form is quite low and the production of the petitioners shall account for more than 50% even in such a situation.
- (iv) Normal value for Russia is under-estimated. In Russia, the prices of natural gas, which is a major raw material for ammonium nitrate, are regulated by the Government. Therefore, a particular market situation exists in Russia, due to which such prices should not be adopted for calculation of cost of production. The cost of production should be calculated after making necessary adjustments. This is consistent with the views of various investigating authorities across the globe. Furthermore, the exporters

concerned have provided no information, document or evidence which could establish that their consumption prices must be accepted.

- (v) The captive inputs, namely, weak nitric acid, should have been considered at market price for the calculation of non-injurious price. Even if market price is not accepted, the cost of production of the captive inputs must be considered. The normated cost of production of the input cannot be used for this purpose. Annexure III provides for normation of only the cost of the like article, and not that of the cost of production of captive inputs. Thus, the proposed adjustment is beyond what is provided for in Annexure III.
- (vi) The non-injurious price has been determined after valuing captive inputs at their cost of production. Further, actual cost of production of such captive inputs has been ignored and normated cost of production of such captive inputs has been considered.
- (vii) The Authority may specify in the Duty Table that the product under consideration attracts duty, regardless of the customs classification under which the goods are being imported.
- (viii) The complete description of product under consideration and names of the parties, to which individual dumping margin has been allowed, may be clearly specified in the duty notification, to avoid any evasion / avoidance of anti-dumping duty.

M.2 Submissions by exporters and other interested parties

82. Following comments have been made by the exporters and other interested parties, in response to the disclosure statement. For the sake of brevity, comments made by the parties, to the extent they are reiterations of the earlier submissions and already dealt with hereinabove, have not been repeated hereunder.

- (i) The Authority has determined the density of the product, with reference to the understanding of the users / consumers. However, as per the understanding of the users, only ammonium nitrate having density above 0.85 g/cc is high density, whereas the product under consideration has been defined as having density above 0.83 g/cc.
- (ii) The Bureau of Indian Standards, United States Patent and Trademark Office and the investigating authorities in United States and European Union, define high density ammonium nitrate as having density above 0.85 g/cc. This is consistent with the findings of the Authority in the earlier investigations.
- (iii) The Disclosure Statement records that the subject goods are used in India predominantly in the manufacture of explosives; whereas they can be used only in the manufacture of explosives.

- (iv) By stating that “*none of the parties have brought to the notice of the Authority that imports having density equal to or below 0.83 g/cc have been included in the import figures*”, the Authority has shifted the burden of procurement and sorting the import statistics from the petitioners and Authority to the other interested parties.
- (v) Some of the interested parties have submitted Laboratory Certificates to establish that they have imported ammonium nitrate having bulk density below 0.83 g/cc.
- (vi) The Authority has unduly focused on the inability of Ammonium Nitrate Melt to be imported, since it is not necessary that the like article must be imported.
- (vii) Even in the earlier investigations, when the product under consideration was defined as solid ammonium nitrate of a certain bulk density, /s Gujarat Narmada Valley Fertilizers Company Limited and M/s Rashtriya Chemicals and Fertilizers Limited were considered for the purpose of assessment of injury.
- (viii) The Authority has in certain cases, such as in Napthalene, considered different products within the scope of product under consideration.
- (ix) The injury assessment done is flawed. While the domestic market grew by 33%, the imports catered to only an additional 7% of the market. On the other hand, the sales of the domestic industry recorded a growth of 24%.
- (x) Georgia has exported the subject goods to India for the first time in the period of investigation, while the exports from Russia have witnessed a fall during the period.
- (xi) The imports had declined in 2013-14 due to the introduction of Ammonium Nitrate Rules, 2012. The introduction of Rules affected the allocation of demand between imports and domestic production.
- (xii) While the prices of raw material, that is, ammonia has reduced, the cost of sales of the petitioners has increased, which is highly irregular. The suppression of selling prices is attributable to the decline in the prices of raw material.
- (xiii) The capacity utilization of the domestic industry would have been 80%, had the production of the other goods produced by the same plant remained at the same level in the period of investigation as it was in 2012-13.
- (xiv) In view of the positive price undercutting, it should have been impossible for the domestic industry to gain market share.
- (xv) While the imports from the subject country are packaged in jumbo bags of 900-1000 kg, the domestic industry sells goods in bags of 50kg. For comparison at the same level, the Authority must include packaging costs in the landed value of the subject goods.
- (xvi) Price underselling is calculated for determining injury margin, and cannot be treated as an indicator of injury.

- (xvii) The Authority has noted that the ability of the domestic industry to raise capital investment will be impacted by persistent dumping, if not redressed; whereas the Annual Report of M/s Deepak Fertilizers and Petrochemicals Corporation Limited reveals that it is evaluating the feasibility of a new plant at Paradip.
- (xviii) There is no correlation between the volume of imports and the profit / loss of the domestic industry. Even when the landed price of the imports was high, the domestic industry still incurred very high losses.
- (xix) While the net fixed assets have reduced over the injury period, there is a significant increase in depreciation.
- (xx) Since the injury analysis is based on the volume of dumped imports, the undumped imports from M/s Novomoskovskaya (NakAzot) must be excluded from the injury analysis.
- (xxi) The Authority's analysis must go beyond mere iteration of the data of the domestic industry.
- (xxii) There is no causal link between the dumped imports and the injury to the domestic industry. The Authority noted that imports from other countries were negligible during the period of investigation, and hence, did not cause injury to the domestic industry. However, the fall in imports from other countries is mainly due to the reason that certain supplying countries, like Ukraine, were unable to fulfill the requirements of the Ammonium Nitrate Rules, 2012.
- (xxiii) The exporters are using superior technology and natural gas as major input. The domestic industry is facing injury due to the inefficient production technology used.
- (xxiv) PT Kaltim Nitrate, Indonesia had submitted its questionnaire response in September, 2016, post which no deficiency letter was issued by the Authority. In addition to the hard copy of the response, electronic copy was sent through email on October 14, 2016. Thus, a blanket rejection of the submissions made by them is unwarranted.
- (xxv) Evidence was submitted by PT Kaltim Nitrate, Indonesia and by the importers in India, to corroborate that the goods exported by the former have density less than 0.83 g/cc.
- (xxvi) M/s Joint Stock Company United Chemical Company Uralchem, exported the subject goods to India through M/s SIA Uralchem Trading, Latvia, who in turn exported the goods through another exporter / trader namely M/s Sultera Group DMCC, Dubai, UAE, who again in turn exported the goods through another exporter / trader namely, M/s Cosmoss Vu Limited, Hong Kong. Although the ultimate exporter / trader has not filed a response to the Exporter Questionnaire, the invoices and bills of entry were provided as evidence. The price at which the subject goods were cleared by Chinese Customs Authorities should be treated as the export price, in keeping with the provisions of Section 9A(b). Moreover, the law does not require that the

value chain must be established. In case the export price is found to be unreliable due to association or compensatory arrangement between exporter, importer or third party, the export price must be construed as the price at which the goods are first sold to an independent buyer, whether located in India or outside India. There is no requirement that the independent buyer must be situated in India. Thus, in case of sales through unrelated trader namely M/s Cosmoss Vu Limited, Hong Kong, to these unrelated entities and goods have been cleared through the Customs territory of Russia. The goods have been sold first to an independent buyer either in India or in Singapore and the same should form basis of calculating Export Price to India. In this context, the practice of the investigating authorities in European Union and the United States was relied upon. Rejection of the export price, is not in consonance with the provisions of Annexure – II of the Anti Dumping Agreement, as well as the past practice of the Authority.

- (xxvii) Although the trader Rawfert has not filed a response, an individual dumping margin has been allowed to M/s Novomoskovskaya (NakAzot), who have exported to India through EuroChem Trading GmbH, Switzerland through Rawfert. However, in case of M/s Uralchem, who has exported the subject goods through M/s SIA Uralchem Trading, Latvia, who in turn has exported the goods through Cosmoss VU Limited, Hong Kong, no individual dumping margin has been allowed on the basis that Cosmoss VU Limited, Hong Kong, has not filed a response.
- (xxviii) In case of M/s JSC Azot, who have exported the goods through M/s SBU Nitrotrade AG, different dumping margin must be calculated for the exports made to India directly and those made through M/s Drey Moor Fertilizers Overseas Pte Limited. Likewise, the injury margin should be separately determined for exports made by SBU-Nitrotrade AG has directly, and those made through M/s Drey Moor Fertilizers Overseas Pte Limited.
- (xxix) Authority may categorically mention that the Final Findings that M/s JSC Azot has exported the product under consideration to India through its related trading company SBU-Nitrotrade AG. SBU-Nitrotrade AG has exported the products to India directly as well as through an unrelated trader, that is, M/s Drey Moor Fertilizers Overseas Pte Limited. Further, the full name of the producer / exporter may be mentioned in the dumping margin, injury margin and duty table.
- (xxx) For determining normal value and export price for goods produced by M/s JSC Azot, the comparison of domestic and export price should be made at the same level of trade, that is, price to domestic consumer and price to Indian consumer must be compared. The price to intermediate trader, that is, M/s Drey Moor Fertilizers Overseas Pte Limited, would always be lower than price to the end consumer.

- (xxxi) Benefit of individual dumping margin and injury margin must be extended only to the channel, on which information has been verified by the Authority.
- (xxxii) M/s Rustavi Azot, Georgia was unable to offer their data for verification due to the procedures of the national bankruptcy laws of Georgia. Apart from the verification, they have fully cooperated with and provided all available information to the Authority.
- (xxxiii) Landed value of imports from Georgia is higher than that of imports from Iran. Accordingly, the injury margin and the dumping margin for Georgia should be lower than that for Iran. However, as per the Disclosure Statement, the dumping margin for Georgia is higher than that of Iran; while the range of injury margin for both the countries is the same.
- (xxxiv) The Essential Facts considered under the Investigation lack sufficient grounds for applying the methodology of establishing a fair value in the meaning of Art.2.2 of the Anti-Dumping Agreement. Application of this methodology with respect to imports of Russian manufacturers is contrary to the WTO rules and regulations
- (xxxv) In violation of Art 3 of the Anti-Dumping Agreement, the materials of the investigation have no evidence of injury to the domestic industry sector, no detailed and convincing explanation of how positive trends in the national industry sector of India can be outweighed by individual trends in terms of other indicators. In addition, there is no evidence of a causal link between the alleged injury to the domestic industry sector and the Goods from the countries under investigation.
- (xxxvi) The Authority would kindly recall that EuroChem Group had fully participated in the investigation through its two producers namely Novomoskovskaya (NAK Azot) and Nevinnomyssky Azot (Nevinka) and its trading entity EuroChem Trading GMBH, Switzerland (Zug) (Exporter). The Authority would appreciate that although goods produced by Nevinnomyssky Azot were not shipped to India, they are entitled to the same individual dumping and injury margin as Novomoskovskaya (NAK Azot). It may kindly be appreciated that if the individual treatment is restricted only to the entity which has exported the subject goods to India during the period of investigation, then the other group companies will neither be able to export their goods at the same rate nor would they be entitled to new shipper review in terms of Rule 22.
- (xxxvii) It may be recalled that during the period of investigation Zug had sold the subject goods to India through an unrelated exporter namely Rawfert, who had also provided its complete information during the proceedings. Since Rawfert is also a trader, which is not the part of export chain of EuroChem, the Authority may kindly appreciate that EuroChem Group normally exports the subject goods through Zug only.

M.3 Examination by the Authority

- 83.** The Authority notes that most of the submissions are repetitive in nature and were already examined suitably, adequately and appropriately addressed earlier in the disclosure statement. The findings above ipso facto deals with these arguments of the interested parties. Further, the authority has examined submissions of interested parties herein below:
- (i) With regard to the concern raised by the interested parties concerning disclosure of essential facts, it is noted that all relevant information which are not confidential to the concerned applicant, have been disclosed and appropriately been addressed at relevant paras in these findings.
 - (ii) Authority has well followed Rule 16 of Custom Tariff Rules, 1995 and issued the disclosure of essential facts in the present matter. All the relevant submissions made by the interested parties are taken into consideration and they were given sufficient time to present facts before the Authority.
 - (iii) With regard to the contention that the prices of natural gas in Russia should not be accepted, it is noted that the cost of production has been determined on the basis of the actual books of accounts of the producers, and the same is appropriate for evaluating whether the sales in domestic market have been made in the ordinary course of trade.
 - (iv) As regards considering captive inputs at market price, it is to state that in terms of Annexure II of Anti-Dumping Rules, the transfer price of captive inputs is considered at cost price or market price for the determination of NIP, depending upon its treatment in books of accounts on consistent basis. In this case, the company has treated the transfer price of captive Nitric Acid at cost of production in its books, therefore, the contention of domestic industry is not tenable.
 - (v) The claim of the users that high density ammonium nitrate is understood as having density above 0.85 g/cc is irrelevant to the present investigations. The scope of the product under consideration in the present case is not "high density ammonium nitrite". The scope of the product under consideration in the present case is ammonium nitrite having a density above 0.83 g/cc. As regards various Indian and international standards defining high density ammonium nitrate, the Authority notes that the product under consideration in the present case is not high density ammonium nitrate. It is ammonium nitrate having density above 0.83 g/cc. Therefore, the standards laid down for high density ammonium nitrate are not relevant for the present purposes.
 - (vi) As regards the standing, Authority notes that production of the petitioners satisfies the requirement of standing laid down under the law. Since the petitioners themselves satisfy the requirement of standing for the purpose of initiation, it is not mandatory for the Authority to seek the status of other domestic producers. The Authority after examining the information on record and submissions made by petitioners and various interested parties has

determined that the petitioner companies constitute domestic industry within the meaning of the Rule 2(b) and the petition satisfies the criteria of standing in terms of Anti-Dumping Rules.

- (vii) While the burden of procurement and sorting the import statistics does not rest on the exporters or importers, the exporters could have, with appropriate evidence, rebutted the claims of the domestic industry, with regard to the imports having density above 0.83 g/cc. It is these exporters who have exported the product in Indian market and the importers who have imported the product in Indian market and therefore both these set of entities are very well aware of the product imported in India during the relevant period. However, no such quantified claim has been established by either the exporters or importers.
- (viii) Ammonium Nitrate Melt cannot be treated as like article to the product under consideration for the purposes of the present investigations, for the reasons explained in relevant para in the present findings. When an article most closely resembling the imported product is available, there is no cause to consider another article in the scope of like article. Since ammonium nitrate in melt form cannot be treated as like article, there is no rationale for including the producers thereof within the scope of domestic industry. In any case, none of the importers/users have brought any quantified verifiable claim on record to establish that the petitioners lose their standing if production of Ammonium Nitrate Melt is considered.
- (ix) The reliance on the case of Napthalene is inappropriate. The product under consideration is required to be defined by the Authority, having regard to the product being dumped in India. Further, once the product under consideration has been defined, like article must be determined as the product which is identical to the product under consideration, or in the absence thereof, to the most closely resembling product. Different products cannot be included within the scope of like article.
- (x) In the context of volume effect, the Authority is required to consider whether there has been a significant increase in the dumped imports, either in absolute terms or relative to production or consumption in India. It is observed that the increase in the market share of the domestic industry is on account of the reduction in share of the other countries and is relevant under para (iv) of Annexure-II and not for para (ii) of Annexure-II. The share of the imports from subject countries has increased over the injury period. Moreover, the share of imports from subject countries in relation to the market demand / consumption has also increased over the period. In keeping with the provisions of Annexure-II, dumped imports have increased both in absolute terms and in relation to consumption in India.
- (xi) With regard to the price effect, it is clear from the data relating to the domestic industry and imports that the imports are significantly undercutting the prices of the domestic industry. Moreover, the prices of the domestic

industry have been suppressed due to the imports. There is an inverse correlation between the profitability of the domestic industry and the imports from the subject countries. As the imports from subject countries increased, the losses suffered by the domestic industry also increased.

- (xii) Since the injury analysis has been done on a cumulative basis, in keeping with the requirements of Annexure-II of the Anti-Dumping Rules, the trend of imports from individual subject countries becomes irrelevant for the purpose. It has been contended that price underselling cannot be treated as an indicator of injury. The Authority considers that in a fresh investigation, injury margin is one of the parameters to show injury to the domestic industry.
- (xiii) To determine the injury margin has suffered injury duty the dumped imports, rules do not required that each and every parameter specified at para (iv) of Annexure –II must show a deterioration or decline. The Authority is required to consider all parameters collectively and cumulatively and thereafter come to conclusion.
- (xiv) As regards the alleged difference in technology, the Authority notes that the Rule require consideration of possible developments in technology. Difference in technology does not mean that the deterioration in performance of the domestic industry is due to the alleged difference in technology.
- (xv) As regards the concerned raised for determination of separate dumping and injury margin, authority notes that the verified data of both the traders and exporters have been considered for determination of landed value and net export price and weighted average dumping and injury margin have been arrived. Accordingly, the anti-dumping duty has been proposed wherever the entire channel has responded and filed the data relevant for the investigation. Where the goods produced by a foreign producer are exported through different channels, a separate dumping margin may not be desirable for each export channel. This is consistent with the past practice of the Authority.
- (xvi) In case of M/s Joint Stock Company United Chemical Company Uralchem, the ultimate exporter / trader, that is, M/s Cosmoss Vu Limited, Hong Kong did not file a response to the exporter questionnaire. Accordingly, the producer and exporter have been treated as non-cooperative.
- (xvii) Some interested parties have contended that Rawfert has not filed a response to the exporter questionnaire. It is however clarified that Rawfert has filed a questionnaire response and the same has been considered by the Authority for the purpose of the present findings.
- (xviii) Some interested parties have contended that the domestic industry has claimed excessive confidentiality. It is clarified that the domestic industry has provided all the information and the same has been adequately and appropriately considered and addressed in the present findings as per Rule 7 of AD Rules. Since some of the information constitutes business sensitive

confidential information of the domestic industry, the authority is not bound to disclose such information to the other interested parties.

- (xix) As regards the request for determination of individual dumping margin for the cooperative exporters Novomoskovskaya (Producer) Russia, it is noted since they did not export the product under consideration during the period of investigation, the individual dumping margin could not be assessed in absence of export price. It is also not desirable to consider their request to have the same dumping margin which has been assessed for the related producer Nevinnomyssky Azot (Producer).
- (xx) As regards submissions by Rustavi Azot, Georgia, an individual dumping margin cannot be determined unless the Authority has fully satisfied itself with regard to the accuracy and adequacy of the data / information. Since the exporter was unable to offer its complete data for verification, the Authority is unable to determine individual dumping margin and treated them non-cooperative.
- (xxi) As regards the difference in dumping margin and injury margin between Georgia and Iran, the Authority notes that these are dependent on the normal value, export price and non-injurious price. It would therefore not be appropriate to compare dumping margin and injury margin for the two countries, considering that the normal value and export price may be different which has been determined based on the verified data.

CONCLUSIONS

84. After examining the issues raised and submissions made view expressed in oral hearing, by the interested parties and facts made available before the Authority as recorded in this finding, the Authority concludes that:

- i. The product under consideration has been exported to India from Iran below its normal value, resulting in dumping.
- ii. The domestic industry has suffered material injury due to dumping of the product under consideration from the subject countries.
- iii. The material injury has been caused by the dumped imports from the subject countries.

N. Indian Industry's Interest & Other Issues:

85. 70. The Authority recognizes that the imposition of anti-dumping duties might affect the price levels of the product in India. However, fair competition in the Indian market will not be reduced by the imposition of anti-dumping measures. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by dumping practices, prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods. The

purpose of anti-dumping duties, in general, is to eliminate injury caused to the Domestic Industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping duties, therefore, would not affect the availability of the product to the consumers. The Authority notes that the imposition of the anti-dumping measures would not restrict imports from subject countries in any manner and, therefore, would not affect the availability of the product to the consumers. The consumers could still maintain multiple sources of supply.

O. Recommendation

86. After examining the submissions made by the interested parties and issues raised therein; and considering the facts available on record, the Authority concludes that:

- i. The product under consideration has been exported to India from subject countries below their normal values.
- ii. The domestic industry has suffered material injury.
- iii. Material injury has been caused by the dumped imports of subject goods from subject countries.

87. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the domestic industry, exporters, importers and other interested parties to provide positive information on the aspects of dumping, injury and the causal link. Having initiated and conducted investigation into dumping, injury and the causal link thereof in terms of the AD Rules and having 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 definitive anti-dumping duty is required to offset dumping and consequent injury. Therefore, the Authority considers it necessary to recommend imposition of definitive anti-dumping duty on imports of the subject goods from subject countries in the form and manner described hereunder.

88. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of definitive 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, definitive antidumping 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 subject countries.

Duty Table

S. No	Sub-Heading	Description of Goods	Country of Origin	Country of Exports	Producer	Exporter	Duty Amount	Unit
1.	3102	Ammonium Nitrate Having density above 0.83 g/cc*	Russia	Switzerland	Novomoskovskaya (NakAzot)	EuroChem Trading GMBH Through Rawfert Offshore Sal	NIL	USD/MT
2.	-do-	-do-	Russia	Russia	JSC Azot, Kemerovo	SBU-Nitrotrade AG	11.42	USD/MT
3.	-do-	-do-	Russia	Singapore	JSC Azot, Kemerovo	SBU-Nitrotrade AG Through Drey Moor Fertilizers Overseas Pte Ltd	11.42	USD/MT
4.	-do-	-do-	Russia	Russia	Any	Any	25.00	USD/MT
5.	-do-	-do-	Russia	Any country other than the subject countries	Any	Any	25.00	USD/MT
6.	-do-	-do-	Any country other than the subject countries	Russia	Any	Any	25.00	USD/MT
7.	-do-	-do-	Georgia	Georgia	Any	Any	53.99	USD/MT
8.	-do-	-do-	Georgia	Any country other than the subject countries	Any	Any	53.99	USD/MT

9.	-do-	-do-	Any country other than the subject countries	Georgia	Any	Any	53.99	USD/MT
10.	-do-	-do-	Iran	Iran	Any	Any	60.35	USD/MT
11.	-do-	-do-	Iran	Any country other than the subject countries	Any	Any	60.35	USD/MT
12.	-do-	-do-	Any country other than the subject countries	Iran	Any	Any	60.35	USD/MT
13.	-do-	-do-	Indonesia	Indonesia	Any	Any	26.07	USD/MT
14.	-do-	-do-	Indonesia	Any country other than the subject countries	Any	Any	26.07	USD/MT
15.	-do-	-do-	Any country other than the subject countries	Indonesia	Any	Any	26.07	USD/MT

**Ammonium nitrate” whether prilled, granular, or in other solid form, with or without additives or coating, and having bulk density in excess of 0.83 g/cc, classified under chapter 31 of Customs Tariff Act, 1975 under the sub-heading 3102 30 00.*

89. Landed value of imports for the purpose of this Notification shall be the assessable value as determined by the Customs under the Customs Act, 1962 (52 of 1962) and includes all duties of customs except duties under sections 3, 3A, 8B, 9 and 9A of the said Act.

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

(Inder Jit Singh)

Additional Secretary & Designated Authority