

**To be published in the Gazette of India, Extraordinary, Part 1 Section 1**

**F. No. 6/12/2018-DGAD  
Government of India  
Ministry of Commerce & Industry  
Department of Commerce  
(Directorate General of Trade Remedies)  
4th Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi 110001**

*Dated 31<sup>st</sup> December, 2018*

**NOTIFICATION**

**FINAL FINDINGS**

**Subject: Antidumping duty investigation concerning imports of “Non-Plasticized Industrial Grade Nitrocellulose excluding Nitrocellulose Damped in Ethanol and Waterwet” originating in or exported from Brazil, Indonesia, and Thailand.**

**F.No.6/12/2018 – DGAD: Whereas 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 Antidumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time, (hereinafter referred to as the Rules) thereof, the Designated Authority (hereinafter referred to as the Authority), received a written application by M/s Nitrex Chemicals India Limited (hereinafter also referred to as “Petitioner” or “Applicant” or “DI”) on alleged dumping of “Non-Plasticized Industrial Grade Nitrocellulose, excluding Nitrocellulose Damped in Ethanol and Waterwet” having nitrogen content in the range of 10.7% to 12.2% (hereinafter referred to as subject goods), originating in or exported from Brazil, Indonesia and Thailand (hereinafter referred to as the subject countries).**

**And Whereas, the Authority on the basis of *prima facie* evidence submitted by the Applicant justifying initiation of Antidumping investigation, issued a public notice vide Notification No. 6/12/2018 – DGAD dated 10.04.2018 in accordance with the Rule 5 of the Rules to examine and determine existence, degree and effect of the alleged dumping of the subject goods, originating in or exported from the subject country, and to recommend the amount of Antidumping duty, which, if levied, would be adequate to remove the alleged injury to the Domestic Industry (DI).**

**A. GENERAL PROCEDURE**

1. The procedure described below has been followed with regard to this investigation, after the issuance of the public notice notifying the initiation of the above investigation by the Authority:

- i. The Authority notified the Embassies of the subject countries in India about the receipt of the Anti-dumping application before proceeding to initiate the investigations in accordance with sub-rule (5) of Rule 5 *supra*.
- ii. The Authority sent a copy of the Initiation Notification to the Embassy of the subject countries in India, known producers/ exporters from the subject countries, known importers/ consumers/ users/ associations in India, other Indian producers and the DI as per the addresses made available and requested them to make their views known in writing within 40 days of the Initiation Notification.
- iii. The Authority provided a copy of the non-confidential version of the application to the known producers/ exporters and to the Embassy of the subject countries in India in accordance with Rule 6(3) of the Rules *supra*.
- iv. The Embassies of the subject countries in India were also requested to advise the exporters/ producers from the subject countries to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the producers/exporters was also sent to them along with the names and addresses of the known producers/ exporters from the subject countries.
- v. The Authority sent Exporter's Questionnaire and Supplementary Questionnaire to the following known producers/ exporters to elicit relevant information in accordance with Rule 6(4) of the Rules:
  - a. Nobel NC Co., Ltd.
  - b. Nitro Chemical Industry Ltd.
  - c. Nitro Quimica Brazil
  - d. PT. Indocera Utama Precisi;
- vi. A request for an extension of time for filing the exporter questionnaire response was filed by the Brazilian exporter Nitro Quimica Brazil, the Authority granted an extension of 15 days to file exporter questionnaire response. However, no exporter questionnaire response was received on behalf of Nitro Quimica Brazil
- vii. In response to the Initiation Notification, the following exporters/ producers responded and submitted questionnaire responses:
  - a. PT. Indocera Utama Precisi
  - b. PT Inti Cellulose Utama Indonesia
  - c. Nobel NC Co., Ltd.
  - d. Nitro Chemical Industry Ltd.
- viii. The Authority sent Importer's Questionnaires to the following known importers/ consumers of subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rules:
  - a. Akzo Nobel India Limited;
  - b. Asha Penn Color Pvt. Ltd.;
  - c. Esdee Paints Limited;
  - d. Flint Group India Pvt. Ltd.
  - e. Hi-Tech Inks Pvt. Ltd

- f. Hindustan Pencils Pvt. Ltd.
  - g. Huber Group India Pvt. Ltd.
  - h. Kansai Nerolac;
  - i. Setco Chemicals India Pvt. Ltd.
  - j. Sheenlac Paints Limited;
  - k. Siegwerk India Pvt. Ltd.;
  - l. Sunshine Paints
  - m. Tata Paints;
  - n. Wembley Paints & Chemicals
- ix. The Authority sent User's Questionnaires to the following known importers/ consumers of subject goods in India calling for necessary information in accordance with trade notice no 10/2018 dated 7th September 2018:
- a. Aakar Paints
  - b. Marigold Paints;
  - c. Ideal Coting Industries;
  - d. Nippon Paints India Ltd.
  - e. Kansai Nerolac Paints Ltd.;
  - f. Sheenlac Paints Corp P. Ltd.;
  - g. Hero Paints Pvt Ltd.;
  - h. Archana Color Coatings;
  - i. Meet Paints Pvt. Ltd.;
  - j. Kokuyo Chemlin Limited;
  - k. Across Coatings (P) Ltd.;
  - l. Krishna Murari Organosys;
  - m. Jubliant Agri and Consumer Products Ltd.
- x. The following importers and users of the subject goods responded by filing questionnaire responses:
- a. Chem Pharma Impex
  - b. Esdee Paints Ltd.
  - c. Tara Paints and Chemicals
  - d. Arihant Resins & Pigments LLP.
- xi. The initiation notification was also sent to the associations listed below:
- a. India Paints & Coatings Association;
  - b. India Small Scale Paints Association;
  - c. Indian Paints & Power Coatings Manufacturers Association;
  - d. All India Printing Ink Manufacturers Association
- xii. The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties;
- xiii. The request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to provide the transaction-wise details of import of subject goods for the past

three years, and the period of investigation, which was received by the Authority. The Authority has relied upon the DGCI&S data for computation of the volume of imports and required analysis after due examination of the transactions.

- xiv. The Non-Injurious Price (NIP), based on the optimum cost of production and cost to make & sell the subject goods in India based on the information furnished by the DI on the basis of Generally Accepted Accounting Principles (GAAP) and Annexure III to the Antidumping Rules, has been worked out so as to ascertain whether Antidumping duty lower than the dumping margin would be sufficient to remove injury to the DI.
- xv. The Authority held an oral hearing on 6th August, 2018 to provide an opportunity to the interested parties to present relevant information orally in accordance with Rule 6 (6), which was attended by the representatives of DI, representatives of exporter of Thailand, representatives of Indonesian exporter, Embassy of Indonesia, importers, and users. All the parties who presented their views in the oral hearing were requested to file written submissions of their views expressed orally. The parties were also advised to collect written submissions made by the opposing parties and were requested to submit their rejoinder thereafter. The users present in the hearing were asked to file the user's questionnaire response along with their written submissions. Following which the following users filed user's questionnaire response
  - a. Esdee Paints
  - b. Arihant Pigments and Resins LLP
- xvi. The verification of the information provided by the DI was carried out to the extent considered necessary. Only such verified information with necessary rectification, wherever applicable, has been relied upon.
- xvii. The Period of Investigation (POI) for the purpose of the present investigation is April 2016-September 2017 (18 months). The examination of trends in the context of injury analysis covered the periods April 2013 - March 2014, April 2014 - March 2015, April 2015 - March 2016 and the POI. In order to present an appropriate comparison of the POI figures with other years, wherever the data has been mentioned for the entire injury period, the data for the POI has been presented on an annualized basis.
- xviii. The submissions made by the interested parties during the course of this investigation, wherever found relevant, have been addressed by the Authority, in this final finding.
- xix. Information provided by the interested parties on confidential basis was examined with regard to the sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on a confidential basis were directed to provide sufficient nonconfidential version of the information filed on a confidential basis. The exporters were asked to file a revised non-confidential version of the exporter questionnaire response and provide all necessary and relevant information. A revised non-confidential version of the questionnaire was filed by the responding exporters.

- xx. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded the views/observations on the basis of the facts available.
- xxi. In accordance with Rule 16 of the Rules Supra, the essential facts were disclosed by the Authority on 7<sup>th</sup> December 2018 to the concerned interested parties. Comments were requested by 14<sup>th</sup> December 2018. Comments received on the disclosure statement to the extent considered relevant by the Authority have been considered in this final finding.
- xxii. ‘\*\*\*’ in this final findings represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- xxiii. The exchange rate for the POI has been taken by the Authority as ₹67.06 = 1 US\$.

## **B. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE**

### **B.1 Views of the Domestic Industry**

#### **2. The views of the DI are as follows:**

- i. The product under consideration is non-plasticized Industrial grade Nitrocellulose excluding nitrocellulose damped in ethanol and water-wet (hereinafter will be called as the “PUC”), having nitrogen content in the range of 10.7% to 12.2%.
- ii. The industrial nitrocellulose is of two types, one is solvent (solvent damped) i.e. non plasticized nitrocellulose and other is plasticizers damped. Non-plasticized nitrocellulose is basically solvent damped based nitrocellulose which is used for industrial purpose.
- iii. There are three kinds of damping media viz. Normal Butyl Alcohol (NBA) damped, Isopropyl Alcohol (IPA) damped and Ethyl Alcohol damped and the fourth type of non-plasticized nitrocellulose is water-wet, which can be damped in any medium.
- iv. Non-plasticized nitrocellulose (NC) damped in IPA and damped in NBA serves the same purpose and is interchangeable for the paint industry.
- v. The product under consideration is known to be one of the oldest film formers unequalled in properties like toughness, durability, fast solvent release capacity and solubility.
- vi. The major raw material of the product under consideration is pulp, i.e. cellulose which is obtained from purified cellulose either in the form of cotton linter or wood pulp.
- vii. The product under consideration is ‘Industrial grade Nitrocellulose damped in Isopropyl Alcohol’ is measured in terms of KG and classified under customs sub-heading 39122019.

- viii. There is no known difference in the product produced by the petitioner and exported from the subject countries. The consumers are using the two interchangeably. Subject goods produced by the petitioner are like the article to the goods imported from the subject countries within the meaning of the Antidumping Rules.
- ix. The product under consideration can be produced with cotton linter or wood pulp as raw materials. The raw material is chosen by petitioner based on their prices or climate conditions. There was no shortage of raw material and DI has never suffered an injury on this account.
- x. There is no quality issue with the product under consideration being sold by the petitioner because users like Esdee paints have been purchasing the PUC from the petitioner since last 25 years and has never made complaints with regard to quality of the product.
- xi. The users have shifted to imports, not because of better quality but cheap prices being offered by them. So the allegation with regard to quality is completely baseless and the opposing interested parties have not submitted any evidence in this regard and have merely made an allegation
- xii. Petitioner caters to large MNC's and Indian companies, to almost all small-scale companies and to over 25 countries in the world. All these clearly show Nitrex quality is of International standards.
- xiii. Quality of packing of the PUC has never been an issue and the packaging given by the petitioner is absolutely safe.

## **B.2 Views of Interested Parties**

- 3. Other interested parties have made the following submission:
  - i. The quality of the subject goods produced by the Petitioner is of low quality in comparison to the subject imports.
  - ii. The PUC is highly inflammable and hazardous and the DI packs the material in poor packing boards whereas the imported product is properly packed in fiberboard material.
  - iii. The quality of the product is determined by its colour and the product is of white coloured cotton form but the product supplied by the DI is pale in colour which indicated inferior quality.
  - iv. The product imported is more free-flowing, thus easy to handle whereas the product supplied by the DI is less free-flowing and is difficult to handle.

## **B.3 Examination by the Authority**

- 4. The product under consideration in the present investigation is “Non-Plasticized Industrial Grade Nitrocellulose excluding Nitrocellulose Damped in Ethanol and Waterwet having nitrogen content in the range of 10.7% to 12.2%” (also described as Nitrocellulose and also referred to as subject goods).

5. The product under consideration has properties like toughness, durability, fast solvent release capacity and solubility. The product under consideration is a flammable compound formed by nitrating cellulose through exposure to nitric acid or another powerful nitrating agent and it is used in the manufacture of Wood Lacquers, Auto Refinish Paints, Leather Finishing Lacquers, Nail Varnishes, and Printing Inks etc. The product does not form a major proportion in the cost of production of any of the downstream product.
6. The major raw material of the product under consideration is pulp, i.e. cellulose which is obtained from purified cellulose either in the form of cotton linter or wood pulp. While the weight of the product is 70% nitrocellulose, this is sold damped in a suitable solvent (30%) so as to prevent the nitrocellulose from igniting. The Authority has noted that while the Nitrocellulose is normally damped for use in Isopropyl Alcohol (IPA) for the paints and varnishes industry, it is largely only in India that Nitrocellulose damped in Normal Butyl Alcohol (NBA) is also used. However, no trade/ import into India have taken place from the subject countries of Nitrocellulose damped in NBA during the POI.
7. However, considering that there is a significant price difference between NBA and IPA, no import of 'Nitrocellulose damped in NBA or Butanol', no known production of 'Nitrocellulose damped in NBA in the subject countries and limited interchangeability of Nitrocellulose damped in NBA and damped in IPA, the Authority has restricted the scope of PUC only to **“Non-Plasticized Industrial Grade Nitrocellulose Damped in Isopropyl Alcohol having Nitrogen content in the range of 10.7% to 12.2%”**.
8. The subject goods are classified under the Chapter 39 under Customs subheading no. 3912 of the Customs Tariff Act, 1975. However, the Customs classification is indicative only and in no way binding on the scope of the subject investigation. The import data shows that the product has been reported under Customs classification of 39122019.
9. The interested parties have raised a concern about the quality of the domestic product. The Authority, however, notes that there is no quantified evidence provided by these interested parties to show the alleged quality difference between the domestic and imported product. It is also noted that the DI has provided evidence showing that some of the consumers increased their sourcing more from imports and reduced from DI. These consumers, however, continued to buy significant volumes from the DI, thus clearly showing that these parties were nevertheless buying significant volumes of the product from the DI. On the spot verification conducted at the premises of the petitioner DI and the exporter from Thailand did not show any material difference in the product supplied by the DI and foreign producers. The increased sourcing by the consumers from imports at lower prices while continuing to buy from the DI at relatively higher prices also shows that the consumers have shifted to imports because of the lower prices offered by foreign producers and not due to the alleged difference in the quality of the product.

10. As regards the quality of the packaging of the product, the Authority notes that it has not been established how the difference in packaging renders the two products as different products. It is also noted the petitioner has been selling the product for past quite some time and there is no verifiable evidence to show that difference in the quality of packing is leading to higher imports. The petitioner contended that it supplies the product in Mild Steel Drums which is considered much stronger and durable when compared to fiberboard drum packing or corrugated box packing of imports. It is also noted that the DI has been exporting the product and its exports doubled over the present injury period.
11. With regard to like article, Rule 2(d) of the Antidumping Rules provides as under:  
*"like article" means an article which is identical or alike in all respects to the article under investigation for being dumped in India or in the absence of such article, another article which although not alike in all respects has characteristics closely resembling those of the articles under investigation;*
12. After considering the information on record, the Authority holds that there is no known difference in the product under consideration exported from subject countries and the subject product produced by the DI. The subject goods produced by the DI is comparable to the subject goods exported from subject countries in terms of characteristics such as physical & chemical characteristics, functions & uses, product specifications, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably.
13. Thus, the Authority holds that the subject goods produced by the DI are like article to the product under consideration exported from the subject countries, in accordance with the Antidumping Rules.

## **C. SCOPE OF DOMESTIC INDUSTRY & STANDING**

### **C.1 Views of the Domestic Industry**

14. Following submissions have been made by the DI:
  - i. The Authority may undertake elaborate investigations and find out the standing of the petitioner. Petitioner has no reservation. The facts would clearly establish that the production of the petitioner constitutes a major proportion in Indian production.
  - ii. Cumulating production of all other producers would be misleading for the reason that one of the producers has started its production at a different point in time and M/s. UNIX Cellulose Pvt. Ltd. has commenced production within the injury period itself.

### **C.2 Views of Interested Parties**

15. The following submissions have been made in this regard:

- i. There are other producers of the PUC in India, namely GRN Cellulose Pvt. Ltd. and Unix Cellulose Pvt. Ltd. Thus, it should be verified if Petitioner does constitute a “major share” of production in India.

### **C.3 Examination by the Authority**

16. The application has been filed by M/s Nitrex Chemicals India Limited as a domestic producer of the subject goods who has provided detailed information for the present investigation. The petitioner identified GRN Cellulose Pvt Ltd and UNIX Cellulose Pvt. Ltd. as other Indian producers of the product. There is no other known producer of the subject goods in India.
17. The Authority considered the contention of the interested parties regarding the examination of the petitioner as constituting major share in the production in India. The Authority has considered the production of the petitioner and other Indian producers. It is noted that two of the reported ‘other producers’ have not responded to the Designated Authority in the present investigations. Information on record shows that while one was producing during the entirety of the injury period, the other started producing only in 2015-16. This information was provided by the petitioner, barring who none of the other interested parties have provided any specific data/ information about these producers. The Authority has, therefore, based on the information before it quantified the total Indian production and has determined that the production of the petitioner in the POI constituted 71%, whereas, the production of the other two domestic producers constituted the balance 29%.
18. The petitioner has neither imported the subject goods nor is related to any of the importer or exporter of the subject goods. Thus, after consideration of various relevant aspects, the Authority has determined that the petitioner is eligible to be treated as DI under the law and its production constitutes a major proportion in Indian production.
19. It is, thus, determined that the petition has been made by and on behalf of the DI, the petitioner satisfies the requirement of ‘standing’ under Rule 5 of the AD Rules and the petitioner constitutes ‘DI’ in terms of Rule 2(b) of the AD Rules.

## **D. ISSUES RELATED TO CONFIDENTIALITY**

### **D.1 Views of the Domestic Industry**

20. The DI made the following submissions:
  - i. The responding exporters have resorted to excessive confidentiality claims which have completely prevented the Petitioner from offering their comments. The confidentiality claims are not in accordance with Rule 7 of the rules.

- ii. None of the parties have given even an indexed version of their performance indicators. Injury statements filed by the DI are invariably either on actual basis or on an indexed basis.
- iii. In the instant case, the information could have been easily indexed. Despite so, the information has been completely suppressed.
- iv. Injury statement filed by the petitioner can be seen. DI being a single company has provided indexed figures of each parameters showing the trend of injury parameters, the exporters opted to not provide even the non-confidential summary of the performance parameters as sought in Appendix 1.
- v. The interested parties have not disclosed all such information that they are obliged to disclose under the Rules. Even information that is publicly available has not been disclosed in the non-confidential version.
- vi. The users also have resorted to excessive confidentiality and have not filed the NCV user's questionnaire containing sufficient information to permit substance of the information provided on a confidential basis. The DI is not able to defend its interest and respond to a questionnaire response filed by them.
- vii. The Trade Notice no 05/2018, dated 28th February 2018 suggests that the interested parties are required to file a nonconfidential summary of every confidential information filed.

## **D.2 Views of Interested Parties**

- 21. There have been no submissions made by the opposing interested parties.

## **D.3 Examination by the Authority**

- 22. With regard to confidentiality of information, Rule 7 of Antidumping Rules provides as follows:

*Confidential information: (1) Notwithstanding anything contained in sub-rules and (7) of rule 6, sub-rule(2),(3)(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 a confidential basis to furnish non-confidential summary thereof and if in the opinion of a party providing such information, such information is not susceptible of summary, such party may submit to the designated Authority a statement of reasons why summarization is not possible.*

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

23. Submissions made by the interested parties with regard to confidentiality and considered relevant by the Authority are examined and addressed accordingly. Information provided by the interested parties on confidential basis was examined with regard to the sufficiency of the confidentiality claim. The Authority notes that any information which is available in the public domain cannot be treated as confidential. The Authority directed the exporters to file a revised non-confidential version of questionnaire response and provide a meaningful response. The responding exporters filed a revised response. 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. The Authority made available the non-confidential version of the evidence submitted by various interested parties in the form of a public file.

## **E. MISCELLANEOUS SUBMISSIONS**

### **E.1 Views of the Domestic Industry**

24. The following miscellaneous submissions have been made by the DI:
- i. The allegation of the opposing interested parties provides only half the truth of the situation and the news articles specifying closure of plant does not fall under a period of investigation.
  - ii. The allegation of plant shutdown of the petitioner is baseless. The petitioner has submitted all the details with regard to a plant shutdown.
  - iii. Petitioner took action on suggested remedies of the Gujarat Pollution Control Board (GPCB), thus, making them withdraw the same order in 15 days. Further, Nitrex plant was never shut down on regulatory issues.
  - iv. The allegation of the opposing party regarding the shortage of water in petitioner's plant is of no relevance. The ongoing agreement of the petitioner with the Government of Gujarat, Municipality and Irrigation department clearly show that the petitioner has no water shortage and they get water supply adequately. Evidence of the same have been filed on record.
  - v. Report of the Expert Committee appointed by High Court of Gujarat (March 2013) and its relevant clauses, which guarantees an adequate supply of water.
  - vi. Average daily consumption of water shows that the average daily availability of water (each month during the last 5 years), was more than required by the petitioner.
  - vii. The POI is April 2016-September 2017 and the initiation of investigations was notified on 10th April 2018. There is no issuer with regard to the POI and initiation of the investigation. The data provided for initiation was recent and examined by the Authority.
  - viii. There are various tariff and non-tariff barriers in the subject countries due to which India is denied free market access. However, India is an open market for these exporters with significant duty concessions and no license requirements.

- ix. Thailand and Indonesia both have exported approximately 300 tons of Nitrocellulose in POI whereas the Indian producers are denied free market access by these countries due to the non-tariff barrier. ‘
- x. Nitrocellulose (both for civil and defense use) is listed as “explosive articles” under the notification of the “Thai Ministry of defense on arms”. As a consequence, the import of industrial nitrocellulose requires a prior import license by the Ministry of Defense under “Arms Control Act”.
- xi. As per the free trade agreement, current imports into India from Indonesia is having 0% customs duty under MFN category. However, imports into Indonesia from India are having 4% customs duty.
- xii. In Brazil, Indian producers will have to obtain an import license where the Ministry of Defense, Brazil is involved, and Import License is denied with an argument of public security and chemical can be used to produce explosives.
- xiii. The customs duty in India for Brazil is 7.25% for the subject goods whereas Indian imports need to pay a customs duty of 14% in Brazil. So the Indian imports in Brazil are subject to both tariff and non-tariff barrier.
- xiv. The questionnaire response filed by ABC Chemicals Pvt. Ltd was much delayed after the prescribed deadline. The questionnaire was filed by the importer after the delay of 49 days despite an extension for filing responses was granted by the Authority.
- xv. The Authority has been very careful about the time limits prescribed and once the Authority rejected a petitioner for delay of merely less than 24 hours. In light of the practice adopted by the Authority, the response filed by ABC Chemical should be rejected.
- xvi. Importer questionnaire filed by Chem Pharma should be rejected on the ground of filing it at a much-delayed stage. The opportunity to file questionnaire response only to the users.

## **E.2 Views of Interested Parties**

25. The following miscellaneous submissions have been made by other interested parties in this regard –
- i. Plants of the petitioner have been shut down by State Authorities twice, due to regulatory issues. Thus, the downturn in performance and the subsequent injury cannot be attributed to the subject imports.
  - ii. Two of petitioner’s plants are in Gujarat and there is a water shortage in the State of Gujarat. Petitioner has been facing water shortage issue from several years, thereby affecting the Petitioner’s production which should also be dominant factor affected the Petitioner’s industry performance.
  - iii. Petitioner stops the supply of the product without any intimation.
  - iv. The POI is not recent and there is a gap of 6 months between the date of initiation and POI. POI should be revised, and the Designated Authority is requested to examine post-POI data till June 2018.

- v. Indonesian industry believes that this is irrelevant with the current investigation. Moreover, the tariff under all FTAs has been decided based on economic consideration of Government involved with full consideration of the interest of their respective industry.
- vi. The fact of tariff difference due to ASEAN is irrelevant for the present investigation. The agreements are done by the government looking at the economic consideration with the Government involved with full consideration of the interest of their respective industry.
- vii. Any levy of duty would make it difficult for the user industry to procure subject goods on account of higher prices in the Indian market.

### **E.3 Examination by the Authority**

- 26. Various Misc. issues raised by the interested parties have been examined by the Authority. As regards the contention that the petitioner is performing poorly due to shutting down of their plant by the State Authorities twice, the DI has submitted evidence in that regard. The Authority considered the evidence provided by the petitioner and it is noted that the Gujarat Pollution Control Board had issued a plant closure notice to the petitioner; however, the petitioner soon after issuance of notice complied with the directions issued by the Board. The notice of plant closure was revoked and the plant was never shut on that account.
- 27. The Authority has examined the issue with regard to water shortage in petitioner's plant. It is noted that the petitioner has submitted their agreement with the Municipality and Irrigation department, the Government of Gujarat, which clearly states that the petitioner has an adequate supply of water and there is no plant shut down or production shut down due to a shortage of water.
- 28. It is also noted that the opposing interested parties have not provided any evidence which goes on to establish that the petitioner had stopped or curtailed the supply of the product suddenly without prior intimation.
- 29. As regards the argument of non-tariff barriers in the subject countries, the Authority notes the concerns of the DI with regard to these non-tariff barriers in Thailand and Brazil. The Authority, however, considers that the issue is beyond the scope of the present investigation. The interested parties are free to raise such concerns with the appropriate authorities. The purpose of the present investigation is whether the product under consideration is being exported to India at dumped prices and whether the same has caused injury to the DI.
- 30. As regards the argument of impact on the user industry, the Authority considers this an important aspect of the antidumping action. The intention of the Authority is not to adversely impact the domestic user industry but to ensure that any unfair practices used by the exporters in the subject countries are addressed and, at best, to the extent that these practices are injuring the DI. The interests of the domestic user industry will be considered in this larger context of ensuring that fair and even conditions exist in the domestic market.

31. Regarding the delayed responses filed by some of the interested parties, while the Authority underlines the importance of timelines for the purpose of the investigation, issues of relevance raised in these responses have been taken into consideration to the extent possible.

## **F. DETERMINATION OF NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN**

### **F.1 Views of the Domestic Industry**

32. The DI *inter alia* submitted as follows:
- i. CIF import price from Thailand, which seems to be higher than from other subject countries, is not the real import price, as many producers and exporters from Thailand receive special discounts on CIF import price. This was substantiated with communications on price negotiations, with some customers.

### **F.2 Views of Interested Parties**

33. The following submissions have been made with regard to normal value, export price, and dumping margin—
- i. The prices from Thailand to India have been relatively higher than the prices from other countries.
  - ii. Co-operating exporters have filed the requisite information as per the prescribed questionnaire formats and the same should be taken into consideration for according the exporters an individual margin.
  - iii. Various cost factors such as any applicable tax, handling charge and inland transportation including any possible interest incurred at the distribution level have not been considered for the landed price.
  - iv. The fierce competition in the Indonesian market suggests that the Indonesian industry is unlikely to set their price higher but to always be at a very competitive level. This is to clearly signal that Indonesia Industry's export price level to India is fair according to fair trade norms of the WTO.
  - v. There is no justification that the cost structure of the PUC in India would be representative of Indonesia including the raw material used in the production, power, and labour. Such a flawed assumption cannot reflect the factual cost and sales of Indonesian producer. As such, this dumping allegation does not serve the purpose as evidence in dumping investigation and DGAD should reject this assumption.
  - vi. The decline in selling price is due to the decline in cost. There is no price effect on the DI.

### **F.3 Examination by the Authority**

34. Under section 9A (1) (c) normal value in relation to an article means:
- (i) *The comparable price, in the ordinary course of trade, for the like article, when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6), or*

*(ii) When there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either (a) comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or (b) the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6);*

35. The Authority sent questionnaires to the known exporters/ producers from the subject country, advising them to provide information in the form and manner prescribed. The following parties have filed Exporters Questionnaire Responses:
- a. PT. Indocera Utama Precisi
  - b. PT Inti Cellulose Utama Indonesia
  - c. Nobel NC Co., Ltd.
  - d. Nitro Chemical Industry Ltd.
36. Since the above-mentioned producers/ exporters have filed the questionnaire response, the Authority determines Normal Value and Export Price in respect of cooperative exporters. The general methodology adopted by the Authority for determination of Normal Value for these exporters is to first examine whether the domestic sales of the subject goods by the responding exporters in their home markets were representative and viable for permitting determination of Normal Values on the basis of domestic selling prices and whether the ordinary course of trade test was satisfied as per the data provided by the respondents.
37. In the case of non-cooperating exporters in the subject countries, the Authority has determined the normal value on the basis of facts available in terms of Rule 6 (8) of AD Rules.
38. The Authority has determined the normal value, export price and dumping margin in respect of producers/ exporters of the subject goods as follows:

**F.4 Assessment of Dumping for Exporters from Indonesia**

**(a) Normal Value of PT Inti Celluloseutama, Indonesia (producer) and PT Indocera Utama Precisi (Exporter)**

39. PT Inti Celluloseutama Indonesia is the producer of the subject goods and is exporting the product under consideration to India through its related company PT Indocera Utama Precisi.. PT. Indocera Utama Precisi is a private limited company incorporated under the law of the Republic of Indonesia is only an exporter of the product under consideration and not a producer of the PUC. The questionnaire response filed by PT Inti Celluloseutama, and

its related exporter PT. Indocera Utama Precisi, Indonesia has been examined by the Authority and it is seen that PT Inti Celluloseutama, Indonesia, does not sell the subject goods in the domestic market directly. It sells the subject goods in the domestic market 100% through a related party, Pt Indocera Utama Precisi. The product under consideration is sold by the related party Pt Indocera Utama Precisi, in the domestic market of Indonesia. The adjustment of expenses such as Inland Transportation and Credit Cost has been made towards the determination of domestic sales price in the foreign producer's country. During the POI PT Inti Celluloseutama, Indonesia sold 3351.69 MT of the subject goods in the domestic market through PT Indocera Utama Precisi. All these sales were subjected to an ordinary course of trade test. It was found 94% of the sales in the domestic market were profitable. Accordingly, the normal value for the above producers/exporters work out based on total sales is \*\*\* US\$ per MT.

**(b) Export price of PT Inti Celluloseutama, Indonesia exported through PT Indocera Utama Precisi, Indonesia (related exporter)**

40. It is noted that the Company had made all the exports to India through PT Indocera Utama Precisi, Indonesia (related exporter) directly. It is noted that the aforesaid exporter has also filed a response. The Authority, upon examination of responses filed by both producer and exporter, notes that PT Inti Celluloseutama, Indonesia exported 849.05 MT in total through PT Indocera Utama Precisi, Indonesia. The exporter has claimed adjustment on account of ocean freight, insurance, inland transportation, port and other related expenses, credit cost, and commission. The exporter has stated that the adjustments for these expenses have been claimed on the basis of actuals. The Authority has accepted the export price along with all adjustments claimed by them in their response. The export price so determined has been used to determine dumping margin.

**(c) All other Producers/Exporters from Indonesia**

41. In respect of all other exporters from Indonesia who have been treated non-cooperative, the Authority determined normal value and export price as per facts available in terms of Rule 6(8) of the Rules.

**F.5 Assessment of Dumping for Exporters from Thailand**

**(a) The normal value of Nitro Chemical Industry Ltd. and Nobel NC Co., Ltd.**

42. The questionnaire response has been filed by Nitro Chemical Industry Limited and Nobel NC Co., Ltd, Thailand. Nitro Chemical Industry Ltd. is a producer of the subject goods and is the holding company. Nobel NC Co., Ltd. is also the producer of the subject good and is 100% owned by Nitro Chemical Industries. Both producers/exporters have provided domestic sales price details of the subject goods in Appendix- 4 of their response. Nitro Chemical Industry Limited sells the subject goods to customers directly in the domestic market in Thailand. The adjustment of expenses such as inland freight, bank charges, credit cost, and other expenses has been made towards the determination of domestic sales price in

the foreign producer's country. Nobel NC Co.,Ltd, sells the subject goods in the domestic market 100% through the holding company Nitro Chemical Industry. The adjustment of expenses such as inland freight, bank charges, credit cost, storage cost, and other expenses has been made towards the determination of domestic sales price in the foreign producer's country. During the POI Nitro Chemical Industry Limited sold 4193 MT of the subject goods in the domestic market. All these sales were subjected to an ordinary course of trade test. It was found 99.96% of the sales in the domestic market were profitable. Accordingly, the normal value for the above producers/exporters work out on the basis of total sale is \*\*\* US\$ per MT.

**(b) Export price of Nitro Chemical Industry Limited exported through Nobel NC Co., Ltd**

43. It is noted that the Nitro Chemical Industry Limited has made all the exports to India directly as well as through Nobel NC Co., Ltd (related exporter). The related exporter and producer Nobel NC Co., Ltd has exported all the subject goods to India directly. The Authority has, therefore, taken into account both direct as well as exports through related exporter for the purpose of determining the export price for the responding exporter. The exporter and producers have claimed adjustment on account of shipping cost, ocean insurance, handling charges, inland freight, storage cost, commission, credit cost, bank charges, and other expenses. The exporter and producer have stated that the adjustments for these expenses have been claimed on the basis of actuals. The Authority has accepted the export price along with all adjustments claimed by them in their response. The export price so determined has been used to determine dumping margin.

**(c) All Other Producers/ Exporters from Thailand**

44. In respect of all other exporters from Thailand who are treated to be non-cooperative, the Authority determined normal value and export price as per facts available in terms of Rule 6(8) of the Rules.

**F.6 Assessment of Dumping for Exporters from Brazil**

45. Since none of the producer or exporter has filed any exporter questionnaire response, all the exporters/producers of Brazil are treated as non-cooperative, the Authority determined normal value and export price as per facts available in terms of Rule 6(8) of the Rules. The petitioner, in the petition, had claimed the normal value of Brazil on the basis of the export price of Nitrocellulose from Brazil to the Third country. Since the prices provided by the petitioner are of Nitrocellulose and further segregation of the product is not available and since Nitrocellulose are produced and sold in different forms, while the evidence was sufficient for the purpose of initiation, the same cannot be considered sufficient for the purpose of determination of normal value. The Authority therefore proposes to determine normal value on the basis of best estimates of the cost of production with reasonable addition for SGA and profits in view of the absence of any public information concerning domestic selling price of the product in Brazil.

46. The Authority notes that none of the exporters have furnished information to the Authority in the form and manner prescribed which could be used for determination of the export price and individual dumping margin. Therefore, the Authority has determined the export price for producers/exporters in Brazil on the basis of the DGCI&S transaction wise data. The export price has been adjusted on account of ocean freight, marine insurance, inland freight, bank charges, port expenses and commission to arrive at the net export price at ex-factory level. Accordingly, the net export price at ex-factory level for exports from subject countries is as shown in the dumping margin table below

47. On the basis of normal value and export price determined as explained above, the dumping margin has been determined for the responding and non-responding producers/ exporters in subject countries, details of which are given in the table below.

**Dumping Margin Table**

SN	Producer/Exporter	Country	NV/CNV	NEP	Dumping Margin		
			US\$/MT	US\$/MT	US\$/MT	%	Range
1	Nitro Chemicals Industry Limited / Nobel NC Co., Limited	Thailand	***	***	***	***	40-50
2	Any other than at sl. No. 1	Thailand	***	***	***	***	65-75
3	PT INTI Celluloseutama	Indonesia	***	***	***	***	05-15
4	Any other than at sl. No. 3	Indonesia	***	***	***	***	20-30
5	All producers	Brazil	***	***	***	***	50-60

## G. METHODOLOGY FOR INJURY DETERMINATION AND EXAMINATION OF INJURY AND CAUSAL LINK

### G.1 Views of the Domestic Industry

48. As regards injury and causal link, the DI has made submissions as under:

- i. Demand for the product under consideration has increased throughout the injury period. It has increased by 44% in the Period of investigation since the base year.
- ii. Imports from the subject countries have increased significantly in absolute terms throughout the injury period. The share of imports from subject countries constituted about 97% of total imports in India. Imports have also increased in relation to production and demand in India over the injury period.
- iii. There is no demand-supply gap. Even if imports are happening to fill the demand-supply gap, the exporters can do so by selling the product on fair price. The demand-supply gap does not justify dumping.

- iv. The petitioner has lost sales to several prime customers in the last four years. A number of major customers who were buying the subject goods from the DI preferred to shift to imports – either partly or wholly – due to dumped prices offered by the imports.
- v. This loss of sales by the DI is despite adverse prices offered by the DI to face the unhealthy competition of the market. Had the petitioner not lost these consumers, it would have been able to sell more. The petitioner has suffered significant volume injury due to loss of clients.
- vi. There has been a significant price undercutting by the dumped imports from each of the subject countries.
- vii. With the increase in the cost of production in the POI, the selling price of the DI declined. The DI was forced to reduce the selling price to match the import prices of the subject countries in order to sustain in the market. Dumped imports are depressing and suppressing the prices of the DI.
- viii. There is a significant price underselling from each of the subject countries.
- ix. Production and capacity utilization has declined in the POI. The petitioner is faced with unfair trade practices. The petitioner is not suffering any injury due to exports and exports have increased in POI.
- x. The demand of the product under consideration has increased by 44% as compared to a base year and 15% as compared to previous year respectively whereas the domestic sales have increased only by 29% and 5% respectively. It is also important to see that the imports have increased by 38%. The DI has not been able to sell the product in proportion to the increase in demand.
- xi. Even when overall sales of the DI have improved, it would be seen that sales of the DI to few customers very steeply declined. These declines in sales are not due to a decline in consumption by these consumers. This decline in sales is due to the procurement of imported material by these consumers.
- xii. The dumped imports have created a significant pressure in the market and the DI has lost market share in the POI as compared to a preceding year and base year, despite there is an increase in demand.
- xiii. The profitability of the DI has significantly declined throughout the injury period. PBIT and return on capital employed have shown the same trend as that of profitability.
- xiv. The cash profits of the DI have also declined significantly during the period of investigation as compared to base year as well as the previous year. The DI is facing significant price depression in the market. The result of price depression is the severe decline in profit parameters
- xv. Inventories have increased over the injury period. The industry is unable to dispose of its accumulated inventories due to the presence of dumped imports.
- xvi. Petitioner has been able to maintain their sale because they compromise on their price. The other producer has no role to play
- xvii. The growth of the DI in terms of capacity utilization, selling price, profitability, cash profit, PBIT, ROI has been negative.

- xviii. Production, not increase in prices and does not make the profits to be fluctuating.
- xix. Impact of dumped imports from subject countries has caused DI performance to deteriorate and the same is seen from declining trends in ROI, profits, per unit, Cash Profits, capacity utilization, and market share.
- xx. The Net Fixed Assets and wages have been both declined in the POI when compared to the previous year. Working capital has been declining till 2015-16 and then had a minor increase but is still less when compared to the base year.
- xxi. The product under consideration can be made from both cotton linter as well as wood pulp. The petitioner used both depending on the climatic situation. There has been no shortage of raw material at any point of time and petitioner has never suffered an injury on this account.
- xxii. There is a threat of material injury. The exporters have surplus capacities and the imports will intensify further if the duty is not imposed.
- xxiii. Exports prices of the DI vary from country to country depending on the market dynamics of each country. Petitioner's exports prices are much higher than the subject countries prices for exports to India.
- xxiv. The DI has no reservation with regard to checking the post POI data. The data post POI will show an increase in imports and further deterioration in the performance of the DI.

## **G.2 Views of Interested Parties**

49. Submissions made by the other interested parties are as under:

- i. Imports have not increased in both absolute and relative terms. There is no volume injury and the injury suffered, has absolutely no correlation to imports from the Subject Countries. The performance of Petitioner has improved with the increase in Imports.
- ii. Imports are happening on account of the demand-supply gap.
- iii. The imports in relation to demand/consumption, specifically from Thailand, have declined in the POI by 4% in comparison to the base year. The decrease in market share of the Petitioner in POI and in the year 2015-16 is on account of other new Indian producers who have started production of the PUC.
- iv. The landed price of the subject imports has not impacted the net sales realization of the Petitioner thus not causing a price suppression/depression. Despite the decline in the landed price from 2015-16 to the POI, the net sales realization of the Petitioner has increased during the same period.
- v. The petitioner admitted in the oral hearing that their capacity utilization is 90% and they are able to produce goods consistently. There is positive growth in the performance of the DI. The figures provided in format H is different and the Authority should check the accuracy of data provided by the petitioner.
- vi. Based on the market information the capacity of the DI is 11000 MT p.a whereas demand for the subject goods is 13,000 MT pa. DI exports 20-30% of its production so only 8,000 MT p.a is left for domestic sale. There is a lack of reliability and that is the reason customers have opted for imports;

- vii. The Petitioner has been able to exhaust its inventories and have been able to make higher sales in the POI.
- viii. DI has been able to increase its capacity, production, and sales, and controls 70% of the market share. The claim of injury is unfounded;
- ix. Net sales realization is in consonance with the cost of sales in the POI, showing that there is no effect of import prices on the DI performance
- x. The net sales realization and profits have been fluctuating irrespective of the price undercutting being stable in the entire injury period. It can be seen that the Petitioner has been making profits and has been able to maintain the net sales realization.
- xi. Sales of the DI have been increasing steadily growing throughout the injury period. DI's sales performance has been profitable irrespective of the subject imports. Effect on sales, if any, of the Petitioner, is on account of the other new producers entering into the domestic market of the PUC in 2015-16 and not subject imports;
- xii. The Petitioner has been able to exhaust its inventories and have been able to make higher sales in the POI;
- xiii. The number of employees of the DI has increased in the POI and throughout the injury period.
- xiv. The Petitioners having relied on return on capital employed and wages in its injury analysis, but have failed to provide any data on the same.
- xv. Nitrex Chemicals India Limited (Petitioner) failed to present sufficient evidence to comply with Article 5.2 of the WTO Antidumping Agreement (ADA) and as such request the DGTR to reject the petition filed by the petitioner or terminate the current investigation without any protective measure.
- xvi. The injury to the industry is self-inflicted and is due to the expansion made by the petitioner.
- xvii. This remarkable expansion is then consistently sequenced by its top ability to increase its production quantity of the product under investigation (PUC) by 23% during the POI as compared to 2013-2014 and by 4% increment in the POI as compared to 2015-2016.
- xviii. The productivity of the Petitioner experienced a positive increase by 28% during the POI as compared to 2013-2014 and for which increase continued by 5% in the POI as compared to 2015-2016. Petitioner has been able to increase its number of employees.
- xix. The injury to the petitioner is due to expansion made by them. The audited financial report of the petitioner shows that the share of revenue from domestic sales is nearly constant over the last 3 years (2014-2015; 2015-2016 and 2016-2017 and moreover its turnover increased during the same periods.
- xx. Sales of the DI has been increasing steadily growing throughout the injury period. DI's sales performance has been profitable irrespective of the subject imports. Effect on sales, if any, of the Petitioner, is on account of the other new producers entering into the domestic market of the PUC in 2015-16 and not subject imports.
- xxi. One of the plants in which the Petitioner operates was shut down for five years until 2013 due to regulatory issues. Even though the same was recommissioned in 2014, the plant

- reported experiencing operational losses until the financial year 2017. This is irrefutably due to the severe losses it indeed suffered due to the closure of its plant which cannot be attributable to the import of PUC.
- xxii. The DGTR should examine the fact on the substantial increase in the amount of miscellaneous expenses presented in the Petitioner's profit & loss account in 2016-17 towards for which details are not available. This is a very high amount as compared to 2015-16 and 2014-15 which the DGTR should carefully examine for the interest of causation and non-attribution factor in this investigation.
  - xxiii. Petitioner's injury is caused by the global price trends rather than the subject imports, as it can be seen that petitioner has exported the subject goods at similar prices, to markets, where there are no alleged dumped imports to suppress and undercut prices.
  - xxiv. Production/supply of cotton liners, which is one of the raw materials, is majorly affected by climatic conditions and the same has consequently, impacted the profitability of the Petitioner
  - xxv. The comparable type by type price effect analysis is mandatorily required to reach a correct and fair outcome of the investigation. There is a recent jurisprudence in the WTO in the Panel Report of the EU-imposition of antidumping measure against Indonesia (DS 480) that the price effect analysis is to be made on a comparable basis whereby type by type price analysis is required.
  - xxvi. The export from Indonesia to India is to complement the DI and help the downstream industry.

### **G.3 Examination by the Authority**

- 50. The Authority has taken note of submissions made by the interested parties. The Authority has examined the injury to the DI in accordance with the Antidumping Rules and considering the submissions made by the other interested parties.
- 51. Regarding the argument of the accuracy of data provided by the petitioners, it is noted that the findings of the Authority are based on the verified data.
- 52. With regard to the argument of demand-supply gap, the Authority notes if there is a demand-supply gap in the country, the foreign producers can certainly fill the gap in the country by bringing the product at a fair price. Demand-supply gap does not justify dumping of the product.
- 53. The Authority notes the argument of the petitioner that the Domestic industry lost significant share in the demand for the product by a number of customers due to cheap imports.
- 54. The submissions made by the DI and other interested parties during the course of investigations with regard to injury and causal link and considered relevant by the Authority are examined and addressed as below:

55. The AD Rules require the Authority to examine injury by examining both volume and price effect. A determination of injury involves an objective examination of both (a) the volume of the dumped imports and the effect of the dumped imports on prices in the domestic market for the like article and (b) the consequent impact of these imports on DI. With regard to the volume of dumped imports, the Authority is required to consider whether there has been a significant increase in the dumped imports, either in absolute terms or relative to production or consumption in India. 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 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. As regards the consequent impact of dumped imports on the DI, Para (iv) of Annexure II of Antidumping Rules states as under:

*(iv) The examination of the impact of the dumped imports on the DI concerned, shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including natural and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices; the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments*

56. The Authority considers all injury parameters and thereafter concludes on the basis of collective and cumulative examination of all the parameters whether the DI has suffered injury due to dumping. The Authority has examined the injury parameters objectively taking into account the facts, figures, and arguments submitted by the interested parties in their responses/submissions/rejoinders.

#### G.4 Volume Effect of Dumped Imports and Impact on domestic industry

##### (a) Demand/ Consumption in India

57. The demand or consumption of the subject goods in India is computed by summing of domestic sales of all the Indian producers and imports from all sources.

<b>Demand</b>	<b>Units</b>	<b>2013-14</b>	<b>2014-15</b>	<b>2015-16</b>	<b>POI (Annualised)</b>
Sales of DI	MT	1,396	1,273	1,606	1,818
Sales of Other Indian Producers	MT	600	600	1,140	1,177
Imports from Subject Countries					
Thailand	MT	1,919	1,899	1,828	2,703
Brazil	MT	511	884	980	761
Indonesia	MT	-	-	62	517
<b>Subject Countries</b>	<b>MT</b>	<b>2,430</b>	<b>2,783</b>	<b>2,870</b>	<b>3,981</b>
Others	MT	945	817	640	377
<b>Total Demand</b>	<b>MT</b>	<b>5,371</b>	<b>5,473</b>	<b>6,256</b>	<b>7,353</b>

58. It is noted that the demand for the subject goods has increased throughout the injury period.

**(b) Import Volumes and Market Share**

59. 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. The factual position is as under:

Particulars	Units	2013-14	2014-15	2015-16	POI Annualised
<b>Volumes</b>					
Thailand	MT	1,919	1,899	1,828	2,703
Brazil	MT	511	884	980	761
Indonesia	MT	-	-	62	517
Subject Countries	MT	2,430	2,783	2,870	3,981
Others	MT	945	817	640	377
Total Imports	MT	3,375	3,600	3,510	4,359
<b>Subject Countries Imports in Relation to</b>					
Indian Production	%	95	91	78	97
Demand	%	45	51	46	54
Total Import	%	72	77	82	91
DI Sales	%	174	219	179	219

60. It is seen that
- Imports from the subject countries have increased in absolute terms. It is noted that demand for the subject goods has increased by 37% in the POI since the base year whereas the imports from subject countries have increased by 64%.
  - The share of imports from subject countries in relation to total imports increased over the injury period from 72% to 91%, thus showing a substantial increase in imports throughout the injury period.
  - The imports have increased in relation to production and consumption in India.
  - The imports in relation to domestic sales have increased substantially. It is seen that imports in relation to domestic sales have increased by 45% in the period of investigation since the base year.

**G.5 Price Effect of Dumped Imports and Impact on DI**

61. With regard to the effect of the dumped imports on prices, the Authority is required to analyze whether there has been a significant price undercutting by the dumped imports as compared to the price of the like products in India, or whether the effect of such imports is to depress prices or prevent price increases, which otherwise would have occurred in normal course. The impact on the prices of the domestic industry on account of the dumped imports from the subject country has been examined with reference to the price undercutting, price underselling, price suppression and price depression if any. For the purpose of this analysis

the cost of production, Net Sales Realization (NSR) and the Non- Injurious Price (NIP) of the DI have been compared with the landed cost of imports from the subject country.

**(a) Price Undercutting**

62. A comparison has been made between the landed value of the product and the selling price of the domestic industry net of all rebates and taxes, at the same level of trade. The Authority has compared the landed price of imports with the selling price of the domestic industry for the subject goods.

<b>Price undercutting - Weighted</b>	<b>Unit</b>	<b>Thailand</b>	<b>Brazil</b>	<b>Indonesia</b>	<b>Subject Countries (Total)</b>
Landed Value	Rs/Kg	173	168	165	171
Net Selling Price	Rs/Kg	***	***	***	***
Price Undercutting	Rs/Kg	***	***	***	***
Price Undercutting	%	***	***	***	***
Price undercutting	Range	10-20	15-25	20-30	10-20

63. It is seen that the landed price of imports from the subject countries were below the selling price of the DI. It is thus seen that imports of subject goods were undercutting the domestic prices.

**(b) Price Underselling**

64. The Authority has also examined the price underselling by comparing the landed value of imports with NIP of the DI.

<b>Particular</b>	<b>UOM</b>	<b>Thailand</b>	<b>Brazil</b>	<b>Indonesia</b>	<b>Subject Countries</b>
Non Injurious Price	Rs/KG	***	***	***	***
Landed Price	Rs/KG	173	168	165	171
Price Underselling	Rs/KG	***	***	***	***
Price Underselling	%	***	***	***	***
Price Underselling	<b>Range (%)</b>	20-30	20-30	20-30	20-30

65. It is seen that the landed price of the subject goods from the subject countries was significantly lower than the NIP determined for the DI. The injury margin determined for each subject county is positive and significant causing injury to the DI.

**(c) Price Suppression and Depression Effects of the Dumped Imports**

66. Cost of sales and selling price of the domestic industry have been compared with the landed value of imports to determine whether the dumped imports were suppressing or depressing the domestic prices as detailed below:

Particulars	Unit	2013-14	2014-15	2015-16	POI
Cost of Sales	Rs/Kg	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	103	89	95
Selling price	Rs/Kg	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	91	88	92
Landed Value	Rs/Kg	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	112	111	90

67. It is seen that the landed price is below the cost of sales and selling price. There is a decline in both costs of sales and selling price in the period of investigation. However, it is noted that a decline in selling price is more than the decline in the cost of sales. Thus, the imports were depressing the prices of the domestic industry in the market.

#### H. Examination of Economic Parameters Relating to DI

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

#### Capacity, Production, Capacity Utilization, Sales Volume

69. The performance of the DI with regard to capacity, production, capacity utilization, and sales is as follows:

Particulars	Unit	2013-14	2014-15	2015-16	POI (Annualised)
Capacity	MT	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	158	158	182
Production - Plant	MT	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	127	134	218
Production - PUC	MT	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	126	130	150
Capacity Utilization	%	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	81	84	121
Domestic Sales PUC	MT	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	91	115	130

70. It is seen that
- The petitioner enhanced its capacity over the injury period. The petitioner submitted that the capacity was enhanced in line with the increasing demand of the subject goods in India.
  - Performance of the DI has improved in respect of production, capacity utilization, and sales.
  - Whereas demand for the product increased by 37% in the POI since the base year, sales of the domestic industry increased only by 30%. While the petitioner was able to increase production of other products, the petitioner was not able to increase production of the product in proportion to the increase in demand.
  - The petitioner submitted that the domestic industry has been able to increase the sales by compromising on the prices, which resulted in a decline in its profits.

**(a) Market Share in Demand**

71. The market share of the DI in Indian demand is as shown in the table below:

Particulars	Unit	2013-14	2014-15	2015-16	POI (Annualised)
Share of petitioner	%	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	90	99	95
Share of other Indian producers	%	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	98	163	143
Share of Subject Country	%	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	112	101	120
Thailand	%	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	97	82	103
Brazil	%	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	170	165	109
Indonesia	%	-	-	***	***
<i>Trend</i>	<i>Index</i>	-	-	100	712
Share of Other Countries	%	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	85	58	29
Total Demand	%	100	100	100	100

72. It is seen that the market share of the DI in Indian demand has shown a marginal decline; whereas, the market share of the subject countries has increased over the injury period. There has been a significant decline in the import and share of nonsubject countries. However, the domestic industry has not been able to get any benefit of this in view of the prices at which the subject countries imports have been sold in comparison to the third countries imports.

**(b) Inventories**

73. The details with regard to average inventories of the DI is as follows:

Particulars	Unit	2013-14	2014-15	2015-16	POI
Average Stock	MT	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	146	158	138

74. It is noted that the inventories with the DI increased since base year. However, the level of the inventories in absolute terms is not alarmingly high nor the domestic industry provided any evidence to show that the inventory levels were higher than the norms in this industry.

**(c) Profits, Return on Investment and Cash Flow**

75. Performance of the domestic industry with regard to profitability, PBIT, return on investment and cash profit is as follows:

Particulars	Unit	2013-14	2014-15	2015-16	POI (Annualised)
Cost of Sales	Rs/Kg	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	103	89	94
Selling price	Rs/Kg	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	91	88	92
Profit/( Loss)	Rs/Kg	***	***	***	***
<i>Trend</i>	<i>Index</i>	(100)	(429)	(104)	(158)
Profit/Loss	Rs.Lacs	***	***	***	***
<i>Trend</i>	<i>Index</i>	(100)	(392)	(120)	(206)
PBIT	Rs.Lacs	***	***	***	***
<i>Trend</i>	<i>Index</i>	(100)	(589)	(155)	(310)
Cash Profit	Rs.Lacs	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	(406)	188	30
Return on Capital Employed	%	***	***	***	***
<i>Trend</i>	<i>Index</i>	(100)	(533)	(99)	(234)

76. It is seen that:
- The selling price of the DI declined till 2015-16 and increased thereafter in POI. However, the decline in the selling price was more than the decline in the cost of production.
  - The domestic industry is suffering financial losses throughout the injury period. The losses with the domestic industry have increased during the period of investigation.
  - The cash profits of the DI have also declined over the injury period.
  - The domestic industry is faced with a negative return on capital employed throughout the injury period. Further, the performance of the domestic industry deteriorated in respect of return on capital employed over the injury period.
77. It is thus seen that the performance of the DI has deteriorated in respect of profits, cash profits and return on investments.

**(d) Employment and Wages**

78. Performance of the DI with regard to employment, wages, productivity, and growth is as follows:

<b>Particulars</b>	<b>Unit</b>	<b>2013-14</b>	<b>2014-15</b>	<b>2015-16</b>	<b>POI (Annualised)</b>
Employment	Nos.	***	***	***	***
<i>Trend</i>	<i>Index</i>	<i>100</i>	<i>103</i>	<i>107</i>	<i>114</i>
Salary & Wages	Rs.Lacs	***	***	***	***
<i>Trend</i>	<i>Index</i>	<i>100</i>	<i>119</i>	<i>129</i>	<i>127</i>
Productivity per day	MT/day	***	***	***	***
<i>Trend</i>	<i>Index</i>	<i>100</i>	<i>126</i>	<i>130</i>	<i>150</i>
Productivity per employee	MT/Nos	***	***	***	***
<i>Trend</i>	<i>Index</i>	<i>100</i>	<i>123</i>	<i>121</i>	<i>131</i>

79. It is seen that there is an increase in employment, wages, productivity per day and productivity per employee.

**(e) Growth**

80. The table below shows the growth of the company in terms of various parameters was as follows

<b>Growth Compared to Previous Year</b>	<b>Unit</b>	<b>2013-14</b>	<b>2014-15</b>	<b>2015-16</b>	<b>POI</b>
Production	%	-	26	3	15
Domestic Sales Volume	%	-	(9)	26	13
Profit	%	-	(292)	69	(72)
Cash Profit	%	-	(506)	146	(84)
Selling price domestic	%	-	(9)	(3)	4
Return on Capital Employed	%	-	(14)	14	(5)

81. It is noted that the growth of the domestic industry was negative in respect of profits, cash profits, return on capital employed, and market share, and inventories, whereas the growth was positive in respect of production, domestic sales volume and domestic selling price.

**(f) Ability to Raise Capital Investments**

82. The Petitioner has stated that the ability to raise fresh investment is not impacted by dumping of the product as investment decisions are long-term decisions and are taken considering present and potential demand for the product under consideration. However, long-term viability of the product under consideration is dependent upon strong profitable business.

**(g) Factors Affecting Domestic Prices**

83. The petitioner stated that imports are at a price materially below the selling price of the DI. Since the competition in the market is largely between the DI and imports and further since the consumer are buying the product after comparison between the domestic and imported product, it is the import price that is responsible for the decline in the selling prices and consequent decline in price parameters of the DI

**I. Conclusion on Injury**

84. It is thus seen that there has been an increase in the volume of dumped imports from subject countries in absolute terms. The imports have increased in relation to consumption and production of the product in India. Imports have thus increased both in absolute terms and in relation to production and consumption in India. The dumped imports are undercutting the prices of the domestic industry in the market. Dumped imports have had an adverse price effect in terms of price depression. The domestic industry is suffering significant price underselling. The dumping margin determined by the Authority is quite significant. With regard to consequent impact of dumped imports on the domestic industry, it is noted that dumped imports from subject countries have adversely impacted the performance of the domestic industry in respect of market share, profits, cash profits and return on investment. Whereas the demand for the product under consideration has increased over the injury period and its sales volumes and market share has not increased in proportion to increase in demand. Inventories with the domestic industry increased. The Authority concludes that the domestic industry has suffered material injury.

**J. The magnitude of Injury and Injury Margin**

85. The non-injurious price for the subject goods produced by the DI as determined by the Authority in terms of Annexure III to the AD Rules has been compared with the landed value of the imports for each of the co-operative exporter from the subject countries and the injury margin has been determined on a weighted average basis. As for the residual category, the NIP has been compared with the landed value determined on the basis of import data.

**Injury Margin**

SN	Producer/Exporter	Country	NIP	Landed	Injury Margin		
			Rs/Kg	Rs/Kg	Rs/Kg	%	Range
1	Nitro Chemical Industry Limited / Nobel NC Co., Limited	Thailand	***	***	***	***	15-25
2	Any other than at Sl. No. 1	Thailand	***	***	***	***	35-45

3	PT INTI Celluloseutama / PT Indocera Utama Precisi,	Indonesia	***	***	***	***	20-30
4	Any other than at sl. No. 3	Indonesia	***	***	***	***	30-40
5	All producers	Brazil	***	***	***	***	20-30

## K. THREAT OF MATERIAL INJURY

86. The petitioner had also claimed that the imports are threatening material injury to the DI. The Authority has examined various parameters with regard to the threat of material injury as well:

- i. **Increase in imports** - there is an increase in imports from the subject countries in absolute terms as well as in relation to production and consumption. It is seen that imports from the subject countries cover 91% of the total imports. The significant rate of increase of dumped imports into India in POI as compared to preceding year indicates the threat of substantially increased importation. Petitioner submitted that the imports of the product increased further in the post POI.
- ii. **Surplus capacity**- the Authority notes that the capacity of Thailand is 40,000 MT p.a. whereas their estimated domestic demand is around 4000 MT. Thus, the surplus capacities available with Thailand are significant and are almost round 36,000 MT p.a. The Indonesian market is very small and they have set up a plant in Indonesia, the capacity is 4000 MT. This shows that Indonesia has sufficient freely disposable capacity. The total capacity available with Brazil (as per the petitioner) is 38,000 MT p.a. and the consumption is 7000-8000 MT p.a. Such surplus capacity the exporter indicates the increased possible exports to Indian markets given its growing demand, subject to the availability of other export markets to absorb any additional exports.
- iii. **Inventories**- the Authority has examined the details with regard to inventories provided by the exporters in their responses and it is seen that the level of inventories has been decreased.

87. Examination of information on record shows the dumping has caused injury to the domestic industry. The factors identified above clearly show existence of a threat of further injury

## L. OTHER KNOWN FACTORS & CAUSAL LINK

88. It was further examined whether other following parameters listed under the AD Rules could have contributed to the injury to the domestic industry. It is noted as under:

**(a) Volume and Prices of Imports from Third Countries**

89. The Authority has examined the imports data of the subject goods from DGCI&S. It is noted that imports from third countries, barring China are negligible and could not have caused claimed injury to the domestic industry. It is also seen that whereas the share of subject countries in total imports increased from 72% (2013-14) to 91% (POI), the share of non-subject countries declined proportionately. In the case of non-subject countries, imports beyond *de minimus* limits were reported from Taiwan (in 2013-14 and 2014-15) and China. Imports from Taiwan declined to below *de minimus* limits in POI. While imports from China were beyond *de minimus* limits in POI, the volume of imports from China declined steeply over the injury period in both absolute terms and in relation to total imports, production & consumption in India, import price from China after adding prevailing customs duties was significantly higher than subject countries. Further, throughout the injury period, the landed price of imports from China was higher than subject countries and that could not have caused injury to the domestic industry.

**(b) Contraction of Demand and Changes in Pattern of Consumption**

90. There has been an increase in demand/apparent consumption of the subject goods over the injury period and hence contraction of demand cannot be a factor causing injury.

**(c) Developments in Technology**

91. Technology for production of the product concerned has also not undergone any change.

**(d) Conditions of Competition and Trade Restrictive Practices**

92. There is no trade restrictive practice, which could have contributed to the injury to the DI.

**(e) Export Performance of the DI**

93. The injury analysis has been done by the Authority taking into consideration their domestic operations only. Therefore, performance in the export has not affected the present injury analysis.

**(f) Performance of Other Products Produced and Sold by DI**

94. The performance of other products being produced and sold by the domestic industry has not affected the assessment made by the Authority of the DI's performance. The information considered by the Authority is with respect to the product under consideration only.

**(g) Productivity of DI**

95. The Authority notes that the productivity of the domestic industry has followed the same trend as production and shows an increase. Deterioration in productivity is not a cause of injury to the DI.

**(h) Parameters Showing Causal Link**

96. Causal link between dumped imports and the injury to the domestic industry is established on the following grounds:

- i. The imports from the subject countries are at dumped prices.
- ii. Imports are undercutting the prices of the domestic industry, consequently, the DI has reduced their prices far beyond the cost declines.
- iii. The price depression faced by the domestic industry due to price undercutting has led to a decline in profits, cash profits and ROI of the domestic industry.
- iv. The volume of imports increased significantly in the POI. While the market share of imports increased, that of the domestic industry declined. Thus, increased lower priced imports are linked to the fall in DI market share

**M. USER INDUSTRY'S INTEREST & OTHER ISSUES**

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

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

**N. Post disclosure submissions of the interested parties****N.1 Views of domestic industry**

99. The domestic industry inter alia submitted as follows

- i. The essential facts include conclusion on injury parameters, conclusion on issues of fact, scope of product, like article and domestic industry, dumping & dumping margin. The decisions on the same need to be informed to the interested parties in the disclosure statement.
- ii. Major customers of the domestic industry preferred to shift to imports due to dumped prices offered by the exporters. The petitioner has enhanced capacities and kept working on

increasing the demand for its product in the market. This resultant increase in demand was taken by the exporters as apparent from the increase in market share of the imports.

- iii. Market share of two other producers of the subject goods should be examined separately as one of them has entered the market very recently.
- iv. CIF prices from Thailand are much higher than that of Indonesia and Brazil, however they do not reflect the true prices. Significant “discounts” are offered by NCI & NNC from Thailand.
- v. Of all the imports into India, 41% (1662 MT of PUC) was imported by one user i.e. Esdee Paints, who communicated to the Petitioner, asking for discounts matching the discounts that are being offered on the imported material. The customer has clearly stated that CIF prices should not be considered as there are heavy discounts being offered on the same. Evidence for the same has been placed on record.
- vi. Other major importers during POI including Huber and Siegwerk get post invoicing volume discounts according to the market information. Such discounts do not reflect on the import data or the import price. If required, petitioner would make a statement on affidavit.
- vii. On nearly, 70% of the imports, Thailand have been offering special discounts, thereby making their import price significantly lower than that of Indonesia and Brazil.
- viii. The volume of imports from other countries is much lower than volume of imports from Thailand. As regards Indonesia, while the import price is lower than Thailand, the growth in import from Indonesia is far higher. Imports from Indonesia started only in 2015-16, and the volume increased almost 8-9 times in the POI. Thus, the fact that Indonesian producer reduced import price significantly as compared to Thailand is fully reflected in the quantum increase in import volumes from Thailand.
- ix. The Authority has considered the evidence provided by the petitioner and it has noted that the Gujarat Pollution Control Board had issued a plant closure notice to the petitioner; however, the petitioner soon after issuance of notice complied with the directions issued by the Board and the plant was never shut.
- x. The petitioner enhanced capacities to cater to the demand for the product in the country. However, even when demand increased by 2,897 MT over the period, the petitioner was not able to proportionately increase its sales.
- xi. The domestic industry in view of increase in demand has increased its capacity in 2014-15 and period of investigation. However, the domestic industry was unable to increase its production and sales in proportion to increase in demand.
- xii. Production and capacity utilization has increased upto 2015-16. Thereafter, while production increased, capacity utilization declined in the period of investigation. The production only increased as the petitioner was able to increase the exports; otherwise the petitioners would have faced a significant inventory.
- xiii. Sales have increased only because the domestic industry compromised on the selling price in order to sell the product. Moreover, the domestic industry has not been able to sell the product in proportion to increase in demand.
- xiv. The fact that the sales of domestic industry have got adversely impacted gets readily established by the pattern of sales to various customers. Even when overall sales of the

domestic industry have improved, it would be seen that sales of the domestic industry to few customers very steeply declined. These declines in sales are not due to decline in consumption by these consumers. These decline in sales is due to procurement of imported material by these consumers

- xv. Market share of the domestic industry has increased up to 2015-16 and then declined in the POI. The loss of market share is to dumped imports from subject countries. Having gained market share up to 2015-16, and having enhanced capacities for the PUC, there is no reason why the market share of the domestic industry should have declined in the POI.
- xvi. Profitability, PBIT and return on capital employed of the domestic industry declined in 2014-15. However, losses declined thereafter in 2015-16. Losses increased significantly in POI with the dumping of the product in the Country.
- xvii. The result of significant price depression being faced by the Domestic industry is the severe decline in cash profits parameters.
- xviii. Inventories have increased over the injury period. The industry is unable to dispose of its accumulated inventories due to presence of dumped imports.
- xix. Growth of the domestic industry in terms of capacity utilization, selling price, profitability, cash profit, PBIT, ROI has been negative. Growth should have been far better considering the increase in capacity.
- xx. Demand for the subject goods was showing significant increase and this could not have been a factor affecting domestic prices. Consumers have been negotiating the prices with the domestic industry on the basis of import prices. Thus, the principal factor responsible for the domestic industry prices is the landed prices of the subject goods.
- xxi. No other factors, such as export performance, change in technology, performance of other products of the company, conditions of competition or change in pattern of consumption are causing injury to the domestic industry apart from the dumped imports.
- xxii. Imports are undercutting the prices of the domestic industry. Resultantly, lower import prices are preventing the domestic industry from aligning their prices to the cost of production.
- xxiii. Price undercutting resulted in reduction in the selling prices. As a direct consequence, the domestic industry is suffering decline in cash profits and is faced with increased losses and negative return on investments.
- xxiv. Even when the domestic industry has been offering sub-optimal prices, it is losing its market share. The petitioner has lost sales to its prime customers over the injury period, either completely or substantially.
- xxv. Anti-dumping duty may be imposed only as fixed quantum of anti-dumping duty (fixed form of duty), expressed in USD/MT. With no mechanism it is neither feasible nor practicable for the port authorities to verify the import price. The legislation permits the Authority to impose duty in form and manner as requested.
- xxvi. Duty should be imposed in a manner where it does not become futile. It has been seen historically that duties are circumvented, if not imposed properly. Several CESTAT decisions have modified order of the Authority on grounds of incorrect form of measures.

- xxvii. Rupee has depreciated significantly and therefore, the definitive duties may kindly be expressed in US\$. This is also supported by the rationality involved in the decision of the CESTAT in the matter of Metcoke from China.

## N.2 Submissions by exporter, importer and other interested parties

100. The following submissions were made by producers/exporters/importers/other interested parties
- i. PT IUP argued that PCN prepared by the Authority ignores viscosity, which is an important determinant Industrial Nitrocellulose. Viscosity affects cost and has effect on price comparability. Different users require different viscosity. PCN was prepared in the EQR, using Nitrogen content, Form – powder /solution and Viscosity. Any PCN without these characteristics is incomplete and incorrect.
  - ii. Margin calculation based on all three factors (including 5% profit) has been provided. Any calculation by removing any one of the characteristics result in unfair comparison.
  - iii. The petitioner has calculated the Dumping margin and Injury margin considering Nitrocellulose as a single PUC. Considering all variations as a single product, margin calculated for PT IUP shows no dumping factually.
  - iv. Whereas the Domestic Sale Price in the calculation of dumping margin has been considered as weighted average for each category viz. HNP, HNS and LNP; the Export Sale Price has not been considered on similar basis. The statement has considered Export Sale Price PCN wise as per the PCN in Questionnaire Response submitted.
  - v. No evidence of injury or threat, as can be seen from the Table in Recital 69. Any claim of injury is flawed as the production capacity of the petitioner increased by 82% in the POI, seeing its peak of growth. Increase in capacity can be seen in sync with incredible performance of its production, capacity utilization and domestic sales volume. Thus, there is not material injury.
  - vi. Audited Financial Statements of the Petitioner for POI clearly state that - The Company does not have any Risk Management Policy as the elements of risk threatening the Company's existence are very minimal (FY 2016-17), the company has improved its profitability & the company could invest substantial amounts in Associates indicating there was no financial trouble, in fact it even declared dividend in 2 years (FY 2013-14, 2014-15 and 2015-16).
  - vii. Some declining trend including profit of the Petitioner had nothing to do with import of the PUC from Indonesia which contributed insignificant volume to the total import into India or the total demand. If the Petitioner insisted on its claim of injury or threat of injury, this is attributable to its massive expansion of capacity.
  - viii. Petitioner suffered no injury and performance was remarkably healthy during the injury period. DGTR is requested to terminate the investigation immediately.
  - ix. Petitioner may be deemed to not form part of the Domestic Industry, as it fails to comply with the definition. RoC search of the petitioner shows that Ramdurai Mannachanallur

Rajaram (R M Rajaram) was a Key Managerial Person from February 7, 2001 till April 1, 2014. R M Rajaram was also a director with known importers of the investigation during years February 7, 2001 till April 1, 2014 including one (1) year of the POI for injury calculation.

- x. There is substantial difference in quality of the products exported and produced domestically. Petitioner's product is in fibrous form which is substantially different from the chip form of the product exported by the Exporters.
- xi. The Authority, on request of the Petitioners issued instructions to the interested parties, requesting them to respond on various issues of confidentiality, to which the exporters duly complied. However, the claims of the petitioners on excessive confidentiality were not valid.
- xii. The exporters also raised issues on confidentiality claims of the Petitioners, and clarifications are sought on whether the questions raised by Exporters were put to the Petitioners and the appropriate details must be placed on public file and disclosure statement.
- xiii. Authority has found that there was no plant closure as petitioner complied with the directions of the PCB. However, this fact was not disclosed by the Petitioner and investigated by the Authority only after the interested parties pointed it out. This questions the credibility and reliability of the Petitioners
- xiv. The issue should be investigated whether the non-compliance with the requirements of the Pollution Control Board led to inflation in cost or any other self-inflicted injury.
- xv. The exporters deny that measures taken by Thailand are a non-tariff barrier. It is a policy decision that can be taken to WTO by any other member nation. Petitioner does not have ability or inventory to fulfill domestic demand, leave alone exports to Thailand.
- xvi. With regards to public interest of the user industry, Authority should consider whether the Petitioner will be able to meet the demand of domestic consumers with competitive prices as there have been issues with regard to the process of manufacturing, technology and operational efficiency since the start of the injury period.
- xvii. Relevant evidences have been provided to prove that domestic prices in Thailand are distorted, therefore either sales to third country, or cost (plus 5% profit) be taken to calculate normal value. The repeated requests have been rejected by the Authority, and there have been no reasons provided for the same either. The requests have not even been acknowledged in the disclosure. In the interest of natural justice, the requests and the reasons should be mentioned in the Disclosure statement.
- xviii. Prices in Thailand sales prices in Thailand are extraordinarily high on account of the lack of free competition between sources for supply of the product under consideration. Since imports are indirectly prevented from entering the market freely, the limited supply has led to an increase in prices. This has resulted in an isolated market where the price is distorted and therefore not in the ordinary course of trade
- xix. It can be verified that the prices are distorted since prices of Exporters of Thailand is much higher than the normal value determined for the Indonesian cooperating producers. The

price of the Exporters in Thailand is also considerably higher than the price of the Exporters to other countries. The Exporters have specifically filed details of their prices to the top three destinations of export other than India, along with complete adjustments, and back-ups from their respective systems

- xx. Since the Authority has not made an assessment on the submission of the Exporters, the calculation of Normal Value and Dumping margin is incomplete. Therefore Authority is requested to reassess normal value in Thailand after disregarding domestic sales and accordingly dumping margin using third country exports or costs.
- xxi. A communication has been made in this regards to the Authority requesting for a meeting to grant Exporters an opportunity to defend their interests.
- xxii. The volume parameters show improvement in performance and price parameters reflect material injury has been continuing well before increase in imports. This indicates that petitioner has always been injured regardless of whether dumping was taking place or not.
- xxiii. Capacity, Production and capacity utilization of petitioner, Domestic Sales of Petitioner and Market Share of Indian producers are all the volume parameters that show substantial improvement in performance.
- xxiv. Imports from Thailand have not affected the Market share of Indian producers.
- xxv. Price parameters have always shown material injury, regardless of dumping. Since the year with the worst injury was 2014-15, where there was no dumping, there is clearly some extraneous factor that has caused injury to the Petitioner.
- xxvi. The cost trend itself is inflated due to the operational inefficiencies of the Petitioner therefore Petitioner has not been able to adjust its price in line with the cost.
- xxvii. Inflated costs of the Petitioners can be verified by the costs submitted by the Exporters, which has remained low due to operational efficiencies.
- xxviii. Thailand prices remain the highest compared to all other countries under investigation. The price undercutting and underselling of imports for Thailand remain the lowest amongst the subject countries.
- xxix. Positive growth in factors such as Employment, Salary and Wages, Productivity per day and productivity per employee can be seen.
- xxx. The statement that “there is no long term viability” remains presumptive as the Petitioner has all along always made a loss whether there is (allegedly) dumping or not. This is further buttressed considering that the Petitioner’s cost is inefficient
- xxxi. Threat analysis by Authority is erroneous – while the imports were always voluminous as compared to dumping sales, it is to be noted that the capacity, production and sales of the Petitioner has remained the highest during the POI even without the protection of any duty.
- xxxii. There appears to be no analysis conducted to indicate that the surplus capacities (if any) would be utilized towards exports to India. Globally chemical plants have voluminous capacity based on varied facts including economies of scale. Thailand caters to domestic as well as export demand and evidence with regards to price clearly shows no reason for dumping.

- xxxiii. The petitioner has not been able to meet the demand of the domestic market. It is also to be noted that China and Taiwan remain a real and apparent threat to the Petitioner not only due to historical reasons but also the capacities are much larger and also the prices remain lower compared to Thailand in the period post the POI.
- xxxiv. The Petitioner has been suffering injury, if any, on account of raw material supply. Production/supply of cotton liners, which is one of the raw materials, is majorly affected by climatic conditions and the same has consequently, impacted the profitability of the Petitioner (owing to the fact that cotton liners is used to produce the PUC).
- xxxv. Petitioner is realizing the same prices as the domestic prices even in export markets, for which there is no proof of suppression / depression or injury. The Petitioner's alleged injury, if any, is at most caused by the global price trends rather than the subject imports.
- xxxvi. Authority is requested to clarify that losses/injury, if any, in the export market, plant shut down, water shortage etc are not inappropriately passed off to the domestic market's performance presented by the Petitioner in its injury analysis.
- xxxvii. Exporters reiterate that there is no basis to levy duties in the present investigation, if at all the duties must be recommended, the Exporters request the Authority to kindly consider recommending duties in ad valorem form.
- xxxviii. Most of the injury parameters have been analyzed on POI (Annualized) figures, however for the remaining few; the analysis has been undertaken based on POI figures. Therefore, the injury analysis cannot be said to be of POI. There has been no basis provided for cherry picking data for such analysis.
- xxxix. The above argument has been derived from Article 3.1 of the ADA, Safeguards Panel Report – Indian Certain measures on imports of iron and steel products and the AD Rules. Also, injury analysis has been carried out for POI (A) but the dumping margin has been calculated for the POI. The causal link breaks since there are no facts that show dumping that led to injury during the POI.
- xl. The petitioners have claimed confidentiality on several grounds, which deprives the respondents the opportunity to properly defend their interests. Rule 7(1), Sterlite Industries (India) Ltd. v. DA and Reliance Industries Ltd. v. DA establish the fact that regardless of any objection raised by an interested party, the DA has to be satisfied with the confidentiality claimed by any interested party.
- xli. The claims of confidentiality of the petitioners should not have been granted by the DA as they serve important economic indicators of injury caused. Past investigations have not given confidentiality to parameters such as actual figures for capacity, production, capacity utilization, domestic sales, export sales, etc. wherein a single producer was a petitioner.
- xlii. The Disclosure wrongly notes that there have been no submissions by opposing interested parties on the issue of confidentiality. Respondents have vehemently objected to the excessive confidentiality of the Petitioners.
- xliii. Agreement between DI and Municipality & Irrigation Dept. has not been disclosed to other interested parties, in which case there can be no comments offered to defend interests related to the issues. The said agreement is not available in the public file and it is not clear

whether the agreement has been claimed as confidential or non-confidential. The summary of the confidential document or reasoning behind the same has not been provided either. The evidence should not be taken on record in such a situation.

- xliv. The PUC supplied by the DI is of inferior quality as compared to the imports as can be seen from the difference in colour. The imported goods are also more free flowing than the goods of the DI. The PUC being a substance of hazardous and flammable nature such characteristics pose a big risk.
- xlv. The imported PUC comes packed in fiberboard drums (poor thermal conductivity) whereas the DI packages the same in metal drums, which contribute to the hazard risks associated.
- xlvi. Financial statements of the DI clearly state that the profitability of the DI has increased throughout the injury period. Since the DI is earning profits throughout, it is not possible to have a negative return on capital employed taking into consideration the fact that the DI is a single product company.
- xlvii. Respondents agree with findings of the DA in the disclosure, and highlight that capacity has been increased by 82% in the POI (A) compared to the base year and the capacity utilization has increased by 21% in the same period. This shows that the performance of the DI has improved.
- xlviii. Respondents agree with findings of the DA in the disclosure showing that the inventory levels of the DI are within the industry norms. Also, the DI is able to sell its entire production either in domestic market or exports despite an increase in production. The facts show that there is no injury at all.
- xliv. The finding of the DA on parameters of employment and wages is agreed upon, and should be confirmed in the final findings.
  - i. The DI has failed to establish the threat of material injury and the Disclosure is legally erroneous. It has been held that the imports have increased; however, the assertion has been made without any post POI data in support of its claim.
  - ii. Post POI data from Min. of Commerce & Industry shows that the landed value from Brazil has increased by 10-12% and INR has depreciated by approx. 10% against the USD. The cumulative effect would be that the undercutting and injury margin would be negative in the Post POI data. Hence, there is no threat of material injury.
  - iii. The source of information for surplus capacity in Brazil has not been revealed by the DI and therefore it cannot be relied upon. Also, mere surplus capacities does not signify unutilized capacities or are aimed at being diverted to India or exports.
  - iv. POI needs revision as the gap is more than 6 months. The argument of the same has been noted in the Disclosure, but there is no finding in this regard.
  - v. The finding of the DA on the fact that non-tariff barriers are beyond the scope of investigation is agreed upon, and should be confirmed in the final findings.
  - vi. In case of demand supply gap, dumping can only happen in respect of demand that is being catered to by the DI, and not in the remaining demand that is being fulfilled by the imports. No injury can be claimed on the same.

- lvi. Landed value of imports from Brazil needs recalculation since the respondents are not clear whether basic custom duty has been included in the calculation. The respondent is the sole agent of an exporter from Brazil (70%-80% of total imports from Brazil) and the IQR shows a landed value higher (3%-5%) than the one mentioned in the Disclosure.
- lvii. The respondents reiterate that there exist other factors like significant export orientation of the DI, increase in cost of production, quality and packing issues, and capturing of market share by other domestic producers which have led to a break in causal link. Also, the DA has failed to carry out an injury assessment for the POI.
- lviii. Overall assessment of various parameters indicates that there has been an improvement in the performance of the DI. Thus, any claims of injury or threat to material injury are unfounded.
- lix. There is no injury to the domestic industry. The capacity is enhanced significantly; also production, sales and capacity utilization have shown improvement.
- lx. Decline in profit is not because of imports from Indonesia is not causing any injury as imports from Indonesia was the lowest.
- lxi. Massive expansion by the petitioner is the real cause of injury being suffered by the domestic industry. The Indonesian exporter has cooperated with the investigation and the calculation being submitted by the Indonesian exporter should be accepted. The calculation of dumping margin, in consistent with the Rule, possibly shows no dumping.
- lxii. Imports from Indonesia are not in competition with the petitioner, Indonesian export is to complement the demand and downstream industry of India. In light of the submissions made the present investigation should be terminated.
- lxiii. The Authority should not levy the anti-dumping duty as the same is against the public interest. The product sold by the domestic industry is of higher price and low quality. If the duty is imposed the users will have no option than to buy the product from the petitioner.
- lxiv. The petitioner is unreliable and unfavorable as their supply is inconsistent and fails to adhere to the delivery schedules.
- lxv. There is only one manufacturer of the product under consideration in India I.e. Nitrex Chemical, the other producer is very small and does not sell good quality product. Nitrex Chemical charges high price of the product and enjoying monopoly in the market.
- lxvi. Pencil is an education product and the government has kept import duty zero from Indonesia and Thailand so that Nitrocellulose is easily available to the customers.
- lxvii. Imposition of duty will increase the cost and will hamper the exports of the product under consideration.
- lxviii. The domestic industry retails the relevant grade of the product at much higher rate and the quality of the product does not match the international standards. Imposition of duty will lead the user industry to limited option.
- lxix. Imposition of duty will not only lead the user industry to compromise with its commercial interest but also with the quality of downstream product.
- lxx. The petitioner is highly unreliable as they fail to deliver orders within due delivery date and ultimately jeopardize the interest of all the stake holders.

**Examination by Authority**

101. The Authority notes that post-disclosure comments/submission made by the interested parties are mostly reiterations of earlier submissions, which have already been examined suitably and adequately and properly addressed in the disclosure statement or relevant paras of the present finding. The authority further considers as follows with regard to issues raised by the interested parties.
- i. The submissions made by the interested parties during the course of this investigation have been considered by the Authority, wherever found relevant, in this finding.
  - ii. As regards the argument of injury and causal link, the Authority notes that the injury analysis carried out hereinabove is self-explanatory to establish that the dumping has caused injury to the domestic industry.
  - iii. As regards the argument of dumping margin calculation of PT IUP, it is clarified that since the exporter has provided the information on type wise basis, the Authority in order to ensure fair comparison has compared the export price of the types exported to India with the domestic selling prices of the same respective types.
  - iv. Public statements like annual reports of companies do not alter the conclusion that dumping of the product has contributed to injury to the domestic industry.
  - v. As regards the issue of eligibility of the petitioner, it is noted that the petitioner was not related to the importer or any exporter of the alleged dumped article during period of investigation. In view of the above, the Authority did not find appropriate to treat petitioner as ineligible domestic industry.
  - vi. As regards argument on quality of product manufactured by domestic industry, it is noted that since the product manufactured by the domestic industry is held as like article to the product being imported into India and the two are used interchangeably by the users/importers, such issues raised by the interested parties without concrete evidence to establish the same, could not be applied.
  - vii. Information provided by 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
  - viii. As regards argument on public interest, it is noted that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the Domestic Industry by the unfair trade practices of dumping so as to re-establish a situation fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping measures would not restrict imports from the subject countries in any way, and, therefore, would not affect the availability of the product to the consumers
  - ix. With regard to the contention that the domestic prices of Nobel NC Co., Ltd and Nitro Chemicals Industry Limited should not be considered for determination of normal value, it is noted that the selling price has been determined on the basis of the records

- kept by the producers, maintained as per GAAP in Thailand, and the same is found to be appropriate for evaluating whether the sales in domestic market have been made in the ordinary course of trade. In any case, the exporter themselves have admitted that the Thai Army is regulating only the storage and usage of the product concern and the suppliers are required to obtain license before supplying the product in Thai market. Licensing procedure is common in most of the countries where products is of or can be used for explosives or any other hazardous substance. Mere licensing procedure does not mean that the domestic selling prices cannot be in the ordinary course of trade.
- x. As far as the argument of demand supply gap is concerned, it is noted that if the exporters wanted to supply the goods to meet the requirement in Indian market that could be done by exporting the requirements at a price equivalent to normal value but not at a dumped value to capture the market. As regards, argument that China and Taiwan are real threat, it is reiterated that imports from Taiwan declined to below de minimus limits in POI. While imports from China were beyond de minimus limits in POI, the volume of imports from China declined steeply over the injury period in both absolute terms and in relation to total imports, production & consumption in India, import price from China after adding prevailing customs duties was significantly higher than subject countries. Further, throughout the injury period, the landed price of imports from China was higher than subject countries and that could not have caused injury to the domestic industry.
- xi. As regards the submission concerning form of duty, the Authority notes that as per the Anti-dumping Rules, the mandate of the Designated Authority is to determine the existence, degree and effect of the alleged dumping and to recommend the amount of anti-dumping duty, which, if levied, would be adequate to remove the injury to the domestic industry. Accordingly, suitability of the form of the anti-dumping measures is decided by taking into consideration the facts of a case.

**O. Recommendation**

102. After examining the submissions made by the interested parties and issues raised therein; and considering the facts available on record, the Authority concludes that:
- a. The product under consideration has been exported to India from the subject countries below normal values.
  - b. The domestic industry has suffered material injury on account of subject imports from subject countries.
  - c. The material injury has been caused by the dumped imports of subject goods from the subject countries.
103. The Authority notes that the investigation was initiated and it was notified to all the interested parties. Adequate opportunity was given to the exporters, importers and other interested parties to provide information on the aspects of dumping, injury and causal link. Having initiated and conducted an investigation into dumping, injury and the causal link

thereof in terms of the Anti-dumping Rules and having established a positive dumping margin as well as material injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of duty is necessary to offset dumping and injury. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of anti-dumping duty equal to the lesser of margin of dumping and margin of injury, so as to remove the injury to the domestic industry. For the purpose of determining injury margin, the landed value of imports of product under consideration has been compared with the non-injurious price of the domestic like product produced by domestic industry determined for the period of investigation.

104. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of anti-dumping duty equal to the lesser of the margin of dumping and the margin of injury, so as to remove the injury to the domestic industry. Accordingly, the antidumping duty equal to the amount indicated in Col. 7 of the duty table given below is recommended to be imposed on all imports of the subject goods originating in or exported from subject countries from the date of notification to be issued in this regard by the Central Government for a period of five years.

**DUTY TABLE**

SN	Sub heading or Tariff Item	Description of goods	Country of origin	Country of export	Producer	Amount	Unit	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	3912	Non-Plasticized Industrial Grade Nitrocellulose Damped in Isopropyl Alcohol having Nitrogen content in the range of 10.7% to 12.2%.	Thailand	Any country including Thailand	Nitro Chemical Industry Limited or Nobel NC Co., Ltd	0.567	Kg	US\$
2.	3912	-do-	Thailand	Any country including Thailand	Any producer other than at 1.	0.906	Kg	US\$
3.	3912	-do-	Any country other than Thailand	Thailand	Any	0.906	Kg	US\$
4.	3912	-do-	Indonesia	Any country including Indonesia	PT INTI Celluloseutama	0.235	Kg	US\$
5.	3912	-do-	Indonesia	Any country including Indonesia	Any producer other than at 4.	0.475	Kg	US\$
6.	3912	-do-	Any country other than Indonesia	Indonesia	Any	0.475	Kg	US\$
7.	3912	-do-	Brazil	Any country including Brazil	Any	0.646	Kg	US\$

8.	3912	-do-	Any country other than Brazil	Brazil	Any	0.646	Kg	US\$
----	------	------	-------------------------------	--------	-----	-------	----	------

105. An appeal against these findings after its acceptance by the Central Government shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act, 1975 as amended in 1995 and Customs Tariff Rules, 1995.

(Sunil Kumar)

Additional Secretary & Director General