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F. No. 7/11/2021-DGTR

Government of India Department of Commerce

Ministry of Commerce & Industry

(Directorate General of Trade Remedies)

4th Floor, Jeevan Tara Building,

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Dated: 10th June, 2022

FINAL FINDINGS

(Case No. ADD(SSR)-11/2021)

Subject: Sunset review of anti-dumping duty imposed on imports of “Ammonium Nitrate” originating in or exported from Russia, Georgia and Iran.

F. No. 7/11/2021-DGTR: - Having regard to the Customs Tariff Act, 1975 as amended from time to time (hereinafter referred to as “the Act”) and the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 thereof, as amended from time to time (hereinafter referred to as the “Anti-Dumping Rules” or the “Rules”) thereof;

A. BACKGROUND OF THE CASE

1. M/s Smartchem Technologies Limited (hereinafter also referred to as ‘applicant’ or ‘domestic industry’) has filed an application before the Designated Authority (hereinafter referred to as “Authority”) with request to initiate the sunset review investigation of anti-dumping duty imposed on the imports of Ammonium Nitrate, (hereinafter also referred to as ‘subject goods’ or ‘product under consideration’) originating in or exported from Russia, Georgia and Iran (hereinafter referred to as ‘subject countries’).
2. The original investigation was initiated on 5th August, 2016 to examine the nature and the extent of dumping and its injurious effect on the domestic industry with respect to Ammonium Nitrate originating in or exported from Georgia, Indonesia, Iran and Russia. The Authority, vide its Final Findings No. 14/1/2016-DGAD, dated 1st August, 2017, recommended imposition of anti-dumping duties on Georgia, Indonesia, Iran and Russia, which were given effect vide Customs Notification No. 44/2017 – Customs (ADD), dated 12th September, 2017 for a period of five years. The said duties, if not extended, will expire on 11th September, 2022.

3. In terms of Section 9A (5) of the Act, anti-dumping duties imposed shall, unless revoked earlier, cease to have effect on expiry of five years from the date of such imposition and the Authority is required to review, whether the expiry of anti-dumping duties is likely to lead to continuation or recurrence of dumping and injury. Further, Rule 23 (1B) of the Rules provides as follows:

“any definitive antidumping duty levied under the Act, shall be effective for a period not exceeding five years from the date of its imposition, unless the designated authority comes to a conclusion, on a review initiated before that period on its own initiative or upon a duly substantiated request made by or on behalf of the domestic industry, within a reasonable period of time prior to the expiry of that period, that the expiry of the said anti-dumping duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry.”

4. In accordance with the above, the Authority is required to review, on the basis of a duly substantiated request made by or on behalf of the domestic industry, as to whether the expiry of anti-dumping duties is likely to lead to continuation or recurrence of dumping and injury.
5. The applicant filed an application dated 29th April, 2021, requesting initiation of the sunset review of anti-dumping duties imposed earlier and seeking continuation of anti-dumping duties against imports of Ammonium Nitrate from Georgia, Indonesia, Iran and Russia. The request was based on the grounds that the expiry of the measure was likely to result in continuation of dumping of the product under consideration and consequent injury to the domestic industry.
6. In view of the duly substantiated application with prima facie evidence of the likelihood of dumping and injury filed on behalf of the domestic industry and in accordance with Section 9A(5) of the Act, read with Rule 23 of the Rules, the Authority initiated the sunset review investigation vide Notification No. 7/11/2021 – DGTR, dated 11th June, 2021 to review the need for continued imposition of anti-dumping duties in respect of the subject goods, originating in or exported from Georgia, Iran and Russia and to examine whether the expiry of the said anti-dumping duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry. In respect of Indonesia, the Authority noted that there were neither any imports of the product under consideration from Indonesia during 2018-19, 2019-20 and the period of investigation, nor there was any prima facie evidence of likelihood of dumping and injury to the domestic industry in case of expiry of the current anti-dumping duty in force.

B. PROCEDURE

7. The scope of the present review covers all aspects of the Final Findings No. 14/1/2016-DGAD, dated 1st August, 2017, by which imposition of anti-dumping duties on imports

of product under consideration originating in or exported from the subject countries had been recommended.

8. The procedure described herein below has been followed in the present investigation:
 - i. The Authority vide Notification No. 7/11/2021-DGTR, dated 11th June, 2021, published a public notice in the Gazette of India, Extraordinary, initiating sunset review investigation against imports of the subject goods from the subject countries.
 - ii. A copy of the public notice was forwarded by the Authority to the Embassies of the subject countries in India, known producers and exporters from the subject countries, known importers and other interested parties, to inform them of the initiation of the subject investigation in accordance with Rule 6(2) of the Rules.
 - iii. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters, and to the Governments of the subject countries, through their Embassies, and to the other interested parties who made a request therefore in writing in accordance with Rule 6(3) of the Rules supra. A copy of the non-confidential version of the application was also made available in the public file and provided to the other interested parties, wherever requested.
 - iv. The Authority forwarded a copy of the public notice initiating the sunset review investigation to the known producers / exporters in the subject countries, and the other interested parties and provided them an opportunity to file response to the questionnaire in the form and manner prescribed within the time limit as prescribed in the initiation notification or extended time limit, and make their views known in writing in accordance with the Rule 6(4) of the Rules.
 - v. The Authority forwarded copies of the Notification to the following known producers/ exporters:
 - a. Rustavi Azot LLC, Georgia
 - b. Shiraz Petrochemical Company, Iran
 - c. Eurochem Group, Russia
 - d. JSC Acron (Novgorod), Russia
 - e. Phosagro – Cherepovets, Russia
 - f. Uralchem group – MFP KCCW, Russia
 - g. Uralchem group– JSC Azot (Berezniki), Russia
 - vi. The Government of the subject countries, through their Embassies in India were 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 known producers/exporters was also sent to the Embassies of the subject countries along with the details of the known producers/ exporters from the respective subject countries.
 - vii. The following producers/exporters from the subject countries filed a response to the exporters’ questionnaire:
 - a. Azot, JSC (Novomoskovsk)
 - b. Cistech International Pte. Ltd.

- c. Dreyamoor Fertilizers Overseas Pte Ltd, Singapore
 - d. EuroChem Trading GmbH
 - e. EuroChem Trading RUS, LLC
 - f. JSC Azot, Kemerovo
 - g. JSC Nevinnomyssky Azot Nevinnomyssk
 - h. Rawfert Offshore SAL
 - i. Rhino Rock Limited
 - j. SBU Nitrotrade AG
- viii. The Authority forwarded a copy of the Notification to the known importers/ users of the subject goods in India calling for necessary information, in accordance with Rule 6(4) of the Rules.
- a. AKS Expo-chem Private Limited
 - b. Ambals Explosives Private Limited
 - c. AP Explosives Private Limited
 - d. Aravali Explosive Chemicals
 - e. Beezaasan Explotech Private Limited
 - f. Bharat Explosives Limited
 - g. Black Diamond Explosives Private Limited
 - h. Blastec India Private Limited
 - i. Boom Buying Private Limited
 - j. Canpex Chemicals Private Limited
 - k. CDET Explosive Industries Private Limited
 - l. Dishman Pharmaceuticals & Chemicals Limited
 - m. GOCL Corporation Limited
 - n. Gouthami Explosives Private Limited
 - o. Gujarat Narmada Valley Fertilizers and Chemicals Limited
 - p. Ideal Industrial Explosives
 - q. IDL Industries Limited
 - r. Indian Explosives Limited (Orica)
 - s. Indian Oil Corporation Limited
 - t. Indo Gulf Industries Limited
 - u. Intrachem Company
 - v. Kakatiya Chemicals Private Limited
 - w. Karolinska Industries
 - x. Keltech Energies Limited
 - y. Labdhi Chemicals Industries
 - z. LS Chemicals & Pharmaceuticals
 - aa. Mahanadi Metals Chemicals Private Limited
 - bb. Merck Life Science Private Limited
 - cc. Molychem
 - dd. Nallabolu Industries Private Limited
 - ee. Orissa Explosives Limited
 - ff. Peri Nitrates Private Limited

- gg. Prasad Explosives & Chemicals
- hh. Premier Explosives Limited
- ii. Raja Explosives Private Limited
- jj. Rajasthan Explosive Chemicals Limited
- kk. Regenesi Industries Private Limited
- ll. Salvo Explosives and Chemicals Private Limited
- mm. Sasan Power Limited
- nn. SBL Energy Limited
- oo. Sigma Aldrich Chemicals Private Limited
- pp. Sivasakthi Industrial Explosives Private Limited
- qq. Solar Industries India Limited
- rr. Special Blast Limited
- ss. Sri Amman Chemicals Private Limited
- tt. Sri Krishna Explosives Accessories Company
- uu. Sri Vishnu Explosives Private Limited
- vv. Standard Chemical Corporation
- ww. Thakker International
- xx. The Singareni Collieries Company Limited
- yy. Totem International Limited
- zz. Vetrivel Explosives Private Limited
- aaa. Visu Chemicals
- bbb. Wagesh Energy Equipments Private Limited
- ix. The following importers / users have filed a response to the importer questionnaire:
 - a. Black Diamond Explosives Private Limited
 - b. IDL Explosives Limited
 - c. Solar Industries Limited
 - d. Special Blasts Limited
 - e. Indian Explosives Private Limited
- x. The following interested parties have filed submissions in response to the initiation notification:
 - a. Black Diamond Explosives Private Limited
 - b. Explosives Manufacturers Welfare Association
 - c. Ideal Industries Explosives Limited
 - d. IDL Explosives Limited
 - e. Regenesi Industries Private Limited
 - f. Solar Industries Limited
- xi. The period of investigation (POI) for the purpose of the present investigation is 1st January 2020 to 31st December 2020 (12 months). The injury analysis period covers 1st April 2017 – 31st March 2018, 1st April 2018 – 31st March 2019, 1st April 2019 – 31st March 2020 and the period of investigation.
- xii. Transaction-wise import data for the period of investigation and the preceding three years was procured from the Directorate General of Commercial Intelligence and Statistics (DGCI&S). The Authority also notes that the volume of imports from

Russia as reported in the DGCI&S data are much less than the volume of exports as per the Russian Customs data as well as the data submitted by the participating producers/exporters. Therefore, the Authority has relied upon the Russian Customs data calculating the volume and value of imports of the product under consideration in India for Russia and data of DGCI&S for other subject-countries.

- xiii. Further information was sought from the applicant to the extent deemed necessary. Verification of the data provided by the domestic industry was conducted to the extent considered necessary for the purpose of present investigation.
- xiv. The non-injurious price has been determined based on the optimum cost of production and cost to make & sell the subject goods in India as per information furnished by the domestic industry and in accordance with Generally Accepted Accounting Principles (GAAP) and Annexure III to the Rules. Such non-injurious price has been considered to ascertain whether anti-dumping duty lower than dumping margin would be sufficient to remove the injury to the domestic industry.
- xv. A list of all the interested parties was uploaded on DGTR's website along with the request therein to email non-confidential version of their submissions to all other interested parties since the public file was not accessible physically due to the ongoing global pandemic.
- xvi. In accordance with Rule 6(6) of the Rules, the Authority provided opportunity to the interested parties to present their views orally in a public hearing held on 29th November 2021 through video conferencing. The parties, which presented their views in the oral hearing, were requested to file written submissions of the views expressed orally, followed by rejoinder submissions.
- xvii. The submissions made by the interested parties, arguments raised and information provided by the various interested parties during the course of investigation, to the extent the same are supported with evidence and considered relevant to the present investigation, have been appropriately considered by the Authority in the final findings.
- xviii. A disclosure statement containing essential facts in the investigation which have formed the basis of the final findings was issued to the interested parties on 7th June, 2022. In accordance with the provisions of Rule 23 read with Rule 17, the Authority sought extension of the period of investigation by six months from the Central Government vide letter dated 20th May, 2022. However, vide letter dated 6th June, 2022, the Central Government has not granted extension. As a result of such exigencies, the Authority had been constrained to allow a limited time to the interested parties for filing comments on the disclosure statement, since the investigation would become time barred on 10th June, 2022. The comments on the disclosure statement received from the interested parties have been considered, to the extent found relevant in the final findings.
- xix. The Authority, during the course of investigation, satisfied itself as to the accuracy of the information supplied by the interested parties, which forms the basis of this final findings to the extent possible and verified the data/ documents submitted by the domestic industry to the extent considered relevant, practicable and necessary.

- xx. The information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claims. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted, and such information has been considered as confidential and not disclosed to the 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
- xxi. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of investigation, or has significantly impeded the investigation, the Authority considered such interested parties as non-cooperative and recorded this final findings notification on the basis of the facts available
- xxii. *** in this final findings notification represents information furnished by an interested party on confidential basis, and so considered by the Authority under the Rules.
- xxiii. The exchange rate adopted by the Authority for the subject investigation is US\$ 1= Rs. **74.99**.

C. SCOPE OF PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

9. At the stage of initiation, the product under consideration was defined as under:

“4. The product under consideration (PUC) in this investigation is same as that in the earlier investigation, that 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.”

C.1. Submissions by the other interested parties

10. The following submissions have been made by the other interested parties with regard to the scope of product under consideration and like article.
- a. Ammonium nitrate (hereinafter also referred to as “AN”) in all forms and all densities should be included in the scope of like product as melt and solid are only different forms of Ammonium Nitrate and all forms are used interchangeably. AN melt is produced and converted into solid form. There is no technical or commercial difference between AN melt and AN in other solid forms.
 - b. The scope of the product as determined in the original investigation was not appropriate, and must be revisited in the sunset review.
 - c. There is no basis to put bulk density to describe the product, as all densities can be interchangeably used. LDAN and HDAN are matter of level of concentration only and have no technical differentiation.
 - d. In the investigation conducted in 2003, the Authority included all forms of Ammonium Nitrate within the scope of the product under consideration in the

preliminary findings. However, in the final findings, the Authority took a different view without reference to any technical literature. The European Commission in its Regulation (EU) No. 2020/2100 has also held that both types of AN have the same technical and chemical characteristics, are easily interchangeable.

- e. The applicant has the capability to manufacture Ammonium Nitrate only up to the bulk density of 0.87 g/cc. The Authority has, in a number of investigations such as high-speed steel, plain medium density fibre board, viscose filament yarn, etc., restricted the scope of the product under consideration to the extent domestic industry was producing the same.

C.2. Submissions by the domestic industry

11. The following submissions have been made by the domestic industry with regard to the scope of product under consideration or like article.
 - a. The present investigation being a sunset review investigation, the scope of the product under consideration is the same as was defined in the original investigation.
 - b. Ammonium Nitrate in melt form is not a commercial substitute for the product under consideration as it involves higher transportation and storage costs and cannot be transported over longer distances.
 - c. Ammonium Nitrate in melt form is not being imported into India.
 - d. The domestic industry is producing identical article in the form of solid, and hence, Ammonium Nitrate in melt form cannot be considered a like article.
 - e. Ammonium Nitrate in melt form can neither be included in the scope of product under consideration or like article as held by the Hon'ble CESTAT in the case of ~~in~~ Solar Industries Limited V. Union of India.
 - f. The users have themselves admitted that Ammonium Nitrate in melt form is not like article in the previous investigation and are therefore contradicting their own claim.
 - g. The other interested parties have relied upon the preliminary findings of the Authority, wherein they have themselves argued for the exclusion of AN melt and LDAN. The Authority accepted these arguments in the final findings.
 - h. The Authority has already held in the previous investigation that the applicant has produced Ammonium Nitrate having density above 0.83 g/cc and as high as 0.94 g/cc.
 - i. The subject goods produced by the domestic industry are like article to the product under consideration imported from the subject countries.

C.3. Examination by the Authority

12. 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.

13. The present investigation being a sunset review investigation, the scope of the product under consideration remains the same as that in the original investigation. In the original investigation, the product under consideration was defined as follows:

“(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.”

14. The product under consideration is classified under Chapter 31 of the Customs Tariff Act, 1975 (51 of 1975) under the tariff heading 3102 3000. The customs classification is indicative only and is not binding on the scope of product under consideration.

15. With regard to the inclusion of Ammonium Nitrate in melt form in the scope of the product under consideration, the Authority notes that the said issue has already been decided by the Hon’ble CESTAT in the case of Solar Industries Limited V. Union of India. The Hon’ble Tribunal, after examining all the facts, came to a conclusion that since there are no imports of Ammonium Nitrate in melt form and the domestic industry is producing Ammonium Nitrate in solid form having density above 0.83 g/cc, it is inappropriate to consider another article as like article to the imported product under consideration.

“We have heard all the sides and perused the appeal records. We take up the appeals filed by the Indian importer / user of the subject goods. First of all, we note that the status and nature of goods manufactured in Indonesia is not clearly coming

out from the information submitted by the interested party of the said subject country. In fact, there is no grievance or appeal by the Indonesian exporter. The point raised by the Indian importer without having a categorical assertion on the correct factual position of nature of goods manufactured in Indonesia cannot be considered. In any case, we note that the DA categorically recorded that the interested parties themselves have contended that Ammonium Nitrate cannot be imported in melt form. 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. It is recorded that only in a situation where there was no production of solid Ammonium Nitrate in the country, Ammonium Nitrate melt could be considered as like article to the imported product. With reference to claim of the appellant that Ammonium Nitrate solids converted out of Ammonium Nitrate melt it is seen that none of the interested parties provided any verifiable evidence of such production of solid Ammonium Nitrate from melt. Apparently, the DA was not in a position to take such solid Ammonium Nitrate on part of the DI. Regarding the claim of PT Kaltim Nitrate, Indonesia, we note that they did not file exporters questionnaire response and merely submitted certain arguments. There is no verifiable information with regard to the AD/51864 of 2017 8 goods exported by the company. The DA treated PT Kaltim Nitrate, Indonesia as non-cooperative in view of incomplete exporter response filed by them.

16. The Tribunal has further noted that in case there was no production of identical article, that is, Ammonium Nitrate in the solid form in the country, only then the article which is not alike in all respects and having characteristics closely resembling those of the articles under investigation, that is, Ammonium Nitrate in the melt form, could be considered as like article. The Special Leave Petition filed against the order of the Tribunal has also been dismissed vide order dated 6th August 2018. In view of the settled position, the scope of product under consideration cannot be modified in the present sunset review. Therefore, the scope of product under consideration in the present investigation is the same as that in the previous investigation, in that, Ammonium Nitrate in melt form is excluded from the scope of product under consideration.
17. Some of the interested parties have contended that the Low-Density Ammonium Nitrate should be included within the scope of product under consideration. The Authority notes that the scope of product under consideration cannot be enlarged at the stage of sunset review. Moreover, the interested parties have not substantiated that Low Density Ammonium Nitrate produced by the domestic industry is like article to the product under consideration imported from the subject countries. Low Density Ammonium Nitrate is a separate product as compared to the product under consideration in terms of usage, density, price as well as properties. Low Density Ammonium Nitrate is commercially known as Explosive or Industrial Ammonium Nitrate. Due to the oil absorption and retention capacity of Low-Density Ammonium Nitrate, it is detonable and dangerous to

use. The product under consideration, on the other hand, is known as Fertilizer Grade Ammonium Nitrate or Technical Grade Ammonium Nitrate. Since the product under consideration is less porous, with less oil absorption, it is safer to use. The international prices of both Low-Density Ammonium Nitrate and product under consideration are quite different. Since Low Density Ammonium Nitrate is a different product, it cannot be included in the scope of the product under consideration for the purpose of the present investigation.

18. Some of the interested parties have contended that the domestic industry does not have the capability to manufacture Ammonium Nitrate above 0.87 g/cc. The Authority notes that this issue has already been addressed during the previous investigation, wherein the Authority verified that the domestic industry has the capability to manufacture Ammonium Nitrate upto 0.94 g/cc.
19. On the basis of information on record, the Authority holds that there is no known difference in the subject goods produced by the domestic industry and the product under consideration imported from the subject countries. The two are comparable in terms of physical characteristics, manufacturing process, functions and uses, product specifications, distribution and marketing, and tariff classification of the goods. The two are technically and commercially substitutable. The consumers have used and are using the two interchangeably. The Authority notes that the product manufactured by the applicant constitutes like article to the subject goods being imported into India from the subject countries in terms of Rule 2(d) of the Rules.

D. DOMESTIC INDUSTRY AND STANDING

D.1. Submissions by the other interested parties

20. The following submissions have been made by the other interested parties with regard to the domestic industry and standing:
 - a. While scope of the product under consideration may include only AN solid with density of more than 0.85 g/cc, the scope of like article should include all forms of AN to determine standing.
 - b. The applicant has withheld the information related to other producers of Ammonium Nitrate in the country. It has wrongly claimed to be the sole producer in India. Gujarat Narmada Valley Fertilizers Company Limited, National Fertilizers Limited and Rashtriya Chemicals and Fertilizers Limited are also the producers of Ammonium Nitrate in the country, which is evident from the websites of the producers and publicly available information. The standing of the domestic industry should have been determined after including the production of these producers.
 - c. Vijay Gas Industries Pvt. Ltd., Sukhdev Chemicals, Mauni Nitrochem, Dalmia Chemicals and Machchar Industries are also producing solid form.

- d. Information regarding the names of manufacturers, and quantity of the product under consideration produced and sold by the applicant and other producers, may also be called by the Authority from the Petroleum and Explosives Safety Organization (PESO). In recent cases such as PSY and Vitamin C, the Authority called for such information.

D.2 Submissions by the domestic industry

21. The following submissions have been made by the applicant with regard to the domestic industry and standing:
 - a. Smartchem Technologies Limited is the sole producer of subject goods in India and is not related to any producer or exporter of the product under consideration in the subject countries or any importer in India and thus, constitutes the domestic industry within the meaning of Rule 2(b) of the Anti-Dumping Rules
 - b. Contrary to the claim of the other interested parties the applicant has already disclosed that Gujarat Narmada Valley Fertilizers and Chemicals Limited, National Fertilizers Limited and Rashtriya Chemicals and Fertilizers Limited are other producers of Ammonium Nitrate in India. However, none of these producers are manufacturers of Ammonium Nitrate in solid form.
 - c. Consideration of production of those manufacturing AN melt for determination of standing is inconsistent with the Anti-Dumping Rules, past findings of the Authority and the decision by the CESTAT.
 - d. Vijay Gas Industries Pvt. Ltd., Sukhdev Chemicals, Mauni Nitrochem, Dalmia Chemicals and Machchar Industries are converters of AN Melt into AN solids. Therefore, they cannot be considered as producers of the subject goods. The licensed converters are merely “processors” of the subject goods, and therefore, cannot be considered as the “domestic producers” of the like article, as per past practice of the Authority.

D.3 Examination by the Authority

22. Rule 2(b) of the Anti-Dumping Rules defines domestic industry as under:

“(b) “domestic industry” means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof in such case the term ‘domestic industry’ may be construed as referring to the rest of the producers”.

23. The other interested parties have claimed that Gujarat Narmada Valley Fertilizers Company Limited, National Fertilizers Limited and Rashtriya Chemicals and Fertilizers

Limited are also manufacturers of the subject goods in India. The Authority notes that the said companies manufacture Ammonium Nitrate in Melt form. Since Ammonium Nitrate in melt form is excluded from the scope of product under consideration, the production of the said companies cannot be considered for determination of total production of like article in India.

24. With regard to the contention of the other interested parties that Vijay Gas Industries Pvt. Ltd., Sukhdev Chemicals, Mauni Nitrochem, Dalmia Chemicals and Machchar Industries are producers of AN in solid form, the Authority notes that the other interested parties have made mere submissions regarding the same but have not provided any evidence. As per the information available to the Authority, the said entities are only converting Ammonium Nitrate Melt into solid form. Therefore, the said entities are converters and not manufacturers of product under consideration and accordingly, cannot be considered as the domestic producers of the like article.
25. Having regard to the information and evidence provided by the domestic industry and the other interested parties, the Authority notes that there is only one producer of the like article in India, that is, the applicant. It is noted that the applicant is not related to any exporter or importer of the subject goods and has not imported the product under consideration. The Authority, therefore, holds that the applicant constitutes the domestic industry under Rule 2(b) of the Rules.

E. CONFIDENTIALITY

E.1. Submissions by the other interested parties

26. The following submissions have been made by the other interested parties with regard to confidentiality.
 - a. The applicant has claimed excessive confidentiality regarding demand, production, capacity and capacity utilization; market share of imports, exports at dumped prices, exports at dumped prices in relation to demand, exports at injurious prices in relation to demand, capacity in the subject countries in relation to demand in India, exportable capacity in the subject countries in relation to Indian demand, idle capacity in the subject countries in relation to Indian demand, exports below Indian prices in relation to demand in India.
 - b. The applicant has failed to meet the requirements under Trade Notice 10/2018 as it has not provided any information on volume and value of production of other producers, country wise estimates of normal value and export price, captive consumption, R&D expenses, export price per unit and purchase quantity.
 - c. The applicant has not provided the transaction-wise data to the interested parties which clearly violates the decision of Hon'ble CESTAT in Exotic Decor Pvt Ltd vs Designated Authority.

- d. For Iran, the applicant has adopted constructed normal value, but the raw material price and consumption norms have been kept confidential, which has been accepted by the Authority.
- e. The applicant has claimed excessive confidentiality in the petition and has redacted excerpt of de-merger agreement, and store inventory policy.
- f. The applicant failed to disclose huge investments undertaken by them, which implies that there is no likelihood of injury
- g. The Appellate Tribunal has clearly held in Vitrified Tiles case that information provided to the Designated Authority on confidential basis is not required to be treated as confidential merely because it is provided to the Designated Authority on a confidential basis and has further laid down detailed guidelines to examine the claims of confidentiality.
- h. The applicant has violated the anti-dumping rules and the trade notices and claimed excessive confidentiality, in violation of the decisions in Sterlite Industries (India) Ltd. v. Designated Authority, ATMA vs Designated Authority and Reliance Industries Ltd. vs Designated Authority and Ors. It has claimed excessive confidentiality as it has not circulated the paperbook presented at the time of oral hearing, neither the IHS market report which is available in public domain, nor a non-confidential summary has been provided, transaction-wise Russian customs data has also not been provided.

E.2. Submissions by the domestic industry

- 27. The following submissions have been made by the domestic industry with regard to confidentiality:
 - a. The exporters have failed to disclose relevant information in the non-confidential version of the responses.
 - b. The exporters have claimed excessive confidentiality with regard to exports made to India and have contradicted their own statements in the questionnaire response.
 - c. The exporters have claimed excessive confidentiality with regard to performance parameters, channels of distribution, adjustments to normal value and export price, purchase of raw material from related parties, country-wide production, demand and exports, corporate structure, list of products produced, accounting practices, ownership, financial links/joint ventures, manufacturing process, product specifications, effect of existing anti-dumping duty, raw material prices, contractual sales and basis of interest cost charged.
 - d. The applicant requests the Authority to direct the exporters to make adequate disclosure in the non-confidential version of their response.
 - e. Due to excessive confidentiality claimed by the exporters, the applicant has no clarity regarding the completeness of the response filed by the exporters/producers and the Authority may check the same.

- f. Severe prejudice has been caused to the interests of the applicant since no order has been passed by the Authority regarding acceptance or rejection of its submissions on confidentiality.
- g. Owing to the excessive confidentiality claimed by the exporters, the applicant is unable to identify whose products have been exported by Cistech International Pte Limited; Drey Moor Fertilizers Overseas Pte Limited and Rhino Rock Limited.
- h. The non-confidential version of the response filed by EuroChem group is deficient as it has not reported any adjustments for fair comparison of normal value and export price. In case no adjustments are reported in the confidential response, then the same must be rejected for being incomplete.
- i. The exporters have suppressed information regarding imposition of anti-dumping duty on exports by Russian producer to Australia and Ukraine.
- j. Contrary to the claims of the other interested parties, the applicant has provided reasoning for the confidentiality claimed in the non-confidential version of the petition. Since the applicant is a single producer, production, capacity and capacity utilisation has been shared as a trend.
- k. Since applicant is a sole producer, disclosure of demand will lead to disclosure of domestic sales, therefore, demand has not been shared. Accordingly, market share, capacities and exports in relation to demand cannot be shared. De-merger agreement being business proprietary information has not been shared.
- l. The applicant has fulfilled its obligation of providing the import data in PDF format as stated in the Trade Notice 07/2018. No prejudice has been caused to the interests of the other interested parties as they can obtain the import data from DGCI&S directly.
- m. Since the normal value for Iran has been constructed based on cost of production of the domestic industry, the price of raw material and consumption norms cannot be shared as they are business sensitive information.
- n. A comparison between the confidentiality claims of the applicant versus the exporters would show that the applicant has disclosed all relevant information, and the exporters have acted with malafide intentions to conceal all pertinent information.
- o. Installed capacity, captive consumption, R&D expenses, export price per unit are business proprietary information which cannot be disclosed.
- p. There was no format or particular question in the petition which asks for information regarding investments being undertaken. Contrary to the submissions of the other interested parties, the applicant did not conceal such information as the same was available in public domain and accessible to all the interested parties.
- q. A non-confidential version summary of both the IHS Markit Report and Russian Customs data has been provided. However, the applicant is not authorized to share the actual report and data as it is third party information. Since such information is available in the public domain upon payment of fee, the other interested parties are free to obtain the same.

- r. The applicant has not made a paperbook but had only relied upon a compilation of documents. All the documents relied upon are present in the public domain and are easily accessible to the other interested parties.

E.3. Examination by the Authority

- 28. The Authority made available non-confidential version of the information provided by the various interested parties to all the interested parties as per Rule 6(7).
- 29. With regard to confidentiality of the information, the Rule 7 of the 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 authorize its disclosure in a generalized or summary form, it may disregard such information.”

- 30. The 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 were directed to provide sufficient non-confidential version of the information filed on confidential basis. The Authority made available the non-confidential version of the evidence submitted by various interested parties in the form of public file. The information related to imports, performance parameters and injury parameters of the domestic industry has been made available in the public file. Business sensitive information has been kept confidential as

per practice. The Authority notes that any information which is available in the public domain cannot be treated as confidential.

31. The Authority has considered the claims of confidentiality made by the applicant and the opposing interested parties and on being satisfied about the same, the Authority has allowed the claim on confidentiality. The Authority directed all interested parties to circulate the non-confidential version of evidence submitted by them.
32. The interested parties have contended that the domestic industry has not disclosed the information regarding the demand in India, capacity in the subject countries in relation to demand in India, exportable capacity in the subject countries in relation to Indian demand, idle capacity in the subject countries in relation to Indian demand, exports below Indian prices in relation to demand in India. The Authority notes that since the applicant is a sole producer, the disclosure of demand, capacities and exports in relation to demand will lead to disclosure of domestic sales thereof. Therefore, the Authority accepts the confidentiality claimed in respect of demand in the country, as business sensitive confidential information. However, the Authority notes that the applicant has provided a non-confidential summary of the information in the form of trends or demand.
33. With regard to the disclosure of de-merger agreement, the Authority notes that such information is not available in the public domain and contains business proprietary information. Therefore, the Authority has accepted the claims of confidentiality on such information.
34. With regard to contention that the applicant has claimed excessive confidentiality over the IHS market reports and the Russian Customs Data, the Authority notes that such information is third party information which the applicant is not authorized to disclose. However, a non-confidential summary of the information relied upon was shared by the applicant in line with the requirements of Trade Notice 01/2013.
35. With regard to the contention that the applicant has not shared the raw material price and consumption norms for determination of normal value for Iran, the Authority notes that the normal value for Iran has been constructed based on the cost of production of the domestic industry. Since raw material price and consumption norms of the domestic industry is business sensitive information, the Authority has accepted the confidentiality claims for such information.
36. With regard to the DGCI&S data, the Authority notes that the data has been shared with the interested parties relating to volume and value of the imports from the exporting countries into India. Further, the applicant has provided a complete list of transaction wise import data. It is also noted that any interested party can obtain data independently from the DGCI&S and lodge their own counter claims based on the data so received. The Authority holds that procedure for sharing and procuring import data has been laid down

in the Trade Notice 07/2018 dated 15th March 2018. It provides that (i) the sorted import data relied upon by the domestic industry can be shared in hard copy and (ii) the interested parties can seek authorization from the Authority for seeking raw transaction by transaction import data from DGCI&S. Sorted import data was made accessible to the interested parties based upon declaration/undertaking as per the prescribed format. The Authority, thus, notes that the procedure now being applied is consistent, uniform across the parties and the investigations and provides adequate opportunity to the interested parties to defend their interests.

F. MISCELLANEOUS ISSUES

F.1. Submissions by the other interested parties

37. The following miscellaneous submissions have been made by the other interested parties:
- a. Vide letter dated 8th October 2021, the interested parties had highlighted that a petition with addendum was filed post initiation, implying that the investigation was initiated based on inadequate information. The Designated Authority clarified that the domestic industry had filed a consolidated non-confidential version of the petition, which included a letter filed pre-initiation. This implies that the non-confidential version was not filed with the confidential version
 - b. The users have circulated the questionnaire response as well as written submission to all the interested parties three days prior to the oral hearing. There are no mandatory guidelines regarding the timeline for circulation of the non-confidential version of the written submissions with the other interested parties.
 - c. Sunset reviews for the continuation of anti-dumping duty is an exception to the otherwise mandated expiry of the duty after five years which is consistence in the approach of Appellate Body in US – Corrosion-Resistant Steel Sunset Review and in US-Oil Country Tabular Goods.
 - d. Indonesia was excluded from the scope of the subject countries on the ground that there were no imports of the subject goods from Indonesia.
 - e. The applicant has misguided the Authority to believe that goods of Georgian, Iranian and Russian origin are being shipped to India through countries like Singapore, Uzbekistan, Switzerland and UAE. Russian customs data and secondary data cannot be considered reliable, and reference should only be made to data of the Director General, Safeguards and DGCI&S.
 - f. The import data provided by the applicant is misleading and there are significant contradictions between import volume of the subject countries provided in Proforma IVA and the import data provided in the import statement of the petition. Further, there are discrepancies in the data filed by the applicant when compared to the import data as per DGCI&S.

- g. Acron may kindly be treated as an interested party in this investigation as it had registered itself with the Authority within the prescribed timelines as per the guidelines provided in Trade Notice No 11/2018.
- h. The initiation notification shows that the Authority has already drawn conclusions at the stage of initiation itself, without any evidence on record.
- i. The applicant has not filed the non-confidential version of the revised application after removing Indonesia from the subject country.
- j. No surplus/idle capacity is available with the Georgian producer.
- k. There were no exports of subject goods from Georgia to India during the POI and last two years as was the case with Indonesia. Georgian producer has not dumped the subject goods into India.
- l. No other country has imposed any anti-dumping duty against Georgia.
- m. Indonesia was excluded from the scope of the subject countries despite the fact that significant idle / surplus capacity to the tune of 32% was available with the Indonesian producers.
- n. Georgia has a very limited capacity, which is already over-utilised. Accordingly, there is no likelihood of dumping and injury.
- o. The applicant industry has made contradictory and misleading claims regarding Georgian production and demand in its application to prove non-existent case of likelihood.
- p. NIL duty was imposed on Novomoskovsk, which is a Russian producer. Despite the same, they were able to export only a miniscule quantity during the POI as India is not a price attractive market.

F.2. Submissions by the domestic industry

- 38. The following miscellaneous submissions have been made by the domestic industry:
 - a. The applicant filed the consolidated non-confidential version of the petition with addendum in line with the requirements prescribed by the Authority to ensure that the interested parties have an opportunity to defend their interests and make submissions.
 - b. The circulation of the non-confidential versions of the response by L&L Law offices on behalf of the importers was deliberately delayed, preventing the applicant from defending its interests. Due to such delay, the applicant was unable to examine the responses and offer meaningful comments during the hearing.
 - c. The delayed circulation of the responses was a deliberate and wilful act by the users. The responses were submitted at the end of the last working day prior to the hearing.
 - d. Failure to circulate the submissions in a timely manner should prevent such parties from participating in the investigations and their response should be rejected by the Authority. Reliance is placed on US – Hot-Rolled Steel, US – Corrosion-Resistant Steel and US – Oil Country Tubular Goods.

- e. Contrary to the claims of the other interested parties, Indonesia was dropped from the subject countries as there was no prima facie evidence of likelihood of dumping and injury due to imports from Indonesia.
- f. The oral hearing held on 29th November 2021 was ineffective as the applicant was denied an opportunity to defend its interests and raise pertinent issues before the Authority.
- g. The Authority is requested to examine whether producers have also exported the subject goods to India by way of transshipment from a different country to avoid anti-dumping duty.
- h. The Authority is requested to call for relevant information from Petroleum and Explosives Safety Organization (“PESO”) and customs authorities regarding the transshipment of the subject goods.
- i. With regard to the contention of the other interested parties, the applicant had clarified that there was a linking error and the correct figures were in Proforma IVA.
- j. Contrary to the submissions of the other interested parties, the criteria to determine continuation of anti-dumping duty is analysis of likelihood parameters and not the number of years that the duty has been in place. The Authority has recommended continuation of the anti-dumping duty irrespective of duration in a number of investigations such as that on Caustic Soda, Phenol, Melamine, PTFE, 1-Phenyl 3-Methyl 5-Pyrazolone, Front Axle Beam and Steering Knuckle, Acrylonitrile Butadiene Rubber NBR, FDY, Nylon Tyre Cord Fabric etc.
- k. The investigation was initiated after examining the prima facie evidence of dumping, injury and causal link has initiated the present investigation as per the requirements of Rule 5(3)(b) of the Anti-Dumping Rules.
- l. The evidence required for the purpose of initiation may not be of the same quality and quantity as that required for final imposition of duty. Reliance is placed on Guatemala – Definitive Anti-Dumping Measures on Grey Portland Cement from Mexico.
- m. Contrary to the claims of the other interested parties, it cannot be claimed that Indian customs data is reliable, but the data provided by Russian customs is unreliable.
- n. The Customs Authority found that imports of subject goods from Uzbekistan was mis-declared and were found to be of the Iranian origin and accordingly, collected anti-dumping duty on the same.
- o. The applicant could not have filed a fresh application after removing Indonesia as a subject country after the Authority had already initiated the case. The Anti-Dumping Rules do not provide for such a fresh application.

F.3. Examination by the Authority

- 39. With regard to the contention that the investigation was initiated based on inadequate information as the domestic industry has filed the non-confidential version of the petition

along with addendum post initiation, the Authority notes that the domestic industry filed a non-confidential version of the petition, along with the confidential version. The domestic industry filed information regarding imports from various sources, prior to initiation of the investigation. In order to ensure that the interests of the interested parties are safeguarded and they are allowed to file comments on the additional information filed post application, such information was included as an addendum to the petition for circulation to the interested parties.

40. In respect of the requests made by the interested parties to exclude Georgia from the scope of the subject countries, the Authority has noted that on the basis of evidence on record, there is no exports of the subject goods to India during the POI and preceding years i.e., no dumping and consequent injury. There is no surplus capacity available with the only Georgian producer during the POI as evidenced from the information shared by the applicant as well as the interested parties. Further, there is no surplus capacity available with the only Georgian producer during six months post-POI. It has been also noted that any other country has not imposed any anti-dumping duty against Georgia. In view of the facts available with the Authority, it has been noted that there is no evidence of likelihood of recurrence of dumping and injury in the event duty is allowed to expire on the import of the subject goods from Georgia. Accordingly, Georgia has been excluded from the subject countries and the investigation has been conducted only in respect of the imports of subject goods originating in or exported from Russia and Iran (hereinafter referred to as the “subject countries”).
41. With regard to the contention that Georgia should be dropped as a subject country, the Authority notes that exporter is the sole producer of the subject goods in Georgia and there have been no exports of the subject goods from Georgia to India during the POI and the preceding two years.
42. As per the information on record with the Authority, the capacity of the exporter is *** MT during POI and ***MT during six months post POI. The production of the producer/exporter during the POI and the six months post POI are ***MT and ***MT respectively as per the information available with the authority.
43. The Authority after examining the facts as provided above notes that the exporter is operating at its maximum capacity and no surplus capacity was available with him during the POI and the six months post POI. It has been also noted that any other country has not imposed any anti-dumping duty against Georgia. The Authority notes that there is no evidence of likelihood of recurrence of dumping and injury in the event duty is allowed to expire on the import of the subject goods from Georgia. Therefore, the Authority terminates the investigation with respect to the producer/exported from Georgia. The subject countries for the purpose of this determination consists of Russia and Iran.

44. With regard to the transshipment of subject goods from different countries, the Authority has noted some entries of transshipment of subject goods originating in the subject countries. Since DGCI&S data reports only country of consignment and not the country of origin, the Authority has relied upon facts available on record to determine the volume of exports from Russia as below.
45. With regard to the contention that there is no transshipment as per the DGCI&S data, the Authority notes that the volume of imports from Russia as reported in the DGCI&S data are much less than the volume of exports as per the Russian Customs data as well as the data submitted by the participating producers/exporters. The data as per responses of the participating producers shows that the volume reported are comparable to that in the Russian customs data.
46. As regards the duration of duties imposed, the Authority notes that the purpose of anti-dumping duty is only to create a level playing field and to provide relief to the domestic industry against injurious dumping. The present investigation has been initiated to examine the likelihood of continuation or recurrence of dumping or injury, in the event of expiry of duty. Should the Authority find that dumping and injury are likely to continue or recur in the absence of duties, the anti-dumping duties shall be extended, notwithstanding the period of imposition of duties or the number of investigations.
47. With regard to PJSC Acron the Authority notes that PJSC Acron has been registered as an interested party in the present investigation and the submissions made on behalf of the exporter has been taken on record. However, since the exporter has not exported the product under consideration to India during the period of investigation, the current dumping margin cannot be determined.
48. With regard to the contention that the present investigation has been initiated without any evidence on record, the Authority notes that the applicant has provided a duly substantiated application claiming likelihood of continuation or recurrence of dumping and injury in the absence of duties. At the time of initiation of investigation, the Authority prima facie satisfied itself of the need for initiation of sunset review investigation concerning present anti-dumping duties based on the evidence furnished by the domestic industry establishing likelihood of continuation or recurrence of dumping and injury if the present duties are allowed to expire.
49. Regarding the contention that the domestic industry has not filed a revised petition after removing Indonesia, the Authority notes that the domestic industry filed a duly documented petition based on which the present investigation was initiated, the non-confidential version of the same has been circulated to all the interested parties. Once the investigation is initiated, there can be no fresh application post initiation of the investigation. The Authority has made its observations hereinbelow on the basis of data, excluding that for Indonesia and Georgia as the subject countries.

50. Some interested parties have contended that there is variation in data submitted by the domestic industry. The Authority notes that the data on record has been verified by the Authority and thereafter used for the analysis given hereinunder. Wherever necessary, clarifications have been sought from the applicant regarding any inconsistency in the data.
51. The domestic industry has emphasized that the users circulated the non-confidential version of the response filed by them belatedly. The Authority finds delays in circulation of responses to be undesirable. However, in the facts of the present case, no prejudice has been caused to the interests of any interested party. The Authority has considered submissions made by all interested parties, even after the date of written submissions, in the interest of justice.

G. NORMAL VALUE, EXPORT PRICE AND DETERMINATION OF DUMPING MARGIN

G.1. Submissions by the other interested parties

52. The following submissions have been made by the other interested parties with regard to the determination of normal value, export price and dumping margin.
- a. The normal value estimated for Russia is based on data for previous years adjusted for changes to export price indicates skewed adjustments just to show dumping.
 - b. Russian customs data has been used to work out export price because the price in it is too low and abnormally high adjustments towards ocean freight and inland transport charges have been shown to work out an artificial high dumping margin.
 - c. The applicant used the Uzbekistan data and some DRI investigation data to determine the export price from Iran, because the DGCI&S data would not show any dumping.
 - d. At present, the imported Ammonium Nitrate prices as per International Market Price are about USD 650 PMT - 670 PMT, implying that there is no dumping.
 - e. The particular market condition referred in the petition has already been taken into account in the determination of dumping margin. But the capacity to produce and dump, will depend upon several other factors which the applicant has not established.
 - f. Existence of a “particular market situation” cannot be examined for the first time in a sunset review investigation in terms of Rule 23(1B) and could have been examined only in a changed circumstances review.
 - g. Any particular market situation arising out of government intervention, can be examined only by way of an anti-subsidy investigation, as noted in case of Uncoated Copier Paper from Indonesia.

- h. The Authority had not accepted the contention of the applicant regarding purchase of gas through Gazprom in the original investigation, and the applicant did not challenge the same in appeal. The issue cannot be raised at this stage now.

G.2. Submissions by the domestic industry

53. The following submissions have been made by the domestic industry with regard to the normal value, export price and dumping margin:
- a. The non-confidential version of the response filed by EuroChem group is deficient as it has not reported any adjustments for fair comparison of normal value and export price. In case no adjustments are reported in the confidential response, then the same must be rejected for being incomplete.
 - b. Royalty paid by EuroChem Trading GmbH is a direct selling expenses since the company does not have any manufacturing facility and thus, it must be reduced while determining the export price.
 - c. The Authority is requested to examine whether the records maintained by JSC Azot are in accordance with GAAP of Russia. If the records are not as per GAAP, the cost of production should not be determined based on the records of the producer.
 - d. Commission received by Rawfert Offshore SAL for exports to India must be adjusted in the determination of export price.
 - e. The price of natural gas in Russia are government controlled and available to the producers at significantly lower prices as held by European Commission in Council Regulation 661/2008. Therefore, the cost of production and the prices in the domestic market of the exporters are suppressed. The cost of production of the responding producers should be adjusted to reflect undistorted prices.
 - f. The normal value for Russia has been determined based on selling price in Russia. Since the prices for the period of investigation were not available the previous year prices have been adjusted in order to determine the normal value. The other interested parties have not provided any evidence to refute the claim.
 - g. The DGCI&S data shows country of consignment and not country of origin therefore, the applicant has used Russian customs data for determining the total exports from Russia to India.
 - h. Russian customs data is a better source to calculate net export price as it records exports at FOB level while the export price reported in DGCI&S data would be the price at which the trader has sold in India. Therefore, the margin of the trader, as well as expenses incurred are added in the price reported in DGCI&S data.
 - i. Since the subject goods are being transshipped and DGCI&S data contains only country of consignment and not country of origin, the applicant have identified country of origin as per secondary sources.
 - j. While the other interested parties have submitted that the international prices of Ammonium Nitrate are \$650-670 per MT, the import price in India from the subject countries is \$244 per MT. The international prices of the subject goods have increased due to increase in cost of production globally.

- k. Contrary to the contentions raised by the other interested parties, Rule 23 of the Anti-Dumping Rules provides that normal value, export price and dumping margin has to be determined as per the provisions of Rule 10. Thus, all obligations pertaining to determination of normal value apply to sunset review investigation.
- l. Since the producers / exporters from Georgia and Iran have not filed any response, the Authority is requested to continue the same quantum of anti-dumping duty on imports from Georgia and to determine normal value and export price for the producers from Iran based on facts available in the petition itself.
- m. The normal value for Iran has been constructed based on cost of production of the domestic industry duly adjusted for SG&A expenses and reasonable profits.
- n. The Authority may determine export price for imports from Iran based on the information filed in the petition wherein the applicant has taken CIF price reported in import data and adjusted for ocean freight, marine insurance, port expenses, bank charges, inland freight and commission.
- o. The other interested parties have agreed to the fact that there is a particular market situation in Russia. The Authority is requested to consider it for determination of dumping margin.
- p. Since PJSC Acron has not exported the subject goods to India no individual dumping margin and injury margin can be awarded to them.
- q. Contrary to the contentions of the other interested parties, the applicant has not requested the Authority to examine the countervailability and quantum of subsidies provided but has highlighted that a particular market situation exists in Russia due to state-controlled prices of natural gas.

G.3. Examination by the Authority

54. As per section 9A(1)(c) of the Act, the normal value in relation to an article means:
- (i) *the comparable price, in the ordinary course of trade, for the like article when destined 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 to an appropriate third country as determined in accordance with the rules made under sub-section (6); or*
 - (b) *the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6):*

Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely transshipped through the country of export or such article is not produced in the country of 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.

55. The Authority sent questionnaire to the known exporters / producers from the subject countries, advising them to provide information in the form and manner prescribed. The following producers / exporters from the subject countries have filed the exporters' questionnaire response:
- a. Azot, JSC (Novomoskovsk)
 - b. Cistech International Pte. Ltd.
 - c. Drey Moor Fertilizers Overseas Pte Ltd, Singapore
 - d. EuroChem Trading GmbH
 - e. EuroChem Trading RUS, LLC
 - f. JSC Azot, Kemerovo
 - g. JSC Nevinnomyssky Azot Nevinnomyssk
 - h. Rawfert Offshore SAL
 - i. Rhino Rock Limited
 - j. SBU Nitrotrade AG
56. With regard to the reliance on Russian customs data at the stage of initiation, the Authority finds that owing to the transshipment of goods exported from Russia through other countries, the DGCI&S data has not captured the complete volume. Therefore, the Authority finds that the Russian customs data provided sufficient prima facie evidence for the determination of export price of the subject goods from Russia. However, the Authority has determined the export price for cooperating producers based on the responses filed by them.
57. With regard to the contention that there is a particular market situation in Russia due to state-controlled prices of natural gas, the Authority notes that the present investigation is a sunset review of anti-dumping duty imposed on imports of the product under consideration from Iran, Georgia and Russia. The domestic industry in the previous investigation raised the same contention which was duly addressed by the Authority. The domestic industry has not shown any change in circumstances with regard to prices of natural gas since the previous investigation.

G.4. Determination of Normal Value for Russia

Normal value for Azot, JSC (Novomoskovsk), JSC Nevinnomyssky Azot Nevinnomyssk Group

58. From the data filed by Azot, JSC (Novomoskovsk) & JSC Nevinnomyssky Azot, the cooperating producers and exporter from Russia, it is noted that they have exported ***MT of the subject goods to India through traders to unrelated customers. The exporter has sold ***MT in the domestic market. In order to determine the normal value, the Authority has conducted the ordinary course of trade test to determine profit making domestic sales transactions with reference to cost of production of the subject goods. In case profit making transactions are more than 80% then the Authority has considered all the transactions in the domestic market for the determination of the normal value. Where the profitable transactions are less than 80%, only profitable domestic sales are taken into consideration for the determination of the normal value. The adjustments claimed by the producer/ exporters have been considered to arrive at the normal value for the quantity sold in the domestic market. The weighted average Normal Value for Azot, JSC (Novomoskovsk) and JSC Nevinnomyssky Azot Nevinnomyssk so determined is mentioned in the table below.

Normal value for JSC Azot, Kemerovo Group

59. From the data filed by JSC Azot Kemerovo, the cooperating producer and exporter from Russia, it is noted that it has exported ***MT of the subject goods to India through traders to unrelated customers. The exporter has sold *** MT in the domestic market to unrelated customers. In order to determine the normal value, the Authority has conducted the ordinary course of trade test to determine profit making domestic sales transactions with reference to cost of production of the subject goods. In case profit making transactions are more than 80% then the Authority has considered all the transactions in the domestic market for the determination of the normal value. Where the profitable transactions are less than 80%, only profitable domestic sales are taken into consideration for the determination of the normal value. The adjustments claimed by the producer/ exporter has been considered to arrive at the normal value for the quantity sold in the domestic market. The weighted average normal value for JSC Azot, Kemerovo so determined is mentioned in the table below.

Normal value for all non-cooperative producers from Russia

60. Normal Value for non-cooperative producers of Russia has been taken based on the facts available in accordance with Rule 6(8) of the Rules. The normal value so determined is mentioned in the dumping margin table below.

G.5. Determination of export price for Russia

Export price for Azot, JSC (Novomoskovsk), JSC Nevinnomyssky Azot Nevinnomyssk Group

61. In the exporters' questionnaire response, the producer / exporter stated that during the POI they have exported *** MT to unrelated parties in India through trader. The Authority has further made adjustments in order to arrive at the export price at ex-factory level. Accordingly, the export price is provided in the table below showing the dumping margin calculation and percentage.

Export price for JSC Azot, Kemerovo (Producer) Group

62. In the exporters' questionnaire response, the producer / exporter stated that during the POI they have exported *** MT to unrelated customers in India through traders. The Authority has further made adjustments in order to arrive at the export price at ex-factory level. Accordingly, the export price is provided in the table below showing the dumping margin calculation and percentage.

Export price for all non-cooperative producers/exporters from Russia

63. Export price for non-cooperative producers/exporters of Russia has been taken based on the facts available in accordance with Rule 6(8) of the Rules. The export price so determined is mentioned in the dumping margin table below.

G.6. Determination of normal value for Iran

64. The Authority notes that none of the producers/ exporters from Iran have filed exporter's questionnaire responses. In view of non-cooperation from all producers/ exporters in Iran, the Authority has determined the normal value on the basis of best available information in terms of Rule 6(8) of the Rules. The Authority has, therefore, constructed the normal value for China PR on the basis of cost of production in India, duly adjusted, including selling, general and administrative expenses and addition of reasonable profits. The constructed normal value so determined is mentioned in the dumping margin table below.

G.7. Determination of export price for imports from Iran

65. The Authority notes that none of the producers/exporters from Iran have filed exporter's questionnaire response. In view of non-cooperation from the producers/exporters from Iran, the export price for the product under consideration for the subject countries has been computed based on DGCI&S transaction-wise import data. Adjustments have been made for ocean freight, marine insurance, port expenses, bank charges, inland freight and commission. The Authority notes the information provided by the domestic industry with regard to imports in DGCI&S data being under-reported. In the absence of any response from Iran and any information from other parties, the Authority has considered the information provided by the domestic industry as facts available on record, and determined the export price on the basis thereof.

G.8. Dumping Margin

66. Based on the normal value and the export price determined as above, the dumping margin for producers / exporters from the subject countries has been determined by the Authority and the same is provided in the table below. The dumping margin so determined is negative for the cooperating producers/exporters. However, the dumping margin determined for non-cooperating producers / exporters in the subject countries is above de-minimis.

SN	Name of Producer	Normal Value	Export Price	Dumping Margin	Dumping Margin	Dumping Margin
		(USD/MT)	(USD/MT)	(USD/MT)	(%)	(Range)
Russia						
1	Azot, JSC (Novomoskovsk) and JSC Nevinnomyssky Azot Nevinnomyssk	***	***	(***)	(***)	Negative
2	JSC Azot, Kemerovo	***	***	(***)	(***)	Negative
3	Non-cooperative/residual exporters	***	***	***	***	10-20
Iran						
1	Non-cooperative/residual exporters	***	***	***	***	70-80

H. ASSESSMENT OF INJURY AND CAUSAL LINK AND LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING AND INJURY

H.1. Submissions by the other interested parties

67. The following submissions have been made by the other interested parties with regard to the injury, causal link and likelihood of dumping and injury:
- There are no imports from Georgia and Indonesia and imports from Iran have also decreased, and only imports from Russia have increased.
 - There is a marginal increase in import from Russia in the period of investigation but there is a drastic decline in the total imports. The applicant has claimed that demand has declined, without providing actual data.
 - The price undercutting must be examined in the light of profits to the applicant, which have been positive and significant, except during the pandemic.
 - The applicant is able to price its products much higher than the cost of production, thus, the question of price suppression/depression does not arise.
 - The production and capacity utilization of the applicant increased during the injury period and declined only during the period of investigation due to the pandemic.

- f. The domestic sales of the applicant have increased during the investigation period except period of investigation and its preceding year, both of which were affected by the pandemic. The applicant has not lost market share to alleged dumped imports.
- g. The applicant did not face accumulation of inventories except during the period of investigation, which was due to the pandemic.
- h. The applicant has been efficiently converting its capital into profits and was making enough financial gains with optimum utilization of its capital until the pandemic.
- i. Even if the imports are increasing at dumped prices, they are fully neutralized by the anti-dumping duty, and thus, cannot be considered as causing injury.
- j. As per the applicant's own admission in their 2020 Annual Report Ammonium Nitrate business is on record high performance and there is no threat to this business.
- k. The applicant has specifically stated in its Annual Report of 2020 that its operations in multiple locations were scaled down or shut down due to the lockdowns imposed after the outbreak of the pandemic.
- l. While the balance sheet shows that net profit of Technical Ammonium Nitrate improved, the data on record shows decline in profits during the period of investigation.
- m. Taking advantage of its position, the applicant has set up a new plant which is expected to go into production in 2024.
- n. There is a huge demand supply gap in India necessitating imports, which is evident from the data available in the PESO website.
- o. The injury to the domestic industry is caused by decline in export sales, which caused decline in production and capacity utilization, and increased fixed costs per unit. The Authority should make the adjustments in the cost of domestic sales on account of the significant decline in the export sales.
- p. Employment and domestic finance cost have increased abnormally over the injury period, even when the capacity remained the same.
- q. The profitability of the applicant was impacted due to the significant increase in the interest costs and depreciation and amortization expenses.
- r. The import data provided by the applicant is misleading and there are significant contradictions between import volume of the subject countries provided in Proforma IVA and the import data provided in the import statement of the petition. Further, there are discrepancies in the data filed by the applicant when compared to the import data as per DGCI&S.
- s. The applicant has stated different figures of production and capacity for Georgia at different places to show likelihood.
- t. The applicant has admitted that they did not suffer injury, even due to imports from other sources; and there is no likelihood of recurrence of injury to the domestic industry.
- u. The information provided by the applicant regarding the likelihood of recurrence of injury are devoid of any material evidence for an 'objective examination' based

- on 'positive evidence'. The information provided does not meet the requirements prescribed under Pakistan – BOPP Films, as it is speculative.
- v. Since there is a demand-supply gap in the country, India is a price-taker, and the exporters would be able to charge higher price in the market.
 - w. If India is a more price attractive market as compared to others, it goes to prove that there is no dumping and that Indian market allows the domestic producers are able to sell at high price and make profits.
 - x. Merely existence of excess capacities does not show likelihood. The applicant must provide adequate evidence to show the price trends in the domestic market and external market to establish a likelihood of dumping in the imminent future which is in consistence with the approach in Indian Spinners Association v. Designated Authority and White Cement from UAE and Iran, Rubber Chemicals, MBT, CBS, TDQ, PVI and TMT, from China PR and PX-13 (6PPD) from China PR and Korea RP. Further, in the present case, the subject countries are themselves suffering shortage of the product under consideration.
 - y. 100% of the exports from Georgia have been alleged to be dumped, without establishing the normal value or providing complete data for exports.
 - z. The data presented in the application shows that the capacity in Iran and domestic demand in Iran is fully balanced and there is no exportable surplus.
 - aa. The application does not indicate source of information for surplus capacities.
 - bb. The applicant claims that although the producers in Russia already hold significant excess capacities, they are planning further capacity expansions. At the same time the applicant has enclosed a news item which shows that the domestic demand in Russia is on the rise.
 - cc. JSC Azot, Kemerovo has not dumped the subject goods into India, and has no surplus capacities.
 - dd. JSC Rustavi Azot has no surplus capacities, has not exported the subject goods to India, and has not engaged in dumping. Therefore, there is no likelihood of continuation or recurrence of dumping or injury.
 - ee. The applicant claims that once the duties are removed the third country exports from the subject countries will be diverted to India which contradicts its own statement that such imports will be at dumped prices.
 - ff. The applicant claims that 86% of the third country exports from Russia are also at dumped prices without providing any data for the same.
 - gg. The petition does not provide any information as to the likely volume of trade that could be diverted to India and price thereof due to trade measures imposed by other countries.
 - hh. Since the applicant is a dominant player, and imports, which were suffering anti-dumping duty, had to adjust to the price level of the applicant. Therefore, the imports were lower priced. However, once duty is removed, the import price would increase.
 - ii. No other country has imposed anti-dumping duty against Georgia.

- jj. Australian Commission has withdrawn the anti-dumping duties against Russia vide notification dated 20th May 2021 which proves no likelihood of dumping and injury from Russia.
- kk. The supply of ammonia has declined significantly in 2021, while prices have increased, which shows that the subject imports are likely to decline further.
- ll. The prices of product have increased, due to shortage of supply caused by increased demand for the product as fertilizer in many cold countries. If the anti-dumping duties are revoked, even if imports enter the domestic market, they will not be injurious to the applicant.
- mm. North America and Europe are much more price attractive for the exporters than India as the prices have seen a spike, without any downward trend, due to shortage of the product.
- nn. The applicant has kept silent on the inventories of Ammonium Nitrate with the producers/exporters of the subject countries during the period of investigation.
- oo. The applicant should submit the segregated data on injury from imports from other countries, and further provide an opportunity to all other interested parties to comment on the same.
- pp. As per the annual report of the applicant, it has made significant investments worth INR 225 crores and had enhanced its capacity from 1200 MT per day to 1320 MT per day, and further expects to enhance it upto 1400 MT per day.
- qq. The depreciated plants of the domestic industry are the cause of inefficiencies faced by the domestic industry, which is reflected in cash profits.

H.2. Submissions by the domestic industry

- 68. The following submissions have been made by the domestic industry with regard to the injury, causal link and likelihood of dumping and injury:
 - a. While the demand has remained constant as compared to the base year, the imports from Russia have increased by 25%.
 - b. Contrary to the submissions of the other interested parties, the applicant has not mentioned in its annual report that Ammonium Nitrate business is on record high. Since the annual report pertains to 2020-21, and anti-dumping duty is in force, there was no threat to Ammonium Nitrate business in imminent future at the time when the report was published.
 - c. While the balance sheet refers to profits of the company as a whole, the data submitted for the investigation pertains to only subject goods.
 - d. Imports of the subject goods from Bulgaria, Turkey, Uzbekistan and Ukraine are not causing injury to the domestic industry as the price of imports is significantly higher than the price of imports from Russia.
 - e. Contrary to the submissions of the other interested parties, imports from Iran increased more than 10 times in the period of investigation as compared to previous year. Producers in Georgia are unable to sell subject goods in India at fair prices

- which is evident from the fact that even though they hold excess capacities, the imports from Georgia have stopped post imposition of duties.
- f. Contrary to the submissions of the other interested parties, the data on record shows that a number of import transactions are priced below the price of domestic industry even with anti-dumping duty in force. The domestic industry has lost market share due to increase in imports from Russia. The production, capacity utilisation and sales of the domestic industry have declined.
 - g. Even if price undercutting is evaluated in light of profits made by the applicant, it would be seen that while applicant earned ***% profits, the price undercutting during the period of investigation was ***%. The profits of the domestic industry are likely to reduce due to cessation of anti-dumping duty and it is likely to incur losses.
 - h. The production and capacity utilization of the applicant declined prior to pandemic in 2019-20.
 - i. Contrary to the submissions of the other interested parties, 2019-20 was not impacted by the pandemic which is evident from the fact that the demand and imports increased in this period. The sales of the domestic industry declined in 2019-20.
 - j. Contrary to the submissions of the other interested parties, the accumulation of inventories is not due to decline in demand owing to the pandemic. The production of the domestic industry was much less than the demand in the country and hence, the accumulation of inventories is only due to the subject imports.
 - k. While the other interested parties have contended that the domestic industry has not suffered injury, they have not given any evidence that there is no likelihood of dumping and injury.
 - l. The plans of the domestic industry to establish a new plant do not indicate absence of likelihood of injury. Rather, it indicates that dumping is required to be prevented, to allow the new plant to reach break-even.
 - m. IHS Fertecon Nitrates Report has been provided to the Authority in order to show the excess capacities. While the name of the source has been shared, the same being third party information cannot be shared with the other interested parties.
 - n. The other interested parties have failed to demonstrate lack of positive evidence or that the Authority is unable to undertake an objective examination.
 - o. The producers in the subject countries have continued to dump the subject goods, despite anti-dumping duties in force.
 - p. The producers in Georgia and Russia are exporting the product under consideration to other countries at dumped and injurious prices. ***% exports from Georgia and ***% exports from Russia are at dumped prices.
 - q. The subject imports from Russia have increased decrease in the demand. In the absence of anti-dumping duty in force, exports are likely to increase further and take away the market share of the domestic industry.

- r. The capacities and production in the subject countries are in excess of demand in the said countries making the producers highly export oriented. The producers in Iran and Russia hold idle capacities which are 5 times the demand in India.
- s. Contrary to the submissions of the other interested parties, the applicant has provided price trends as well as information with regard to continued dumping in India, dumped and injurious imports to other countries by producers in Georgia and Russia, India being a price attractive market as well as likely injury in case of imports at current prices.
- t. Contrary to the submissions of the other interested parties, the applicant has provided export data from Georgia to other countries to the Authority. The cost of production of Georgia has been determined based on cost of production of the domestic industry adjusted for SG&A expenses and reasonable profits. The exports from Georgia to other countries is below the estimated cost of production.
- u. The Authority is requested to consider average export price of dumped and injurious transactions from Georgia to all other countries in order to determine the likely export price to India as previously done by the Authority in the sunset review investigation on imports of Ductile Iron Pipes from China PR.
- v. Contrary to the submissions of the other interested parties, the article only shows the normal value. While the article relates to 2019, the applicant has provided data for 2020 which shows surplus capacities despite increase in demand.
- w. India is an important market for the producers in the subject countries as exports to India constituted 75% of the total exports from Iran, 30% of the total exports from Georgia and 7% of the total exports from Russia prior to imposition of anti-dumping duty.
- x. Russian producers have lost market due to imposition of anti-dumping duty on imports from Russia in Australia, European Union and Ukraine.
- y. The final report issued by the Australian Commission shows that the dumping margin in the said investigation was positive which proves that producers in Russia are engaged in unfair trade practices.
- z. Mere fact that no other country has imposed anti-dumping duty against imports from Georgia, does not indicate that there is no likelihood of dumping and injury.
- aa. India is a more price attractive market as significant exports from Georgia and Russia to other countries are at prices below the prices prevailing in India.
- bb. The price attractiveness of India indicates that the exporters have an added incentive to divert their exports to India as they will be able to get better prices in India as compared to exports to other countries. Likelihood of dumping has to be analysed with respect to normal value and not third country prices.
- cc. The imports are likely to suppress and depress the prices of the domestic industry in case of cessation of anti-dumping duty which is evident from the fact that the subject imports are undercutting the prices of the domestic industry even though anti-dumping duty is in force.
- dd. The domestic industry has been able to earn profits only due to anti-dumping duty in force. In case of cessation of anti-dumping duty, the domestic industry will likely

- be forced to match import prices. Thus, there is likelihood of price suppression/ depression.
- ee. The subject imports are entering the market at prices below the cost of sales of the domestic industry. In case of cessation of duties, the prices are likely to decline further.
 - ff. Due to the low prices of natural gas, the producers in Russia are able to produce and supply subject goods at significantly lower prices than the fair price for the Indian market.
 - gg. In the event of cessation of the anti-dumping duty, the sufficient capacity in the subject countries is enough to wipe out the Indian industry from the market. The domestic industry will be forced to reduce prices in order to sustain in market and is likely to suffer losses, cash losses and record a negative return on investment in such a scenario.
 - hh. As per the response filed by the producers in Russia, India constitutes a small market for them. Despite that, exports from Russia are accounting for more than 20% of the demand in India, even with the duties in force which clearly shows the surplus capacities held by the producers in Russia.
 - ii. Participation of a new shipper in the present investigation clearly shows the interest of the producers in the Indian market.
 - jj. The imports from other countries have not caused injury to the domestic industry.
 - kk. Contrary to the submissions of the other interested parties, the applicant is not required to provide volume of exports that may be diverted to India. The exports from Russia are not growing at the same pace as production in Russia.
 - ll. The Indian market is not a price taker as evident from the fact that despite a demand-supply gap prior to imposition of duty, the exporters had to resort to dumping to sell the product. Further, the global capacities of the subject goods are more than global demand creating a surplus.
 - mm. Likelihood analysis is required to be conducted for the country as a whole and not individual producers. In case the Authority decides to rely on information submitted by JSC Azot, Kemerovo, the same should be first disclosed to the domestic industry. The exporter has claimed all relevant information confidential due to which the applicant is unable to defend its interests.
 - nn. JSC Rustavi Azot has not filed a response in the present investigation. Since likelihood information has not been submitted by the exporter in part-II of the questionnaire, the Authority may kindly rely on facts available as held done in the anti-dumping investigation on imports of Purified Terephthalic Acid.
 - oo. Contrary to the submissions of the other interested parties, fertilizers are a seasonal product and increase in demand for fertilizers is temporary in nature.
 - pp. Since Russian imports increased over the injury period in India, it is evident that Russian producers need market more than what North America and Europe can provide.
 - qq. The applicant has provided all the information available to it regarding likelihood of dumping and injury. The Authority may analyse inventories of product under

- consideration with the producers in the subject countries in accordance with the response filed by them. There is no requirement to establish each parameter listed in Annexure – II to show likelihood.
- rr. The performance of the domestic industry has been segregated for domestic and export markets. The exports by the applicant have been insignificant over the injury period and cannot account for injury to the applicant.
 - ss. The segregated data for injury for imports from other countries is irrelevant as the domestic industry has not suffered any injury.
 - tt. By stating that imports suffering anti-dumping duty had to adjust to the price level of the applicant, the other interested parties have conceded that the exporters have absorbed the anti-dumping duty. In such a case, the duties should be enhanced. Russian producers are able to manipulate the price due to availability of cheaper natural gas.
 - uu. The present investigation being a sunset review, there is no requirement to establish a causal link between the likely dumping and likely injury as observed by the Appellate Body in United States – Anti dumping measures on OCTG from Mexico. Nevertheless, the injury to the domestic industry is not likely due to any other known factors.
 - vv. Increase in employment and finance cost is irrelevant as the applicant has not claimed injury. Interest cost as well as profitability have declined in the period of investigation.
 - ww. Contrary to the submissions of the other interested parties, the applicant earned higher profits as its plants are depreciated, thus the same cannot be a cause of inefficiency.
 - xx. Contrary to the submissions of the other interested parties, the Ammonium Nitrate plant of the applicant did not suffer any shutdown due to the pandemic.
 - yy. Intangible assets cannot be excluded for determination of non-injurious price as is evident from the provisions of Annexure – III to the Anti-Dumping Rules and Manual of Operating Procedures for Trade Remedial Investigations.
 - zz. Even if intangible assets are excluded for determination of non-injurious price, they cannot be excluded for determination of injury.

H.3. Examination by the Authority

- 69. The Authority has examined the arguments and counter arguments of the interested parties with regard to injury to the domestic industry. The injury analysis made by the Authority hereunder addresses the various submissions made by the interested parties.
- 70. Rule 11 of the Rules read with its Annexure-II thereto 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."

71. Rule 23 of the Rules provides that the provisions of Rules 6, 7, 8, 9, 10, 11, 16, 17, 18, 19, and 20 shall apply mutatis mutandis in case of a review. In case the performance of the domestic industry shows that it has not suffered injury during the current injury period, the Authority shall determine whether cessation of the present duty is likely to lead to recurrence of injury to the domestic industry.

72. With regard the contention that financial statements of the applicant show an improved performance, the Authority notes that the financial statements relate to the company as a whole. As per the provisions of para (vi) of Annexure – II to the Anti-Dumping Rules, the effect of imports on parameters of the domestic industry shall be assessed in relation to the like article only.

“(vi) The effect of the dumped imports shall be assessed in relation to the domestic production of the like article when available data permit the separate identification of that production on the basis of such criteria as the production process, producers’ sales and profits. If such separate identification of that production is not possible, the effects of the dumped imports shall 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.”

73. Therefore, analysis of the effect of dumped imports is required to be undertaken in relation to the domestic production of the like product where the separate data permit such examination. Only in the cases where such examination is not possible due to collective data, the Authority is required to examine the production of narrowest group or range of products which includes the domestic like product. In the present case, separate data for the performance in terms of production, sale and profitability of the like article has been provided by the domestic industry. Since such separate data is on record, and has been verified by the Authority, it shall form basis of the injury analysis, in accordance with the provisions of para (vii) above. Accordingly, the performance of the applicant in its total operations is not relevant.

74. The Authority has examined current injury, if any, to the domestic industry before proceeding to examine the likelihood aspects of dumping and injury on account of imports from the subject countries. It has been examined as to whether there is an increase in imports, in absolute terms or in relation to production or consumption. 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 Rules. The Authority has taken note of various submissions of the domestic industry and other interested parties and has analyzed the same considering the facts available on record and applicable laws. The injury analysis made by the Authority hereunder ipso facto addresses the various submissions made by the parties.

I. Assessment of demand / apparent consumption

75. The Authority has defined, for the purpose of the present investigation, demand or apparent consumption of the product under consideration in India as the sum of domestic sales of the domestic industry and other Indian producers and imports from all sources. The demand so assessed is given in the table below.

Particulars	Unit	2017-18	2018-19	2019-20	POI
Domestic Industry	MT	***	***	***	***
Trend	Indexed	100	112	99	95
Subject imports	MT	1,57,788	80,513	75,396	1,10,339
Other imports	MT	46,808	1,49,896	2,02,905	1,06,596
Demand	MT	***	***	***	***
Trend	Indexed	100	112	114	100

76. It is seen that the demand for the subject goods increased till 2019-20 but declined thereafter in the period of investigation. The applicant has submitted that decline in demand during the period of investigation is due to prolonged monsoons, low demand in the infrastructure sector due to change in government and the impact of the Covid-19 pandemic which is temporary. This has not been disputed to by other interested parties.

II. Volume effect of the dumped imports

77. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. For the purpose of injury analysis, the Authority has relied on the transaction wise import data procured from DGCIS, the Russian customs data and other facts available on record with regard to transshipment of goods. The import volumes of the subject goods from the subject countries and share of the dumped imports during the injury period and the period of investigation are as follows:

Particulars	Unit	2017-18	2018-19	2019-20	POI
Subject imports	MT	1,57,788	80,513	75,396	1,10,339

Georgia	MT	21,620	-	-	-
Iran	MT	56,512	21,555	979	10,388
Russia	MT	79,656	58,958	74,417	99,951
Other imports	MT	46,808	1,49,896	2,02,905	1,06,596
Total	MT	2,04,596	2,30,409	2,78,301	2,16,935
Subject countries import in relation to					
Domestic production	%	***%	***%	***%	***%
	Trend	100	44	46	74
Consumption	%	***%	***%	***%	***%
	Trend	100	47	41	72
Total Imports	%	77%	35%	27%	51%

78. It is seen that:

- a. The volume of subject imports declined till 2019-20 but increased in the period of investigation.
- b. The subject imports in relation to domestic production declined in 2018-19, and thereafter increased till the period of investigation.
- c. The subject imports in relation to consumption declined till 2019-20 then increased in the period of investigation. The share of subject imports in total imports followed the same trend.

III. Price effect of the dumped imports

79. In terms of Annexure II (ii) of the Rules, with regard to the effect of the dumped imports on prices, the Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared with the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. In this regard, a comparison has been made between the landed price of imports from the subject countries with the net sales realization of the domestic industry for the subject goods.

a. **Price undercutting**

80. To determine price undercutting, a comparison has been made between the landed value of the product and average selling price of the domestic industry, net of all rebates and taxes, at the same level of trade. The prices of the domestic industry were determined at the ex-factory level.

SN	Particulars	UOM	POI
1	Import Volume	MT	1,10,339
2	Import Value	₹ Lacs	20,046
3	CIF Price	₹/MT	18,168

4	Custom duty	%	8%
6	Custom duty amount	₹/MT	1,363
7	Cess on custom duty	₹/MT	136
4	Landed Price	₹/MT	19,667
5	Net selling price	₹/MT	***
6	Price undercutting	₹/MT	***
7	Price undercutting	%	***%
8	Price undercutting	Range	10-20

81. It is noted that price undercutting during the period of investigation is positive and significant for subject countries. In view of the positive price undercutting, the Authority finds that the Indian market cannot be considered a price-taker. Despite the demand-supply gap, the imports have entered at lower prices.

82. The other interested parties have submitted that the price undercutting should be analysed in the light of the profits made by the domestic industry. However, the Authority notes that while price undercutting is seen only for the period of investigation, the profitability trends are seen over the period. The Authority notes that since the price undercutting is positive and significant, the domestic industry is likely to be forced to match the import prices in case of expiry of anti-dumping duty. In such a case, the profitability of the domestic industry is likely to be adversely impacted.

b. Price suppression/depression

83. In order to determine whether the effect of imports depress prices to a significant degree or prevent price increases which otherwise would have occurred in normal course, the Authority has examined the changes in the costs and prices of the domestic industry over the injury period.

Particulars	Unit	2017-18	2018-19	2019-20	POI
Cost of sales	Rs./MT	***	***	***	***
Trend	Indexed	100	110	114	112
Selling price	Rs./MT	***	***	***	***
Trend	Indexed	100	108	109	107

84. It is noted that the cost of sale as well as the selling price of the domestic industry increased over the injury period. However, the increase in selling price is not in tandem with the increase in cost of sales of the domestic industry.

IV. Economic parameters of the domestic industry

85. Annexure II to the Anti-Dumping Rules require that the determination of injury shall involve an objective examination of the consequent impact of dumped imports on the

domestic producers of such products. With regard to consequent impact of dumped imports on the domestic producers of such products, the 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 capital employed or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments. The various injury parameters relating to the domestic industry are discussed hereinbelow.

a. Production, capacity, capacity utilization and sales volumes

86. The performance of the domestic industry with regard to capacity, production, sales and capacity utilization over the injury period was as below:

Particulars	Unit	2017-18	2018-19	2019-20	POI
Capacity	MT	***	***	***	***
Trend	Indexed	100	100	100	100
Total Production (PUC)	MT	***	***	***	***
Trend	Indexed	100	116	102	95
Capacity Utilization: Plant	%	***%	***%	***%	***%
Trend	Indexed	100	123	107	96
Domestic Sales	MT	***	***	***	***
Trend	Indexed	100	112	99	95

87. The Authority notes that:

- i. The capacity of the domestic industry has remained constant over the injury period.
- ii. The capacity utilization, production and sales of the domestic industry increased till 2018-19 but declined thereafter.
- iii. However, since the demand for the product under consideration had itself declined during the period of investigation, the decline suffered in capacity utilization, production and sales of the domestic industry, in the period of investigation can be attributed to the same.

b. Market share

88. Market share of the dumped imports and domestic industry have been examined as below:

Particulars	Unit	2017-18	2018-19	2019-20	POI
Domestic industry	%	***%	***%	***%	***%

Trend	Indexed	100	100	86	95
Subject imports	%	***%	***%	***%	***%
Trend	Indexed	100	46	42	70
Other imports	%	***%	***%	***%	***%
Trend	Indexed	100	286	379	229

89. It is noted that the market share of the domestic industry declined in 2019-20 but increased in the period of investigation. Similarly, the market share of the subject imports declined till 2019-20 but increased in the period of investigation. However, the imports from other countries gained market till 2019-20.

c. Inventories

90. Inventory position of the domestic industry over the injury period is given in the table below:

Particulars	Unit	2017-18	2018-19	2019-20	POI
Average stock	MT	***	***	***	***
Trend	Indexed	100	13	18	103

91. It is noted that the inventories of the domestic industry declined in 2018-19, but increased in 2019-20. Thereafter, the inventories have increased in the period of investigation.

d. Profitability, cash profits and return on capital employed

92. Profits, cash profits and return on capital employed of the domestic industry over the injury period is given in the table below:

Particulars	Unit	2017-18	2018-19	2019-20	POI
Cost of sales	Rs/MT	***	***	***	***
Trend	Indexed	100	110	114	112
Selling price	Rs/MT	***	***	***	***
Trend	Indexed	100	108	109	107
Profit / (loss)	Rs/MT	***	***	***	***
Trend	Indexed	100	102	85	79
Profit / (loss)	Rs. Lacs	***	***	***	***
Trend	Indexed	100	114	84	75
Cash profits	Rs. Lacs	***	***	***	***
Trend	Indexed	100	110	88	81
Return on capital employed	%	***	***	***	***
Trend	Indexed	100	172	108	110

93. The Authority notes that:

- i. The profitability of the domestic industry declined in 2019-20 and POI.
- ii. The return on capital employed of the domestic industry has increased in 2018-19 but decline in 2019-20.

Particulars	Unit	2017-18	2018-19	2019-20	POI
Profit before interest	Rs. lakhs	***	***	***	***
Trend	Indexed	100	124	101	83
Capital employed	Rs. lakhs	***	***	***	***
Trend	Indexed	100	82	95	77
Return on capital employed	%	***	***	***	***
Trend	Indexed	100	151	106	108

94. The Authority has also taken note of the concerns raised by other interested parties that the profitability of the domestic industry has declined due to increase in finance and depreciation costs. Accordingly, the Authority has examined the trend of EBIDTA of the domestic industry over the period. The Authority notes that the EBIDTA of the company has followed the same trends as profit before interest above.

Particulars	Unit	2017-18	2018-19	2019-20	POI
EBIDTA	Rs. lakhs	***	***	***	***
Trend	Indexed	100	119	102	87

e. Employment, wages and productivity

95. The Authority has examined the information relating to employment, wages and productivity, as given below:

Particulars	Unit	2017-18	2018-19	2019-20	POI
Employees	Nos.	***	***	***	***
Trend	Indexed	100	110	149	149
Productivity per day	MT/Day	***	***	***	***
Trend	Indexed	100	116	102	95
Productivity per employee	MT/Nos	***	***	***	***
Trend	Indexed	100	106	69	63
Wages	Rs. Lacs	***	***	***	***
Trend	Indexed	100	99	111	127

96. It is noted that the number of employees as well as the wages paid by the domestic industry increased over the injury period. The productivity per day and productivity per employee decreased in the period of investigation, with the decline in production.

f. Growth

Particulars	Unit	2017-18	2018-19	2019-20	POI
Capacity	%	-	-	-	-
Production	%	-	16	(12)	(8)
Domestic sales	%	-	12	(11)	(4)
Profit/(loss) per unit	%	-	2	(17)	(6)
Cash profits	%	-	10	(20)	(8)
Return on capital employed	%	-	72	(37)	2

97. It is noted that both the volume and profitability parameters of the domestic industry showed improvement in 2018-19, but declined thereafter. However, the return on capital employed has increased in the period of investigation.

g. Ability to raise capital investment

98. The Authority notes that the domestic industry is making further investment for production of subject goods in India. Owing to the current anti-dumping duties in force, the ability to raise capital investment of the domestic industry has not been impacted.

h. Magnitude of dumping

99. It is seen that there is no dumping from co-operative producers/exporters, however dumping from non-co-operative producer/exporters is found to be positive.

I. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING AND INJURY

100. The Authority observes that this is a sunset review investigation, the focus of this investigation is to examine the likely scenario of continued dumping and consequent injury if anti-dumping duties is to be allowed to expire even if there is no current injury. This also requires a consideration of whether the duty imposed is serving the intended purpose of eliminating injurious dumping. In this regard, the WTO Panel in EC – Footwear observed that –

“In original anti-dumping investigations, investigating authorities must determine whether the domestic industry of a Member is materially injured by dumped imports. At this stage, the focus is on the existence of "material injury" at the time of the determination. That determination is made under Article 3, based on information concerning the necessary and relevant factors for some previous

period. In contrast, in an expiry review, an anti-dumping measure has been in place for some time, and investigating authorities must, based on a fresh analysis, determine whether the expiry of that measure would be likely to lead to continuation or recurrence of injury”.

101. Thus, in a sunset review investigation, the Authority is required to analyze whether revocation of a measure is likely to result in continuation or recurrence of injury to the domestic industry, contrary to the determination of injury in an original investigation. A similar view was taken by the Hon’ble CESTAT in the decision of P.T. Asahimas Chemicals vs. Designated Authority, Ministry of Finance [2015 (328) E.L.T. 417 (Tri. - Del.)], wherein it was held –

“10. With respect to the injury determination, if the anti-dumping duty had the desired effect, the condition of the domestic industry would be expected to have improved during the period the anti-dumping duty was in effect. Therefore, the assessment whether injury will continue, or recur, would entail a counter-factual analysis of future events, based on projected levels of dumped imports, prices, and impact on domestic producers. Thus the D.A. has to address the question as to whether the domestic industry is likely to be materially injured again, if duties are lifted.

11. In the light the aforesaid legal position, we are of the view that the question to be addressed is not whether there is current dumping, but whether revocation of duty would result in recurrence of dumping and injury.”

102. Therefore, in case of a sunset review investigation, existence of current injury to the domestic industry is not relevant to examine whether duties are required be continued or not. The Authority in a review investigation is required to analyze whether there exist likelihood of continuation or recurrence of dumping or injury in the event of cessation of existing measures.
103. All factors brought to the notice of the Authority have been examined to determine as to whether there is a likelihood of continuation or recurrence of dumping or injury in the event of cessation of the duty. The Authority has considered various information, as made available by the domestic industry, in order to evaluate the likelihood of continuation or recurrence of dumping or injury.
104. There are no specific methodologies available to conduct such a likelihood analysis. However, Para (vii) of Annexure II of the Rules provides, inter alia for factors which are required to be taken into consideration viz.:
- i. A significant rate of increase of dumped imports into India indicating the likelihood of substantially increased importation;

- ii. Sufficient freely disposable, or an imminent, substantial increase in, capacity of the exporter indicating the likelihood of substantially increased dumped exports to Indian markets, taking into account the availability of other export markets to absorb any additional exports;
 - iii. Whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports; and
 - iv. Inventories of the article being investigated.
105. The importers have contended that the price of imports is lower because they had to adjust their prices in accordance with the anti-dumping duty and the prices of the applicant. The importers have further contended that the prices would increase in the absence of duties. However, it does not suggest that the imports are not likely to be dumped or cause injury to the domestic industry in the absence of duties.
106. Further, the Authority has also examined other relevant factors having a bearing on the likelihood of continuation or recurrence of dumping and consequent injury to the domestic industry. The examination of the parameters of likelihood is as follows.
- a. Continued dumping despite existence of anti-dumping duty**
107. The Authority notes that there is continued and significant dumping of the subject goods from Russia and Iran, in spite of the duties in force. Continued dumping during the existence of duties indicates likelihood of continuation of dumping in the event of cessation of anti-dumping duty.
- b. Increase in imports despite decline in demand and anti-dumping duty in force**
108. It is noted that after declining in 2018-19, the volume of imports from the subject countries increased over the remaining injury period, despite the decline in demand thereafter. Such increase in imports despite duties suggest that the subject imports are likely to increase further in the event of cessation of duty.

Particulars	Units	2017-18	2018-19	2019-20	POI
Russia	MT	79,656	58,958	74,417	99,951
Iran	MT	56,512	21,555	979	10,388
Georgia	MT	21,620	-	-	-
Subject imports	MT	1,57,788	80,513	75,396	1,10,339
Demand	MT	***	***	***	***
Trend	Indexed	100	112	114	100

c. Third country dumping

109. It is noted that the producers / exporters in the subject countries are dumping the subject goods in third countries as well in addition to India. The data on record shows that significant exports to third countries from Russia are at dumped prices.

Particulars	Georgia	Russia	Total
Total exports	4,29,433	78,82,381	83,11,814
Exports at dumped prices	4,29,433	68,06,500	72,35,933
Exports at dumped prices	100%	86%	87%
Exports at dumped prices in relation to demand in India	***%	***%	***%
Range	90-100%	1300-1500%	1400-1600%
Exports at injurious prices	424,259	7,185,514	7,609,773
Exports at injurious prices	99%	91%	91%
Exports at injurious prices in relation to demand in India	***%	***%	***%
Range	80-90%	1400-1500%	1500-1600%

Source: Trade map data

d. Significant idle capacities held by producers in subject countries

110. The domestic industry has provided a Market Research Report titled IHS Fertecon Nitrates Report which contains information regarding the capacity, production and demand in the subject countries. The Authority notes that the producers in the subject countries hold significant production capacities, in excess of domestic demand. The production of the producers is not sufficient to utilize capacities, leaving them with significant idle capacities.
111. The domestic industry has also submitted that JSC Azot, Kemerovo has recently expanded its capacity by 250 KT and is further planning a capacity expansion of 790 KT which is planned to be commenced by 2022 and a total fresh capacity of 1,140 KT in addition to the currently installed capacities are planned to be commenced by 2026.

Figures in thousand tons

Particulars	Georgia	Iran	Russia	Total
Capacity	450	221	11,306	11,977
Production	456	188	8,816	9,460
Demand	89	133	5,799	6,021
Idle capacities	0	33	2,490	2,523
Demand in India	-	-	-	486
Idle capacity in relation to Indian demand	***%	***%	***%	***%

Range	Nil	5-15%	500-550%	500-550%
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Source: Market Research report

e. Export orientation of the producers/exporters

112. The applicant has claimed that the production of the product under consideration in Georgia and Russia is significantly more than the demand in the respective countries.:

Figures in '000 MT

Particulars	Georgia	Russia	Total
Production	456	8816	9272
Demand	89	5799	5888
Production meant for exports	367	3017	3384
Share of production meant for exports	80%	34%	36%

Source: Market Research Report

f. Measures imposed by other countries

113. The Russian producers faced trade remedial measures in European Union and Ukraine. As per the report submitted by the domestic industry, European Union may become an unattractive market for the Russian producers due to the imposition of such measures. Further, there was an anti-dumping duty imposed against exports from Russia in Australia as well, which has been revoked only in 2021. This underlines that the exporters in Russia are engaging in dumping practices in other countries as well.

g. Price attractiveness of India as a market

114. The applicant has claimed that the Indian market is a more price attractive market as compared to other markets for the producers in Russia as significant exports from the said countries are at prices below the prices prevailing in India.

Particulars	Russia
Total exports	78,82,381
Exports below Indian prices	72,03,348
Exports below Indian prices	91%
Exports below Indian prices in relation to demand in India	***%
Range	1400-1600%

Source: Trade Map data

h. Likely price suppression or depression

115. The Authority notes that the landed price of the subject imports is undercutting the domestic selling price. Further, the landed price of the subject imports has remained significantly below the selling price of the domestic industry. In the event of cessation of duties, such prices are likely to create a strain on the prices of the domestic industry, and force it to reduce its prices. Therefore, the subject imports are likely to have a depressing effect on the prices of the domestic industry.

i. Imports entering India below the cost of sales

116. It is noted that the subject imports are already entering the country at prices lower than the cost of sales of the domestic industry. Cessation of present duties would result in such imports entering the country at even lower prices, forcing the domestic industry to lower its prices in order to compete, resulting in decline in profitability. Further, the imports have entered the Indian market at injurious prices.

Particulars	Unit	Actual	Likely	Change
Cost of sales	Rs/MT	***	***	-
Selling price	Rs/MT	***	***	-17%
Profit / loss	Rs/MT	***	(***)	-128%
Profit / loss	Rs Lakhs	***	(***)	-129%
Profit margin (on cost)	%	***%	(***)%	-129%
Cash profits	Rs Lakhs	***	***	-98%
Return on investment	%	***%	(***)%	-107%

j. Imports at injurious prices

117. It is seen that the subject imports have entered the Indian market at injurious prices and below the cost of sales and selling price of the domestic industry despite duties in force.

MAGNITUDE OF INJURY MARGIN

118. The Authority has determined the non-injurious price for the domestic industry on the basis of principles laid down in the Rules read with Annexure III, as amended. The non-injurious price of the subject goods has been determined by adopting the verified information/data relating to the cost of production for the period of investigation. The non-injurious price has been considered for comparing the landed price from the subject countries for calculating injury margin. For determining the non-injurious price, the best utilisation of the raw materials by the domestic industry over the injury period has been considered. The same treatment has been carried out with the utilities. The best utilisation of production capacity over the injury period has been considered. It is ensured that no extraordinary or non-recurring expenses were charged to the cost of production. A reasonable return (pre-tax @ 22%) on average capital employed (i.e., average net fixed

assets plus average working capital) for the product under consideration was allowed as pre-tax profit to arrive at the non-injurious price as prescribed in Annexure III of the Rules and being followed.

119. Based on the landed price and non-injurious price determined as above, the injury margin for producers/exporters has been determined by the Authority and the same is provided in the table below.

SN	Name of Producer	Non-injurious price	Landed Price	Injury Margin	Injury Margin	Injury Margin
		(US\$/MT)	(US\$/MT)	(US\$/MT)	(%)	(Range%)
Russia						
1	Azot, JSC (Novomoskovsk) and JSC Nevinnomyssky Azot Nevinnomyssk	***	***	***	***	0-10
2	JSC Azot, Kemerovo	***	***	(***)	(***)	Negative
3	Non-cooperative/residual exporters	***	***	***	***	0-10
Iran						
1	Non-cooperative/residual exporters	***	***	***	***	10-20

J. CAUSAL LINK AND NON-ATTRIBUTION ANALYSIS

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

a. Volume and prices of imports from third countries

121. It is noted that other than the subject imports, there are imports Bulgaria, Turkey, and Ukraine. However, the price of imports is significantly higher than the price of imports from subject countries.

b. Contraction in demand

122. The Authority notes that the demand for the subject goods increased consistently through the injury period but has declined in the period of investigation. Even though the demand has declined, the subject imports have increased. Therefore, the domestic industry is not likely to suffer injury due to contraction of demand.

c. Pattern of consumption

123. It is noted that there is no change in the pattern consumption of the subject goods, which is likely to cause injury to the domestic industry.

d. Conditions of competition and trade restrictive practices

124. The Authority notes that the investigation has not shown that conditions of competition or trade restrictive practices are responsible for the likely injury to the domestic industry.

e. Developments in technology

125. It is noted that the technology for producing subject goods has not undergone any change and therefore, is not likely to cause injury to the domestic industry.

f. Productivity

126. The Authority notes that the productivity of the domestic industry has remained stable over the injury period and, is not the likely cause of injury to the domestic industry.

g. Export performance of the domestic industry

127. The Authority notes that the injury information examined hereinabove relates only to the performance of the domestic industry in terms of its domestic market. Thus, the injury likely to be suffered by the domestic industry cannot be attributed to the export performance of the domestic industry.

128. Some of the interested parties have contended that the injury to the domestic industry is due to decline in export sales. The Authority notes that the domestic industry is majorly involved in sales in domestic market only. The exports by the domestic industry were negligible over the injury period. Thus, any decline in exports cannot cause injury to the domestic industry.

h. Performance of other products

129. The Authority has only considered data relating to the performance of the subject goods. Therefore, performance of other products produced and sold are not a possible cause of the injury to the domestic industry.

i. COVID-19

130. Some of the interested parties have claimed that the injury to the domestic industry in terms of decline in sales during 2019-20 and the period of investigation is due to COVID-19 pandemic. The Authority notes that the demand had declined during the period of investigation. However, the remaining demand was nevertheless sufficient for the domestic industry to maintain its capacity utilization. Nevertheless, the imports increased while the sales of the domestic industry declined. The Authority further notes that the applicant did not suffer any shutdowns during the period of investigation on account of Covid-19.

K. INDIAN INDUSTRY'S INTEREST

K.1. Submissions by the other interested parties

131. The following submissions have been made by other interested parties with regard to the Indian industry's interest:
- a. The applicant has been able to establish itself at a dominant position in the market to the detriment of the user industries.
 - b. The explosive manufacturers operate on a very thin margin and are bound to pass on the increase of the price of their critical raw material i.e., Ammonium Nitrate to the downstream user industry and that will create a cascading effect at all levels and affect the general public at large. By comparison, the sole manufacturer is enjoying handsome profits.
 - c. While the applicant is earning handsome profit after imposition of the duty, the user industry is suffering because of high price and drying up of alternate sources of supply.
 - d. The purpose of anti-dumping duty is to protect present investments and not future investments.
 - e. Soaring freight cost and halted import activities due to lack of containers have further increased prices. Owing to high prices, some of the parties have not booked imports since November 2021.
 - f. The farmers in Russia have been impacted due to the acute shortage of Ammonium Nitrate. Thus, to ensure availability of fertilizers, the Russian Ministry of Finance decided to prohibit the export of product under consideration from 1st December 2021.
 - g. The applicant has underplayed the impact of anti-dumping duty on the user industry.
 - h. The applicant is trying to maintain its monopoly position. The applicant is itself announcing creation of a monopoly for the AN solid.
 - i. All mining companies including Coal India Limited, Singareni Colliery Company Limited, NMDC and other public sector and private sector units suffered for want of explosives for four months during the period of investigation.

- j. There is a huge demand-supply gap in the market. There is a deficit of 6 KT during the financial year 2020-21. In the pre-pandemic period, there was a deficit of 103 KT. The users faced shortages due to pandemic and lockdowns, explosion in Beirut followed by vigilance measures at Vishakhapatnam.
- k. There is a huge gap in the demand and supply of Ammonium Nitrate in the country. The user industry is facing the issues of short supply since applicant is a sole manufacturer with limited capacity.
- l. Extension of duty would threaten the viability of the downstream industries and cause a domino effect on the overall Indian economy. Since international prices of Ammonium Nitrate are already at an all-time peak, the coal prices will also go up, causing increase in the cost of electricity, thereby making manufacturing costlier, which will ultimately lead to inflated prices for goods and services for the end consumers. India recorded a power supply shortage of 1,201 million units in October 2021, which was the highest in 5.5 years, due to a crunch in coal stocks available with thermal plants.

K.2. Submissions by the domestic industry

132. The following submissions have been made by the domestic industry with regard to the Indian industry's interest:
- a. The effect of anti-dumping measures on public interest must be studied from the perspective of interests of different set of parties – (a) the domestic producer of the product under consideration, (b) the domestic consumers of the product under consideration, (c) the upstream and downstream industries in both the producing and consuming industry, (d) the general public and (e) purpose/ objective of imposition of anti-dumping duties.
 - b. The demand for the subject goods has continuously increased in the past five years. Therefore, the continuation of anti-dumping duty will not have an adverse impact on the user industry.
 - c. The profitability of the major users in India increased significantly till 2019-2020 therefore, the user industry did not suffer from the current anti-dumping duties in force and are not likely to suffer due to continuation of the current duties.
 - d. The user industry is not impacted by any price fluctuation of the subject goods as the contracts entered by them with the mining sector industries have a price variation formula which takes into account any fluctuation in prices of the subject goods. Solar Industries India Limited, in its Annual Report of 2020-21 reported that it passes on the cost increase to the customers.
 - e. Contrary to the submissions of the other interested parties, the purpose of the anti-dumping duty is to eliminate injury caused due to unfair trade practices. Considering the landed price of imports and the injury margin, the anti-dumping duty should be enhanced in order to protect the proposed investment by the applicant.

- f. The user industry is already enjoying concessional basic customs duty of 2.5% on the imports from subject countries over the existing anti-dumping duties.
- g. The impact of continuation of anti-dumping duty on the mining sector will be to the tune of only 0.84%. The effect of the duty will be diminishing beyond the mining sector.
- h. While the other interested parties have made statements regarding the impact of anti-dumping duty on the downstream industry, they have failed to quantify the impact of the same.
- i. Cessation of present duties may lead to sickness of the Indian industry and can even force the producers to exit from the market, making India completely import reliant market.
- j. The subject goods are mainly used to produce explosive slurry which is used in the mining of coal, and it fulfills 65% of the power requirement of the country. Therefore, it would not be beneficial for the country to be entirely reliant on imports.
- k. Imposition of the duties would be in the interest of the consumers since high degree of export dependency would mean that the consumers are at the mercy of the exporters.
- l. Procuring from the domestic industry will result in stability of fair price in the market, uninterrupted supply, growth of the downstream industry and a reliable business partner for the users, while allowing them to hold lower inventories.
- m. Anti-dumping duties are not a ban on imports from subject countries. Rather, the duty only ensures that the imports shall enter the market at fair prices.
- n. The applicant has the capacity to meet more than 85% of the demand in India. The rest of the demand can be fulfilled by imports from other countries. Since subject goods are first converted into melt form, demand-supply gap must be considered after inclusion of AN in melt form, which would show that the capacity of India is equivalent to demand.
- o. Demand-supply gap is not a ground for non-imposition of anti-dumping duty as held in *Nocil Limited V. Government of India and DSM Idemitsu Limited V. Designated Authority*. The Authority has recommended imposition of anti-dumping duty in a number of cases where there was a demand-supply gap in India.
- p. The domestic industry has undertaken significant investments to cater to the Indian demand. If the cheap unfair priced imports are not prevented, the planned investment by the domestic producers would be under threat.
- q. Considering the safety issues with the product under consideration, the imports may be mishandled which is evident from the fact that the license of warehouses at Vizag port have been cancelled.
- r. There is no significant difference in the manufacturing process of the domestic industry and the exporters. Thus, there is no need for such a high dependence on the imports.

- s. Not only are the producers in the subject countries involved in unfair trade practice of dumping, but also engaging in circumvention of the anti-dumping duty imposed by the Central Government.
- t. If the anti-dumping duty is removed, duty will lead to further dumping of Ammonium Nitrate in the country and is likely to put the investment made by the applicant at risk.
- u. If dumping is allowed to destroy the competition in the market, it would discourage future investment in the product and the demand-supply gap would only widen.
- v. Contrary to the claim of the other interested parties, instead of cascading effects, there shall be significantly diminishing effects of continuation of anti-dumping duty on the downstream industries.
- w. It would be in the interest of the users to have local availability of the subject goods, to avoid any disruption such as Beirut explosion, to the supply chain in future.
- x. The power crisis in the country was due to inability of the industries to import coal as the demand for coal increased significantly resulting in global shortage and significant increase in the international coal prices. Moreover, the shortage was also due to the flooding of coal mines due to the rains.

K.3. Examination by the Authority

133. The Authority notes that the purpose of anti-dumping duty, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition / continuation of anti-dumping measures does not aim to restrict imports from the subject countries in any way. The Authority recognizes that the continuation 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 continuation of anti-dumping measures. On the contrary, continuation of anti-dumping measures would ensure that no unfair advantages are gained by dumping practice, prevent decline in the performance of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.
134. The other interested parties have argued that public interest must be looked into from the perspective of the user industry. The Authority notes that the examination is with regard to impact of duties on public at large, and the same is not limited to consumers. Therefore, the interests of all stakeholders must be considered in examination of public interest. While the issue of the public interest must be examined with attention to the user industry, however the interests of the important elements of the Indian industry cannot be completely brushed aside, which includes the domestic industry, other Indian producers, upstream supplying industry, ultimate consumers and general public at large. Further, the investigating authorities in different jurisdictions, such as European Union, United Kingdom, Brazil, New Zealand, etc. also examine the interests of the domestic industry along with the interests of other stakeholders in their public interest examination. Thus,

in order to examine the overall public interest of the Indian industry, the Authority is required to take a wholistic and inclusive approach by considering the interests of all stakeholders.

135. The Authority considered whether imposition of anti-dumping shall have any adverse impact on the interest of the public. In order to determine such impact, the Authority weighed the impact of the imposition of duties on the availability of the goods in the Indian market, the impact on the users of the product as well as the domestic industry and the impact on the general public at large. This determination is based on the submissions and evidence submitted over the course of the present investigation.
136. The Authority issued initiation notification inviting views from all interested parties, including importers, consumers and others. Authority also prescribed a questionnaire for the users/ consumers to provide relevant information with regard to present investigation, including any possible effects of anti-dumping duty on their operations. While the users / consumers have filed submissions with regard to adverse impacts of continuation of anti-dumping duty, they have failed to quantify the same. Further, it is noted that the subject goods are majorly used to manufacture slurry which is used in manufacturing explosives. As per the evidence on record the downstream industry is a pass-through industry and any fluctuations in the prices of the subject goods is passed on to further downstream industry.
137. With regard to the impact of the continuation of anti-dumping duties on the downstream industry, the Authority notes that there would be no cascading effect on the general public as the explosives manufactured by the downstream industry is mainly used in the mining sector in India, and the maximum impact on the mining sector would be only 0.84%.

Particular	UoM	Prices of domestic industry at highest profitability	Considering import price
Current Price	Rs/MT	***	***
Difference	Rs/MT	***	
% Increase	%	***%	
Cost of AN to Mining	%	4.40%	
Increase in Cost to Mining Sector	%	0.84%	

138. The above impact quantified by the domestic industry has not been disputed by the other interested parties with cogent evidence or information.
139. With regard to the performance of the user industry, the Authority notes that the user industries have continued to maintain their profitability over the injury period, even due to the current anti-dumping duties in force. Hence, there is no likely detrimental impact

on the performance of the user industry as the revenue and profits of the users have increased over the injury period.

Particulars	UoM	2016-17	2017-18	2018-19	2019-20
Revenue	Rs. Lacs	2,05,443	2,24,050	2,72,745	2,54,176
Profits before tax	Rs. Lacs	23,386	23,101	31,282	24,923
Profits as a percentage of revenue	%	11	10	11	10

Source: *Financial statements of the users**

The above analysis includes the performance of the following users:

- i. Ideal Industries Explosives Limited
- ii. Solar Industries Limited
- iii. Premier Explosives Limited
- iv. Rajasthan Explosives Chemicals Limited
- v. Nallabolu Industries Private Limited
- vi. AKS Expo-Chem Private Limited
- vii. Ambals Explosives Private Limited
- viii. Regenesi Industries Private Limited
- ix. Sri Vishnu Explosives Private Limited
- x. Beezaasan Explotech Private Limited
- xi. Bharat Explosive Limited

140. It is further noted that the user industry has a price variation formula which takes into account any fluctuation in prices of the product under consideration, as evident from procurement tender issued by Coal India Limited. This implies that any price increases would be passed on by the users.
141. The Authority further notes that the end users such as Coal India cannot be considered as being significantly impacted by the duties. As per information on record, Ammonium Nitrate constitutes less than 2% of the cost and revenue of Coal India. In such a situation, the impact of duty on such a small component of cost would be miniscule in the overall operations of the user.

	UoM	2018-19	2019-20	2020-21
Total revenue of Coal India	Rs. Crores	99,586	96,080	90,026
Total expenses of Coal India	Rs. Crores	78,294	78,453	75,806
Cost of explosives consumed	Rs. Crores	1,886	1,793	2,008
Cost of AN*	Rs. Crores	1,132	1,076	1,205
Share of explosives cost in total revenue	%	1.89%	1.87%	2.23%

Share of explosives cost in total expenses	%	2.41%	2.29%	2.65%
Share of AN cost in total revenue	%	1.14%	1.12%	1.34%
Share of AN cost in total expenses	%	1.45%	1.37%	1.59%

Source: Annual report of Coal India

*Cost of AN determined based on price variation clause in Bulk Rate Contract of CIL, wherein purchase of explosives is benchmarked at 60% to price of ammonium nitrate.

142. The Authority also notes that the weighted average component of anti-dumping duty in the import price has reduced over the period, that is, more imports are being made on payment of low or nil duty.

Particulars		2017-18	2018-19	2019-20	2020-21
Total imports (MT)		205	259	276	242
ADD wise imports in MT	NIL	145	156	248	152
	US\$ 11.42	14	60	28	90
	US\$ 25	-	24	-	-
	US\$ 26.07	8	-	-	-
	US\$ 53.99	-	-	-	-
	US\$ 60.35	39	19	-	-
Share of ADD volume		30%	40%	10%	37%
Share of Non-ADD volume		70%	60%	90%	63%
Weighted Average ADD (\$/MT)		13.3	9.3	1.2	4.2

143. The Authority notes that while the weighted average duty was USD 13.3 per MT in 2017-18, it has declined to USD 4.2 per MT in the period of investigation, that is, only 1.87% of the import price. Further, 63% of the imports made were not subject to anti-dumping duties. Therefore, the duty cannot be considered to have caused a significant price increase in the market.

144. Some interested parties have contended that the applicant has established itself at a dominant position at a detriment of the user industry and is trying to create a monopoly in India. The Authority notes that the users have been able to maintain their profitability over the injury period, and there is no detrimental impact of anti-dumping duty in force. Although the applicant is the sole producer of Ammonium Nitrate in solid form in India, the subject goods are used eventually only in melt form. Thus, the applicant directly competes with the producers of Ammonium Nitrate in melt form and cannot create a monopoly in India. The applicant also competes with the imports of subject goods from

subject countries as well as non-subject countries. Hence, it is not possible that the applicant is able to create monopoly in India.

145. Some interested parties have contended that the imports are inevitable due to the demand-supply gap in India. The Authority notes that the demand-supply gap is not a justification for dumping in India. Even if there is a demand-supply gap in the country, it is necessary that the product is available at fair prices. The continuation of the anti-dumping duty will not hamper the availability of the product under consideration but will ensure that the same is available at fair prices. In fact, the re-establishment of fair competition in the market may encourage further investment, which would help further bridge demand-supply gap.
146. The Authority also notes that while there is a demand-supply gap in the country, the imports at present far exceed such gap. That the product under consideration can also be imported from other countries, such as Bulgaria, Turkey, Uzbekistan and Ukraine.

Particulars	UoM	2017-18	2018-19	2019-20	POI
Bulgaria	MT	14,500	1,05,109	76,123	38,618
Egypt	MT	-	-	44	-
Japan	MT	-	-	19	-
Kazakhstan	MT	-	-	15,798	-
Korea RP	MT	3,398	660	500	-
Turkey	MT	-	38,100	1,05,926	52,500
UAE	MT	20,910	1,234	-	-
Uzbekistan	MT	-	4,793	4,495	-
Ukraine	MT	-	-	-	15,200
Iraq	MT	-	-	-	278

Source: DGCI&S Data

147. The volume of imports made from these countries were sufficient to address the demand-supply gap. The Authority notes the demand-supply position in the country is as below. While the imposition of anti-dumping duty would not prevent imports, in any case, users can continue to source the subject goods from other countries.

Particulars	2017-18	2018-19	2019-20	POI
Demand	488,020	547,197	558,768	486,152
Capacity in India	483,600	483,600	483,600	483,600
Other imports	46,808	149,896	202,905	106,596
Capacity of domestic industry + other imports	530,408	633,496	686,505	590,196

Supply in excess of demand	42,387	86,299	127,737	104,044
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148. The Authority further notes that while AN melt is not like article to the imported goods, it is nevertheless a directly competitive product. Therefore, the demand-supply situation can be better evaluated after considering the demand and capacity for both the like article and AN melt.

Particulars	2017-18	2018-19	2019-20	POI
Demand (DGCI&S)	***	***	***	***
Capacity in India*	***	***	***	***
Other imports (DGCI&S)	53,308	1,53,412	2,14,454	1,18,304
Capacity of domestic industry + other imports	***	***	***	***
Supply in excess of demand	***	***	***	***

From the above, it is evident that even after excluding imports from subject countries, there was sufficient supply of the subject goods in the Indian market.

149. With regard to the demand-supply gap, the Authority also takes note of the significant capacity additions being planned by the domestic producers. As per information supplied by various produced of ammonium nitrate, in all forms, the applicant, Chambal Fertilisers, GNFC, RCF and NFL are all planning to expand capacity. These include expansions of current capacity, brownfield plants as well as greenfield plants. Such capacity expansions would increase the total capacity in the country by 9 lakh tons per annum. The Authority notes that such capacity additions would help further bridge the demand-supply gap in the country. However, if competitive conditions in the market are not maintained, the viability of the planned capacity additions may be jeopardized.
150. Some of the interested parties have contended that coal manufacturing companies were suffering due to scarcity of subject goods in India. The Authority notes that the subject goods are not used directly by the coal manufacturing companies. These companies use explosives manufactured using subject goods. The explosive manufactures have not contended that there was scarcity of the subject goods in India. The capacity utilisation of the domestic industry has declined over the injury period and the inventories have increased. In case of scarcity of subject goods in India, there should not have been any accumulated inventories.
151. It has been represented by the users that owing to the Russian embargo, restrictions on certain ports and Beirut explosion, the availability of the product under consideration was impacted in the country. The Authority does not find any nexus between these events and the imposition of duty. To the contrary, such events would have disrupted supply, even

in the absence of anti-dumping duties. It is also worth noting that such international supply disruptions underscore the importance of domestic manufacturing. The Authority, therefore, does not find that the imposition of duties would aggravate the demand-supply situation. The Authority also considers that it is imperative to encourage domestic manufacturing, to ensure that the Indian consumers are not reliant on imports, and are in a position to source the subject goods even in face of any embargo or other international factors disrupting supply.

L. POST-DISCLOSURE STATEMENT SUBMISSIONS

152. The post disclosure submissions have been received from the interested parties and the domestic industry, and it is noted that most of the issues raised are reiterations and have already been raised earlier and also addressed appropriately. Additional submissions have been analysed as under:

L.1. Submissions by the other interested parties

153. The following post-disclosure submissions have been made by the other interested parties. The other interested parties have reiterated their submissions with regard to scope of like article and the domestic industry, determination of the normal value, absence of injury, absence of likelihood of continuation of dumping and injury, absence of causal link, inconsistencies in data, effect of explosion in Beirut and measures at Vishakhapatnam port, existence of demand-supply gap, embargo by Russia and confidentiality claimed by the domestic industry.

- i. While the Authority has taken a full year to investigate, the interested parties have been given only a day to give comments. Further, the Authority would have less than 24 hours to consider the comments.
- ii. The entire likelihood analysis relates to Georgia and Russia only and does not cover Iran.
- iii. Since the cooperative producers from Russia have negative dumping margin, the entire volume of Russia to India is un-dumped.
- iv. Low density ammonium nitrate should be excluded from the scope of duty specifically.
- v. The methodology for determination of residual dumping margins, and mere reference to Rule 6(8) of the Rules is not sufficient. Further, cost of production of the domestic industry cannot be relied upon for determination of normal value for Iran.
- vi. The disclosure statement also does not record whether the conditions required under the rules for a cumulative assessment has been met.
- vii. No source of information for third country dumping has been identified.
- viii. Increasing price of AN domestically and internationally, apart from high demand supply gap in the country, is impacting bulk explosive manufacturing and availability of explosive for the mining sector.

- ix. The domestic industry is making fresh investments for production of ammonium nitrate and ammonia.
- x. There is a huge demand-supply gap in the country, and the demand has increased over the period.
- xi. As per Article 5.8, where any exporter was found to be not dumping in the original investigation, there should be immediate termination against such exporter.
- xii. India is not a major market for the exporters in Russia.
- xiii. No duties should be imposed on cooperative producers, found not to be dumping.
- xiv. There has been an increase in prices of product under consideration globally, such as countries Europe, Russia and North America in 2021.
- xv. Imports from third countries are priced below the non-injurious price.
- xvi. The price revision formula of Coal India tenders does not reflect the market prices in real time. If anti-dumping duty is extended, the explosive manufacturers would not be able to recover

L.2. Submissions by the domestic industry

154. The domestic industry reiterated its submissions with regard to likelihood of dumping and injury from Georgia, and consideration of intangible assets in the determination of non-injurious price. In addition, the post-disclosure submissions have been made by the domestic industry:
- a. The exporters from Georgia should have been asked to provide information regarding third country exports.
 - b. Since the present investigation is based on likelihood of dumping and injury, and not that of present injury, the same anti-dumping duty should continue.
 - c. CIL has experienced a huge increase in profits, as well as GOCL which is a major user of ammonium nitrate.

L.3. Examination by the Authority

155. The Authority notes that most comments are reiterations which have already been examined suitably and addressed adequately in the relevant paras of the findings. The Authority has examined the fresh issues raised by the interested parties.
156. The Authority noted that the domestic industry has claimed consideration of intangible assets in the determination of NIP. However, the Authority noted the intangible assets claimed by the domestic industry is in the form of Goodwill and cannot be considered for NIP.
157. As provided in the relevant part of this final findings, Georgia has been excluded as a subject country owing to lack of evidence of likelihood of dumping and injury due to cessation of present anti-dumping duty.

158. The disclosure statement had been issued on 7th June, 2022 and the interested parties had been asked to file comments by 8th June, 2022. The interested parties have expressed grievance with being provided only one day for filing comments to the disclosure statement. However, in order to provide interested parties time to file comments, the Authority had extended the deadline by one day to 9th June, 2022. The Authority is constrained from providing further time to the interested parties to file comments due to the refusal of the Central Government to provide an extension of time to the Authority to conclude the investigation.
159. Regarding the likelihood of dumping and injury from Iran, the Authority notes that there is evidence of present dumping from the country. Further, the imports from Iran have increased in the recent period, after declining till 2018-19. The price of such imports is also below the selling price of the domestic industry, resulting in significant price undercutting. Further, the imports are entering at injurious prices, below the cost of sales and non-injurious price of the domestic industry. This shows that in the absence of duties, dumping is likely to continue, the volume of imports is likely to increase further, and cause injury to the domestic industry.
160. Contrary to the claim of interested parties, the negative dumping margin for the cooperative producers does not imply that the dumping margin for the entire country is negative, inasmuch as the responding producers do not constitute the entirety of the producers in the country.
161. Since the product under consideration is restricted to ammonium nitrate having bulk density in excess of 0.83 g/cc, no specific exclusion with regard to ammonium nitrate having a lower density is required.
162. The normal value for non-cooperative producers and for Iran have been determined as per consistent practice of the Authority. The interested parties have not submitted any evidence, which may be more suitable for determination of normal value. Therefore, the Authority has relied upon facts available.
163. The interested parties have contended that the cumulative analysis of injury has been conducted without examining whether the requirements thereof are satisfied. The Authority notes that, in case of a sunset review, while cumulation is allowed, the conditions thereof are not applicable. The Panel in the case of United States – Sunset Review of Anti-Dumping Measures on Oil Country Tubular Goods from Argentina took a view that the conditions set forth in Article 3.3 do not apply to sunset reviews. Therefore, the Authority is not required to examine whether all conditions of cumulation are satisfied before proceeding with a cumulative analysis.
164. As already disclosed in the relevant part of the present findings, the analysis of third country dumping is based on Trade Map data. Even though such data was supplied by

the applicant in the petition itself, it has not been controverted with evidence by any interested party during the course of the investigation.

165. The interested parties have emphasized the demand-supply gap and the high prices of the subject goods impacting the explosives sector and availability of explosives for the manufacturing sector. The domestic industry, on the other hand, has relied upon the performance Coal India Limited and GOCL, which shows that both explosives manufacturers and users of explosives have seen a significant increase in profits, and the coal offtake has also increased. The Authority notes significant capacity additions being planned by the domestic producers. As per information supplied by various producers of ammonium nitrate, in all forms, the applicant, Chambal Fertilisers, GNFC, RCF and NFL are all planning to expand capacity, by a total of 9 lakh tons per annum. These include expansions of current capacity, brownfield plants as well as greenfield plants. The Authority notes that such capacity additions would help further bridge the demand-supply gap in the country. In any case, the Authority notes that the demand-supply gap is not a justification for dumping in India. Even if there is a demand-supply gap in the country, it is necessary that the product is available at fair prices. The continuation of the anti-dumping duty will not hamper the availability of the product under consideration but will ensure that the same is available at fair prices. In fact, the re-establishment of fair competition in the market may encourage further investment, which would help further bridge demand-supply gap. Further, the subject goods can also be imported from other countries, such as Bulgaria, Georgia, Indonesia, Turkey, Uzbekistan and Ukraine.
166. As regards the request for termination of investigation against producers found not to be dumping in the original investigation, the Authority notes that such termination would not be in accordance with the settled jurisprudence and its own practice. During the original investigation, nil duty was levied on the exporter, but the investigation against it was not terminated. The exporter also did not ask for such a termination. The Authority has consistently taken a view that it can conduct sunset reviews against an exporter having zero duties in the original investigation. In the case of *Robin Resources v. Union of India*, the Hon'ble CESTAT also noted as follows.

“9. We note that the DA can consider where an exporter was awarded zero duty in the original investigation and has now found to be dumping which is likely the cause injury to DI, then AD duty can be considered for imposition with reference to dumping margin and injury margin established during the review. We note that the DA followed the requirements of Articles 2 and 3 of the ADA and the relevant provisions of AD Rules. We also note that regarding appellants, the DA has examined and reviewed all the aspects of original investigation and in addition examined whether expiry of initial notification is likely to lead a recurrence of dumping/injury to the DI. As already noted that this is like a fresh investigation insofar as appellant is concerned and we find no legal infirmity in such action by the DA...”

167. As regards the contention of the interested parties that India is not an important market for Russia, it is noted that even during the present period of investigation, the imports from Russia increased. Further, such imports are at injurious prices, below the selling price and cost of sales of the domestic industry. The exporters from Russia hold significant surplus capacities. Moreover, India is a price attractive market, which would encourage the exporters to divert exports to India. Therefore, the evidence on record shows that there is likelihood of continuation of dumping and consequent injury to the domestic industry in the event of expiry of duty.
168. The interested parties have claimed that the prices of the subject goods have increased in 2021, particularly in Russia, Europe and North America. The Authority notes that the information on record shows that Russia has a huge surplus capacity, over and above its domestic demand. Further, Europe and North America have imposed restrictions against the exports from Russia, as a result of which some markets are not available to Russia.
169. The interested parties have also contended that the imports from other countries are priced below the non-injurious price. The Authority has examined the data on record and found that there are significant imports from Bulgaria, Turkey and Ukraine. However, such imports are priced above the non-injurious price.
170. Some of the importers and users have also emphasized that the existing anti-dumping duties have caused significant hardships to the users. However, they have not refuted the evidence provided by the domestic industry that the financial statements of users do not show a deterioration in performance.

M. CONCLUSION

171. Having regard to the contentions raised, the information provided, the submissions made and the facts available before the Authority as recorded in the above findings, and on the basis of the above analysis of the likelihood of continuation or recurrence of dumping and injury to the domestic industry, the Authority concludes that:
- a. The product produced by the domestic industry is the like article to the product under consideration imported from the subject countries.
 - b. There are no exports of the subject goods from Georgia to India during the POI and preceding years. There is no surplus capacity available with the only Georgian producer during the POI as evidenced from the information shared by the applicant as well as interested parties. Further, there is no surplus capacity available with the only Georgian producer during six months post-POI. As per the evidence on record, no other country has imposed anti-dumping duty on imports of the subject goods from Georgia. There is absence of current dumping and injury to the domestic

industry due to imports from Georgia as well as there is no likelihood of dumping and injury due to imports from Georgia and thus, Georgia has been excluded from the subject countries.

- c. There is continued dumping from Russia and Iran, despite anti-dumping duty in force, from the subject countries. In light of the evidence on significant idle capacities, export orientation, third country dumping, measures imposed by other jurisdictions as well as price attractiveness of India, the Authority notes that there is likelihood of continuation or recurrence of dumping and injury in case of cessation of the present anti-dumping duty in force.
- d. While the cooperative producers have not been found to be dumping, the dumping margin and injury margin for non-cooperative producers from the subject countries is positive and significant.
- e. From the foregoing, the Authority concludes that there is likelihood of continuation or recurrence of dumping and injury to the domestic industry by imports from Iran and Russia in the event of cessation of existing anti-dumping duty.

N. RECOMMENDATIONS

172. The Authority notes that the investigation was initiated and notified to all the interested parties and adequate opportunity was given to the domestic industry, the exporters, the importers, the users and the other interested parties to provide information on the aspects of dumping, injury, causal link and likelihood of dumping and injury.
173. Having found no evidence of current dumping or injury, or likelihood of recurrence of dumping and injury in the event of expiry of duty due to imports from Georgia, the Authority does not find that continuation of anti-dumping duty on the imports of ammonium nitrate originating in or exported from Georgia is warranted. Having concluded that there is positive evidence of likelihood of continuation or recurrence of dumping and injury if the existing anti-dumping duty on imports of Russia and Iran are allowed to cease, the Authority is of the view that the anti-dumping duty in force on the imports of the product under consideration from Russia and Iran is required to be continued further. Considering the facts and circumstances of the case, as established hereinabove, the Authority considers it appropriate to recommend extension of the anti-dumping duty on the imports of subject goods originating in or exported from Russia and Iran as per column 7 in the duty table below, for a further period of two (2) years.

Duty Table

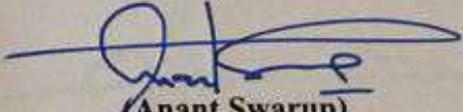
SN	Tariff Heading	Description of goods	Country of origin	Country of export	Producer	Amount	Currency	Unit
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1	31023000	<i>Ammonium nitrate” whether prilled, granular, or in other solid form, with or without additives or coating, and having bulk density in excess of 0.83 g/cc</i>	Russia	Any country including Russia	JSC Azot JSC Nevinnomysky Azot	Nil	USD	MT
2	-do-	<i>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</i>	Russia	Any country including Russia	JSC Azot, Kemerovo	Nil	USD	MT
3	-do-	<i>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</i>	Russia	Any country including Russia	Any other than SN 1 and 2	16.91	USD	MT

4	-do-	<i>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</i>	Any country other than Russia and Iran	Russia	Any	16.91	USD	MT
5	-do-	<i>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</i>	Iran	Any country including Iran	Any	31.24	USD	MT
6	-do-	<i>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</i>	Any country other than Russia and Iran	Iran	Any	31.24	USD	MT

174. 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, 8B, 9 and 9A of the Customs Tariff Act, as amended from time to time.

O. FURTHER PROCEDURE

175. An appeal against the order of the Central Government arising out of these findings shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the relevant provisions of the Act.


(Anant Swarup)
Designated Authority