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**F. No. 14/33/2014-DGAD
Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Anti Dumping & Allied Duties)
4th Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi-110001**

Date: 30th March, 2016

NOTIFICATION

(FINAL FINDINGS)

Subject: Anti-dumping Investigation concerning import of “Methylene Chloride” originating in or exported from China PR and Russia–reg.

No. 14/33/2014-DGAD- Whereas in accordance with the Customs Tariff Act, 1975 as amended from time to time (hereinafter also referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of injury) Rules, 1995 as amended from time to time (hereinafter also referred to as the AD Rules or the Rules), the Designated Authority (hereinafter referred to as the Authority), received a written application from M/s Chemplast Sanmar Limited and M/s Gujarat Fluorochemicals Ltd (hereinafter also referred to as the petitioners or applicants) on behalf of the domestic industry producing Methylene Chloride (hereinafter referred to as the subject goods or the product under consideration {PUC}) in India, alleging dumping of the subject goods from People’s Republic of China and Russia (hereinafter referred to as the subject countries).

2. Whereas the Authority on the basis of sufficient evidence submitted by the applicants on behalf of the domestic industry, issued a public notice dated 7th April 2015, published in the Gazette of India, Extraordinary, initiating anti-dumping investigation concerning imports of the subject goods, originating in or exported from the subject countries, in accordance with the sub-Rule 6(1) of the Rules, to determine the existence, degree and effect of alleged dumping and to consider recommendation of the anti-dumping duty.

PROCEDURE

3. The following Procedure described below has been followed with regard to this investigation:

- i. The Authority notified the Embassies of the subject countries in India about the receipt of an application from the applicants alleging dumping before proceeding to initiate the investigation in accordance with sub-Rule 5(5) of the Anti-dumping Rules.
- ii. The Authority issued a public notice dated 7th April, 2015, published in the Gazette of India, Extraordinary, initiating anti-dumping investigation concerning imports of the subject goods, originating in or exported from the subject countries.
- iii. The Authority forwarded a copy of the public notice to all the known exporters (whose details were made available by the Applicants) and industry associations and gave them opportunity to make their views known in writing within the prescribed time in accordance with the Rule 6(2) of the Anti-dumping Rules.
- iv. The Authority also forwarded a copy of the public notice to all the known importers of the subject goods in India (whose details were made available by the Applicants) and advised them to make their views in writing within the prescribed time limit.
- v. The Authority provided a copy of the non-confidential version of the application to the known exporters and the embassies of the subject countries in India in accordance with Rule 6(3) of the Anti-dumping Rules. A copy of the Application was also made available other interested parties, upon request.
- vi. The Authority sent questionnaires to elicit relevant information to the following known exporters in subject countries in accordance with Rule 6(4) of the Anti-dumping Rules:
 - a. Shandong Dongyue Chemical Co., Ltd.
 - b. Jiangsu Meilan Chemical Co., Ltd.
 - c. Zhejiang Juhua Co., Ltd.
 - d. JSC Khimprom
 - e. Kong Long Huat
 - f. Zouping Changshan Zefeng Fertilizer Co., Ltd.
 - g. Dalian Richfortune Chemical Company
 - h. Tianjin Yuanlong Chemical Industry Co., Ltd.
- vii. After the initiation, the Authority received responses from the following exporters from the subject countries:
 - a. Shandong Liaocheng Luxi Sixth Chemical Fertilizer Co. Ltd., China
PR

- b. Lu Xi Chemical (Hong Kong) Co.Ltd., Hong Kong (Exporter)
 - c. Shandong Dongyue Fluo-Silicon Materials Co. Ltd., China PR
 - d. Ningbo Juhua Chemical & Science Co. Ltd., China PR
 - e. Zhejiang Quhua Flour–chemistry Co. Ltd., China PR
 - f. Farmasino Holding (HK) Limited, Hong Kong (Exporter)
 - g. HK Montage International Holding Limited, Hong Kong (Exporter)
 - h. Khimprom Public Joint Stock Company, Russia
- viii. However, none of the exporters from China PR either claimed market economy treatment or filed questionnaire response to the market economy questionnaire issued by the Designated Authority. Further, after the initiation, Shandong Liaocheng Luxi Sixth Chemical Fertilizer Co. Ltd., China PR, Khimprom Public Joint Stock Company, Russia and Trade Representation of the Russian Federation in India, filed legal submissions.
- ix. Questionnaires were sent to the following known importers/users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the Anti-dumping Rules:
- a. Vardhaman Trading Corporation
 - b. Harsh Kumar & Company
 - c. Hetero Labs Ltd
 - d. Dr. Reddy's Laboratories Ltd
 - e. Aurobindo Pharma Ltd
 - f. Covalent Laboratories Ltd
 - g. Ranbaxy Laboratories Ltd
 - h. Ralchem Limited
 - i. Morpean LABS
 - j. Surya Medicare Limited
 - k. Indsol Drugs Limited
 - l. Meghmani Organics Limited
 - m. United Phosphorus Limited
 - n. KDL Biotech Limited
 - o. Sun Pharmaceuticals Industries Limited
 - p. Rails India Limited
 - q. Alembic Limited
 - r. Hindustan Chemicals Industries
- x. M/s Aurobindo Pharma Ltd., Dr. Reddy's Laboratories Ltd, Sandeep Organics Pvt Ltd responded to the initiation notification by filing importer's questionnaire/submissions.

- xi. 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.
- xii. Investigation was carried out for the period of investigation (POI) starting from October, 2013-September, 2014 (POI). The examination of trends, in the context of injury analysis, covered the period from 2011-12, 2012-13, 2013-14 and the POI.
- xiii. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of the subject goods for the past three years, including the period of investigation. The transaction wise import data received from the DGCI&S has been relied upon by the Authority in this preliminary finding.
- xiv. The cost of production and cost to make and sell the subject goods in India based on the information furnished by the applicant on the basis of Generally Accepted Accounting Principles (GAAP) was worked out in accordance with Annexure III of the anti dumping rules so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to Domestic Industry.
- xv. The Authority, having regard to the Act and the AD Rules, recommended imposition of provisional Anti-Dumping duties concerning imports of the subject goods originating in or exported from the subject countries, vide its Preliminary Findings Notification No 14/33/2014-DGAD dated 30.10.2015. The recommendations made by the Designated Authority were accepted by the Ministry of Finance and interim duties were levied vide Notification No. 58/2015-Customs (ADD) dated 08.12.2015 for a period not exceeding six months (unless revoked, superseded or amended earlier) from the date of publication of the notification in the Official Gazette.
- xvi. The Authority also provided opportunity to all interested parties to present their views orally in a public hearing held on 22.01.2016. The parties, which presented their views in the public hearing, were requested to file written submissions of the views expressed orally. The arguments made in the written submissions/rejoinders received from the interested parties have been considered.
- xvii. Verification of the information and data submitted by the domestic industry and the interested parties was carried out to the extent deemed necessary. In respect of the cooperative producers/exporters, the verification of their records was done on the table-study basis.

- xviii. A Disclosure Statement containing the essential facts in this investigation which would have formed the basis of the Final Findings was issued to the interested parties on 17.03.2016. The post Disclosure Statement submissions received have been considered, to the extent found relevant, in this Final Findings Notification.
- xix. The submissions made by the interested parties considered relevant by the Authority have been addressed in the Final Findings Notification.
- xx. *** in this Final Findings Notification represents information furnished by the interested parties on confidential basis and so considered by the Authority under the Rules.
- xxi. The exchange rate adopted for the POI is 1 US \$ =Rs 61.65

PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

Views of the Domestic Industry

- 4. The submissions made by domestic industry are as follows:
 - a) Methylene chloride is an organic compound with molecular formula CH_2Cl_2 . It is a colorless liquid with sweetish ether-like odor, and is used as a solvent predominantly. It is essentially non-flammable under most conditions of use but can burn if strongly heated.
 - b) There are no known grades of the subject goods. However, it can be traded in loose (in tankers) or packed form (in drums), thereby, having direct effect on prices.
 - c) Methylene Chloride is classified under Chapter 29 of the Customs Tariff Act under customs subheading 29031200. The Customs classification is, however, indicative only and in no way binding on the scope of the present investigation.
 - d) There is no known difference in the subject goods produced by the domestic industry and that imported from the subject countries. The subject goods produced by the domestic industry and the subject goods imported from subject countries are comparable in terms of characteristics such as physical and chemical characteristics, manufacturing process and technology, functions and uses, product specifications, distribution and market & tariff

classification of the goods. Injury margin and dumping margin has been calculated for loose/unpacked and packed product separately.

Views of the other interested parties

5. None of the exporters, importers or consumers has offered any views with regard to the product under consideration.

Examination of the Authority

6. The product under consideration for the purpose of present investigation is "Methylene Chloride" also known as "Dichloromethane" and "Methylene Dichloride" (MDC) originating in or exported from China PR and Russia.
7. Methylene chloride is an organic compound with molecular formula CH_2Cl_2 . It is a colorless liquid with sweetish ether-like odor, and is used as a solvent predominantly. It is essentially non-flammable under most conditions of use but can burn if strongly heated. Methylene Chloride may decompose at high temperatures forming toxic gases. It is completely miscible with a variety of solvents. MDC is a solvent and is used in the manufacturing of polycarbonate and phenolic resins, rayon yarn, pharmaceuticals, agro and fragrance. It is also used as an extractant for edible fats, cocoa, butter and essences.
8. There are two technologies for production of Methylene Chloride - Methane route and Methanol route. The product produced through the two routes has essentially similar technical specifications. Methylene Chloride is classified under Chapter 29 of the Customs Tariff Act under customs subheading 29031200. The Customs classification is, however, indicative only and in no way binding on the scope of the present investigation.
9. With regard to like article, Rule 2(d) of the Anti-dumping 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."

10. After considering the information on record, the Authority has determined that there is no known difference in the subject goods produced by the domestic industry and that imported from the subject countries. The subject goods produced by the domestic industry and the subject goods imported from the subject countries are comparable in terms of characteristics such as physical

and chemical characteristics, manufacturing process and technology, functions and uses, product specifications, distribution and market & tariff classification of the goods. The consumers are using the two interchangeably.

DOMESTIC INDUSTRY AND STANDING

11. Rule 2(b) of the AD Rules defines domestic industry as under: -

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

12. The Application has been jointly filed by M/s. Chemplast Sanmar Ltd. and M/s Gujarat Fluorochemicals Ltd. According to the application, there are two other producers, namely, Gujarat Alkalies & Chemicals Limited and SRF Ltd. The Authority notes that production of the petitioners constitutes almost 68% of the Indian productions and, therefore, the production by the petitioners constitutes a major proportion in the total production of the like product produced in India. It is further stated in the application that none of petitioners has imported the product under consideration, nor they are related to an importer or exporter of the product under consideration.

13. On the basis of information on record and having regard to the Rules, the Authority determines that the application has been made by or on behalf of the domestic industry and the application satisfies the requirement of ‘standing’ under Rule 5 of the AD Rules. Further, the production of the petitioning companies constitutes a major proportion in Indian production and the petitioner companies are eligible domestic industry. The petitioners, therefore, constitute ‘Domestic Industry’ in terms of Rule 2(b) of the AD Rules.

MISCELLANEOUS SUBMISSIONS

View of the Importers/consumers and other interested parties

14. After the initiation, no interested party except M/s Shandong Liancheng Luxi Sixth Chemical Fertilizer Co. Ltd, China PR and Khimprom Public Joint Stock Company, Russia has made any submissions. Submissions made by them are as follows:

- i. The imports from EU, Korea and USA are as high as 77% in the POI. It is submitted that the injury to the domestic industry is due to imports from the said countries and not from the subject countries in the current POI.
- ii. The imports from the countries attracting anti dumping duty (ADD) are about 80% in the POI and the share of imports from Russia is de-minimis, i.e., nearly 2.94%.
- iii. The complete import data has not been provided by the domestic industry. Import data up to June 2014 is provided and no import data for the period of July 2014-September 2014 has been provided. In the absence of complete import data, claim of domestic industry with regard to export price and dumping margin fails.
- iv. The domestic industry has utilized import data of two different sources for the investigation, i.e., DGCI&S data and Tips Software Services Pvt. Ltd. whereas in the previous investigation for the same product from different countries, domestic industry has utilized import data of only one source, i.e., DGCI&S.
- v. Application fails to meet the test of accuracy and adequacy in terms of evidence and information. Evidence of dumping, injury, where applicable, and a causal link between the dumped imports and the alleged injury should be provided.
- vi. Majority of imports into India are under duty free schemes which are not subject to anti dumping duty. So such imports are required to be excluded.
- vii. The price undercutting of Russia is shown higher as compared to price undercutting of China whereas the landed value for China is higher than that of Russia. It indicates that the price undercutting is taken artificially.

Examination by Authority

15. The submissions made by the interested parties have been analyzed by the Authority as follows:

- a. With regard to the argument that import from Russia is de-minimis, the Authority notes that at the time of initiation of current investigation the share of Russian imports was 3.40%. The Authority has now adopted DGCI&S transaction wise data for the purpose of determining volume and value of imports for the present investigation. It is noted that the share of imports from Russia is above de-minimis (4.44%).
- b. With regard to the argument that imports from countries attracting ADD hold major share in imports and are causing injury, it is noted that the imports from countries attracting anti dumping duty declined whereas

imports from the subject countries have increased significantly over the injury period. It is noted that dumping margin and injury margin determined for the subject goods from the subject countries is significantly positive showing that dumped imports from the subject countries are causing injury to the domestic industry.

Particulars	Unit	2011-12	2012-13	2013-14	POI
Subject Countries	MT	16,514	334	6,757	15,629
Countries attracting ADD	MT	60,974	56,324	62,444	47,571
Other Countries	MT	6,956	279	484	540
Total Imports	MT	84,444	56,936	69,685	63,739

c. With regard to the argument that domestic industry has adopted import data of two different sources for the petition, i.e., DGCI&S data and Tips Software Services Pvt. Ltd, the Authority notes that at the stage of initiation, the Authority is required to satisfy itself that there is sufficient evidence to justify initiation of investigations and the domestic industry used DGCI&S data upto the period for which it was available with them at that stage. However, presently, the DGCI&S transaction wise data has become available and the Authority has procured DGCI&S transaction wise data and the analysis for the purpose of the present determination has been made on the DGCIS data.

d. With regard to the argument that majority of imports into India are under advance license and, therefore, should be excluded, the Authority notes that imports made under duty exemption scheme create competition and change the price line as the importers would procure the goods from foreign exporters or domestic producers whosoever gives them the competitive price. Therefore, the imports made under duty exemption scheme cannot be considered not to have affected the price in the market and, therefore, cannot be excluded while determining imports.

16. The product under consideration is produced and supplied in two forms - (a) bulk shipments in loose form and (b) packed shipments. The Authority has determined separate normal value and export price of loose/unpacked imports and packed imports. Dumping margin has been determined on the basis of Weighted Average.

POST ORAL HEARING COMMENTS OF THE DOMESTIC INDUSTRY AND THE OPPOSING INTERESTED PARTIES

17. The post oral hearing comments of the opposing interested parties are as under:

- i. Non-acceptance of the information of the exporter and denial of the individual treatment to them in the current investigation has been made without appreciation of the law concerning the determination of the export price and the relevant anti-dumping provisions.
- ii. Some of the exporters were granted adverse treatment without seeking clarifications for their exports through the unrelated traders keeping in view the principles of natural justice and due process rights of the interested parties as contemplated under Article 6.1 of WTO ADA.
- iii. The exporters provided complete information in their response for sales to India through related trader as well as through unrelated traders. The exporters are not in a position to appreciate the meaning of 'complete value chain' as there is no such concept known in the anti-dumping law. The words used in the anti-dumping law are the necessary information or the information reasonably available. The use of the words necessary information or reasonably available information cannot be substituted with the words 'complete information'.
- iv. It may be seen that there is nothing in the Customs Tariff Act, 1975 as well as in the Anti-dumping Rules which provide for the rejection of the export price for the determination of dumping margin and denial of individual treatment on the ground of non-providing of the information of unrelated traders.
- v. It is sufficient if the exporter has provided the necessary information as is reasonably available with him and that it cannot be forced and put under undue burden to provide the information which is not under his control.
- vi. In case the non-related traders do not provide their information/response, the export price for the exporter can reasonably be determined by considering the price at which the goods have been billed to traders as this information is readily available with the exporter/producer as has been done by EC in various cases before it.
- vii. In this connection, we would also like to draw the kind attention of the Authority to the *WTO Appellate Body Report in US-Anti-dumping Measures on Certain Hot-Rolled Steel Products from Japan (WT/184/ABR) dated 24th July 2001* wherein it was held that the investigating authorities cannot insist upon the absolute standards or impose unreasonable burdens upon the exporters with respect to the information which is not under their control.
- viii. Without prejudice, Luxi has culled out the details of the exports made through non-related traders from the IBIS import data and have been placed on record. The same clearly indicates the assessable values or

the final prices at which the goods have been exported to India made through the non-related traders. Luxi has also obtained the copies of the commercial invoices along with the packing lists etc. from Vinmar International Ltd., Cosmos VU Ltd. and Tricon Energy Ltd. and the same have also been placed on record. Tricon Dry Chemicals, LLC, USA, has also filed its responses with the Designated Authority. Now complete response of all the exporters has been filed.

- ix. The Authority may kindly seek the reasons / clarifications from DGCI&S for the lower imports in their data base than IBIS imports as has been done in the case of PTA from China, EU, Korea & Thailand (Case No. 14/7/2013-DGAD) [Para 20(xvii)]. It is hard to believe that the import data as per the DGCI&S would be lower than the import data reported in IBIS. Luxi would, therefore, request the Authority for the complete analysis of the import data in the current case in the interest of justice and fair play. A copy of the DGCI&S transaction-wise import data may also be provided to Luxi for comments

- x. It is important to submit that the transaction-wise import details from DGCI&S are not available to private parties. Interestingly, the domestic industry has used the DGCI&S transaction-wise import data for the period April 11-March 12 for their anti-dumping application. However, the domestic industry has not provided any submissions on record for getting the DGCI&S transaction-wise import data. In case the Authority has provided the DGCI&S transaction-wise data to the domestic industry, the same cannot be kept as confidential from Luxi and the transaction-wise import data from DGCI&S used for the preliminary findings is required to be disclosed to Luxi in view of the principles of equality and fairness. Similarly, the transaction-wise import data used by the domestic industry from Tips Software may also be provided in all fairness to enable us to make comments.

- xi. It is submitted that the submissions with regard to accuracy and adequacy have not been included in the preliminary findings and have also not been addressed in the preliminary findings.

- xii. The application filed by the domestic industry is deficient as it lacks the evidence and the information required under the law to be considered as a valid and fully documented application. In terms of Rule 5(3) of the Anti-dumping Rules, the Authority is obligated not to initiate an anti-dumping investigation unless (a) it determines that the application has been made by or on behalf of the domestic industry and (b) it examines the accuracy and adequacy of the evidence provided in the application and satisfies itself that there is sufficient evidence regarding dumping, injury and causal link to justify initiation. The determinations that the application has been made by or on behalf of the domestic industry

producing the like product and there is dumping, injury and causal link are the conditions precedent which ought to be fulfilled prior to the initiation of the investigation.

- xiii. It is submitted that the domestic industry has kept lots of information as confidential without providing any legitimate reasons and in violation of the Rules and detailed procedure laid down by the Authority. The domestic industry has not provided a copy (soft copy/hard copy) of the raw/original transaction-wise import data obtained by them from Tips Software Services Ltd. & DGCI&S along with the application nor they have indicated that the same has been provided to the Authority. It is also not there in the public file. Soft copy in excel file of transaction-wise sorted import data, raw/original import data and list of excluded transactions from Tips Software Services Ltd. & DGCI&S: The domestic industry has not provided a soft copy in excel file of the transaction-wise sorted import data along with the original/raw import data obtained from Tips Software Services Ltd. & DGCI&S that has been used for the application for the POI (October 13 to September 2014) and previous three years. The company-wise production details have been kept as confidential. Details of adjustments such as ocean freight, marine insurance, commission, bank charges, port expenses, inland freight, VAT etc. claimed from export price are also claimed as confidential. The details of Price undercutting and price underselling for China in percentage terms have not been disclosed and the same have been provided only in ranges. Profit / loss and ROCE in percentage terms have not been disclosed.
- xiv. It is submitted that the domestic industry has not provided the complete import data for the whole period of investigation. It is a serious lapse on the part of the domestic industry and clearly indicates that the application of the domestic industry fails to meet the test of accuracy and adequacy on this ground alone.
- xv. Without prejudice, it is submitted that the import data for the application has been utilized from two different sources, i.e., DGCI&S import data for the period April 2011 to March 2012 and the import data from Tips Software Services Pvt. Ltd. for the periods from April 12-March 13, April 13-March 14 and April 14 to June 2014. However, the domestic industry has not provided any reasons on record for using the import data in such a manner and why the import data from a single source was not used. Correctness of Sorted Import data cannot be verified.
- xvi. It may also be seen that the domestic industry has made claims on separate analysis for bulk and packed product. However, from a PDF copy of the import data provided, Luxi cannot identify this aspect from the hard copy of the import data so provided as part of the application.

The complete description for each import transaction is not visible as the same has been concealed by the domestic industry.

- xvii. After analysis of the import data, it is noted that the values in both USD and Indian Rupees have been considered after mixing them up by the domestic industry which would lead to incorrect and misleading analysis of the import prices and the consequent injury to the domestic industry.
- xviii. It may be seen that admittedly there are significant and substantial imports from the other countries which are as high as 77% in the period of investigation. It indicates that the injury to the domestic industry is due to the imports from the other countries but not from the subject countries in the current investigation.
- xix. It is submitted that the majority of the imports into India are under duty free schemes such as advance license run by the Government of India which are not subject to any anti-dumping duty. The Hon'ble CESTAT in case of Thai Acrylic Fibre Co. Ltd. Vs. DA held that the goods imported under advance license are exclusively for export products and hence, such imports cannot be said to have entered in the Indian market. Therefore, when the imports under duty free schemes do not enter the Indian market the same cannot be considered and be made subject to the anti-dumping investigation and that those imports are required to be excluded for a fair & just analysis of the impact of the imports on the domestic industry and conclusions in the current investigation.
- xx. With regard to determination of normal value for China, it may be seen that in terms of the provisions of this paragraph, the Authority is required to first identify the market economy third country for determination of normal value and only where it is not possible to obtain necessary data from such third country, on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted if necessary, to include a reasonable profit margin. However, the mandatory procedure prescribed by law in the present case has not been followed as the interested parties have not been put to notice about selection of the third country nor the interested parties have been requested to suggest and make necessary information available about the third country. Thus, in the absence of following the mandatory procedure, the present proceedings cannot continue and have become incurable in view of the decision of the Hon'ble Supreme Court in the case of Shenyang Matsushita 2005 (181) ELT 320 (SC) which is directly on the issue.
- xxi. The analysis of various injury parameters has been made from the year 2012-13 but not from the base year 2011-12. The analysis of injury parameters is to be made from starting point to the end point over the injury investigation period. The comparison of POI figures with that of year 2012-13 has made the information for the year 2011-12

meaningless. Further, the domestic industry has not justified making injury analysis in such a manner.

xxii. It is submitted that the domestic selling price details provided in proforma IVA and proforma IVB for both the subject countries, proforma IVB for China and proforma IVB for Russia are at variance. Further, the price undercutting for Russia was shown higher as compared to price undercutting for China whereas the landed value for China was higher than the landed value for Russia. It clearly indicates that the price undercutting has been artificially created in the current case whereas the same does not exist.

xxiii. Without prejudice to the submissions above, it is submitted that the domestic industry has not suffered injury in the current case based on the injury information in their application as well as on the basis of the injury information contained in the preliminary findings. The imports from subject countries in absolute terms have declined over the injury investigation period and also in comparison to domestic production and total demand in India. The market share of the domestic industry over the injury investigation period has increased from 34% in the base year to 43% in the POI indicating no injury. The capacity, production, capacity utilisation and sales values as well as sales prices all have increased over the injury investigation period indicating there is no injury with respect to these factors. There is no price undercutting for China as may be seen from the details provided in the preliminary findings. Thus, there is no injury to the domestic industry with respect to this factor. There is no price depression and suppression for the Domestic industry. Although there is a decline in these factors over the injury investigation period, there is a significant improvement in these factors in the POI as compared to previous year 2012-13 indicating that the injury to the domestic industry is not due to imports from the subject countries but due to imports from other countries which are quite significant at about 80%. Various performance parameters of the domestic industry have improved over the injury investigation period indicating that the growth of the domestic industry and its ability to raise capital investments is not affected. There is no causal link between the alleged dumped imports from the subject countries and injury to the domestic industry as imports from Russia are de minimis, there are significant imports from EU, USA and Korea. The imports from subject countries in absolute terms as well as a share of total demand and domestic production have declined over the injury investigation period. On the other hand sales, production and market share of the domestic industry have increased significantly. It indicates that the imports from subject countries have no bearing on the state of the domestic industry and no injury is caused to the domestic industry from imports from the subject countries. It is submitted that the

import prices from the subject countries have declined by 9% over the injury investigation period whereas on the other hand the domestic prices have increased by 7% over the injury investigation period. Thus, the import prices have no bearing on the domestic prices.

- xxiv. PJSC Khimprom believes that the Application against Russian Federation shall be terminated in accordance the WTO Agreement. In the present investigation data regarding the amount of total import of the Product in India and import from Russia during POI has a very important meaning because their accuracy is the first and main basis for conclusion if it was dumping or not. IBIS data presented in submission given by M/s Shandon Liaocheng Luxi Sixth Fertilizer Co., Ltd and M/s Lu Xi Chemical (Hong Kong) Co., Limited shows that volume of import from Russia in every previous period before POI and during POI itself doesn't exceed 3 % of the volume of total import.
- xxv. PJSC Khimprom submits that among all the possible comparable periods like 2013-2014/2014-2015/2015-2016 Indian year (in respect of import of the Product from Russia to India) or 2013-2014/2014-2015 Russian year (in respect of export of the Product from Russia to India), there is no period when the amount of the Product is above the negligible level.
- xxvi. PJSC Khimprom submits that the amount of the Russian Product which was imported to India during 2015 Russian year (1 296 tons) is less than during 2014 (2 054 tons). The fact that the interim anti-dumping duty was imposed during 2015 cannot affect the volume of import because it was imposed only in November, 2015. At the same time, the amount of total import of the Product in India has increased (from 66,7 MT at 2014-2015 Indian year to 74,4 MT in 2015-2016 Indian year which now has not finished yet). It would be important to note the fact that Krimprom is the only producer of the Product in Russia (another manufacture Volgograd Khimprom stopped its activity forever because of the bankruptcy in December, 2014) and the amount of the export of the Product from Russia during 2015 is equal to the amount of Khimprom's export during the same period.
- xxvii. PJSC Khimprom submits that there is no evidence that potential import from Russia is going to be above the 3 % as well.
- xxviii. There are some specific contradictions in the import volume data regarding the recorded as Khimprom's drums transaction. Khimprom exports from Russian to India only product in drums (Standard volume of 1 drum is 0,27mt). This volume is unchangeable, i.e., it's impossible to put in drum more or less than 0.27mt of the product because of technical reason. All the transport documents for export and certificates of quality also demonstrate and confirm that net amount of the product, which is exported, is always 0.27 mt.-fold. It's impossible and senseless that

somewhere during transportation any drum could be divided or re-taring. It means that when any consignment of the product comes to Indian customs border where it's recorded for DGCI&S and other database, its weight should always be 0.27 t.-fold. But in the Application there are many transactions (from both DGCI&S and Tips Software Services Pvt. Ltd database) which do not weigh 0.27 mt.-fold.

- xxix. Denial of determination the individual dumping margin for Khimprom contradicts the Law. The Preliminary Finding) says that the company Khimprom has not filed complete response to questionnaire and that in the absence of complete value chain from the subject exporters, the Authority has provisionally constructed the normal value for Russia on the basis of the cost of production in India, duly adjusted. In this connection it is objected that there is nothing in the applicable legislation regarding existence of such a procedure which gives to the Authority right to calculate the normal value on the basis of the cost of domestic production under any circumstances. Moreover, the Authority has obligation to determine individual dumping margin for each known exporter or producer as per Custom Tariff Act and the Anti Dumping Rule. There aren't any faults from Khimprom side regarding providing information during the present investigation. All the information, which is in possession of Khimprom and available for Khimprom, had been provided for the Authority. Khimprom does not have information regarding complete value chain because of nature of the relationship between Khimprom and its unrelated traders.
- xxx. Considering the above, Khimprom requests the Authority to give a full assessment of Khimprom's objections, consider it on the merits and terminate the investigation in relation to Russian Federation.

18. The post oral hearing comments of the domestic industry are as under:

- i. Significant imports from the subject countries currently attracting anti dumping duty led to imposition of anti dumping duties. With imposition of anti dumping duties on other countries, the imports from subject countries have increased by 65% in 2014-15. Further, these imports are at significantly dumped prices.
- ii. In a case where dumping has shifted to new sources after imposition of anti dumping duty on other sources, it is most logical that the situation of domestic industry would show some improvement. The EC Regulation specifically considers the fact that an industry is still in progress of recovering from the effect of past dumping as a factor showing injury. Thus, the fact that of domestic industry is recovering, in fact, shows the impact of dumping on the domestic industry.

- iii. Trends are analysed for all the four years, just not from the base year and the POI and that of the previous year. The purpose of an anti-dumping investigation is to evaluate the effect of the dumped imports on the situation of the domestic industry over the injury period. The POI can be described as "injurious, which is the period for which the existence of dumping is examined, having regard to its performance in the past.
- iv. Normal Value cannot be determined on the basis of price or constructed value in a market economy third country for the reason that the relevant information is not publicly available. The petitioners have not been able to procure such information from a producer in market economy third country. Accordingly, petitioners have determined normal value on the basis of cost of production in India, duly adjusted with selling, general and administrative expenses and considering the consumption norms of the petitioner.
- v. Efforts were made to get evidence of price of product under consideration in the domestic market of Russia. Efforts have also been made to get any evidence of price from published sources. However, the petitioners have not been able to get any information/evidence of price of subject goods in the domestic market of Russia for the reason that the relevant information is not in public domain information and have, therefore, constructed the normal value.
- vi. In view of significant difference in the costs and prices of loose/unpacked and packed material, the normal value has been determined separately for the two.
- vii. Response from these responses should not be accepted at such belated stage. Anti Dumping Agreement require investigating authority to provide sufficient opportunities to the interested parties to defend their interests. However, such investigations being a time bound investigation; these opportunities are available only if these are availed in a timely manner
- viii. The Authority also can reject the questionnaire response if the same is not filed within the time limits prescribed as has been done in the case of Ceramic Tiles.
- ix. The responses submitted by the other interested parties are in utter disregard of the standards laid down under the law. The responses, besides being inadequate and insufficient in terms of information, also do not meet the set proforma prescribed by the Authority.
- x. Information such as sales of subject goods in the home market and exports to India, list of all raw materials used, Information on installed capacity, production, stocks and sale etc have been claimed confidential. Thus, the Designated Authority may kindly disregard the response of the exporter and declare them as non-cooperative by denial of individual treatment.

- xi. The petitioners have determined weighted average dumping margin which is above de minimis and is significant.
- xii. Imports of the product under consideration from the subject countries declined in 2012-13 and thereafter increased consistently.
- xiii. Imports in relation to production and consumption in India declined in 2012-13 and has thereafter increased consistently.
- xiv. Market share of the subject counties declined in 2012-13 and consistently increased thereafter and is significant in the POI. Market share of the domestic industry has increased in the POI marginally from the previous year as a result of imposition of anti dumping duties and market share of countries already attracting ADD has declined.
- xv. Imported goods have been undercutting the prices of the domestic industry in both loose and packed form. Price undercutting in respect of the product under consideration as a whole is positive from the subject countries.
- xvi. Landed price of imports in packed form has remained significantly below the level of cost of sales and selling price since 2012-13. Landed price of imports in loose form was lower than the cost and selling price in 2012-13 and has remained almost at the level of costs in the POI. Majority of imports into the country from subject countries are in packed form which is causing significant price suppression in the domestic market.
- xvii. Subject imports declined in 2012-13 and have thereafter increased. Imports are significant in relation to production and consumption in India.
- xviii. Dumped imports are suppressing the prices of the domestic industry in the market causing financial losses.
- xix. Performance of the domestic industry has steeply deteriorated in terms of profits, return on investments and cash profits to a very significant extent.
- xx. Even though performance of the domestic industry improved in terms of production, domestic sales, capacity utilization, market share, the same was because of decision of the domestic industry to continue production and significant demand for the product under consideration in the Country. In any case, despite improvement in these parameters, profits, return on investments and cash profits declined very severely whereas these should have improved as a result of improvement in volume parameters.
- xxi. The imports prices are much below the level of cost of production of the domestic industry.
- xxii. As a result of significant price difference, the performance of the domestic industry has deteriorated in terms of profits, cash profits (cash flows) and return on investments. Thus, the deterioration in performance of the domestic industry is due to dumping of the product in the Country.

- xxiii. Deterioration in profits, cash flow, return on capital employed are as a result of dumped imports;
- xxiv. Growth of the domestic industry became negative in respect of price parameters.
- xxv. Imports from countries attracting anti-dumping duty declined whereas imports from the subject countries have increased significantly over the injury period.
- xxvi. The dumping margin and injury margin determined for the subject goods from the subject countries is significantly positive showing that dumped imports from the subject countries are causing injury to the domestic industry.
- xxvii. Domestic Industry has claimed price injury and not volume injury. Petitioners can sell the product so long as the Petitioners are realigning the prices of domestic industry to imports. Further, realigning the prices of domestic industry to imports is the compulsion of the domestic industry.
- xxviii. Volume parameters are under the control of the domestic industry and domestic industry on its part is doing its best to produce and sell maximum volumes so that its fixed costs get observed over larger production. However, the selling price of the product is beyond the control of the domestic industry and is directly dependent on the imports.
- xxix. Domestic industry has calculated price undercutting on the weighted average basis. Petitioners have determined price undercutting by considering month by month comparison, which clearly shows positive price undercutting by the Chinese imports. The imported goods have been undercutting the prices of the domestic industry in both loose and packed form. Price undercutting in respect of the product under consideration as a whole is positive from the subject countries.
- xxx. EU law specifically consider "the fact that the domestic industry is in the process of recovering from the past ill effect of dumping" as one of the parameters showing injury; the WTO Agreement recognises that the list is not exhaustive and the Indian Rules contain an inclusive definition, which implies existence of some other conditions. It is thus evident that the partial recovering from the past effects of dumping does not mean that the domestic industry is no longer suffering injury.
- xxxi. The information of opening and closing stock of an industry is confidential. It is contented, the Authority calculate inventory on average basis. Petitioners have claimed adverse price effect of imports on the domestic industry.

Examination of the Authority of the post oral hearing comments of the domestic industry and the opposing interested parties

19. The Authority notes that most of the post Public Hearing submissions made by the domestic industry and the opposing interested parties are repetitive in nature and have already been dealt with in the Preliminary Final Findings Notification. However, the examination of the Authority of the relevant post oral hearing comments of the domestic industry and the opposing interested parties is as under:

- i. It has been contended by the interested parties that the authority should not have rejected questionnaire responses of the producers on the ground that full information on exports to India was not available. The interested parties have stressed that the requirement under the law is necessary information and as is reasonably available to the producers. It has also been contended that the authority could consider the price at which the goods have been billed by such producers onto the unrelated exporters. Reference has also been made to the WTO decision with regard to standards that the Authority should lay down and the obligations of the interested parties for providing necessary information. Some of the interested parties have, after issuance of preliminary findings, correlated their exports to India with the Indian customs data and have submitted that the same establishes that their claims with regard to export price were reliable. The Authority notes in this regard that the margin of dumping under the law is the difference between normal value and export price. Therefore, for correct determination of dumping margin, both normal value and export price are required to be accurately determined. The Authority notes that the export price cannot be accurately and adequately determined unless the questionnaire response of the company who has invoiced the goods to India is on record and such company cooperates with the Authority. Admittedly, all associated expenses for exports to India have not been incurred by such producers in cases where the exporter is involved in invoicing the goods. Some of the expenses for exports to India have been incurred by such exporters. Further, the price at which the producer sells to the exporter in such cases is not the price at which the goods have been sold for export to India. The Authority also notes that dumping occurs when an article is introduced into the commerce of India at a price less than its normal value. Therefore, the price at which the goods have been invoiced onto Indian customer/ importer is vital for determination of export price. In any case, now that the questionnaire responses have been filed by those exporters who have supplied product under consideration originating in China, the Authority has determined individual dumping margin for all the Chinese producers. As far as Khimprom is concerned, the Authority reiterates that inspite of giving opportunity to Khimprom, the company has

not submitted any response of the above mentioned exports/traders claiming that all the information which is in possession of Khimprom and available for Khimprom, had been provided for the Authority and that Khimprom does not have information regarding complete value chain because of nature of the relationship between Khimprom and its unrelated traders. In this regard, the Authority notes that since 100% of the subject goods produced by Khimprom have been exported to India by the above mentioned exporters, Khimprom cannot claim that it has no relationship with them and cannot ask these companies to file the responses to complete the value chain as has been done by other cooperative Chinese producers in this investigation. In the absence of completion of the value chain the Authority does not determines the individual dumping margin for Khimprom.

- ii. As far as the reasons/clarifications for the lower imports in the DGCI&S data base than IBIS imports and further that the domestic industry has adopted import data of two different sources for the petition, the Authority re-iterates that at the stage of initiation, the Authority is required to satisfy itself that there is sufficient evidence to justify initiation of investigations and the domestic industry used DGCI&S data upto the period for which it was available with them at that stage. However, presently, the DGCI&S transaction wise data has become available and the Authority has procured DGCI&S transaction wise data and the analysis for the purpose of the present determination has been made on the DGCIS data. As regards adoption of two sources at the stage of initiation, the Authority notes that the domestic industry is justified in adopting best available information at the stage of initiation. Information for the complete period was not made available by the DGCI&S by the time of initiation and, therefore, the domestic industry was justified in adopting the secondary source data for the subsequent period. However, the Authority has procured DGCI&S transaction wise data and the analysis for the purpose of the preliminary findings and the present determination has been made on the DGCI&S data.
- iii. As far as the argument that DGCI&S data used by the domestic industry was not made available to the interested parties, the Authority notes that the same was placed in the public file and thus was available to all the interested parties for verification.
- iv. As far as the argument that the application filed by the domestic industry is deficient as it lacked the evidence and the information required under the law and that the Authority was obligated not to initiate an anti-dumping investigation unless (a) it determines that the application has been made by or on behalf of the domestic industry and (b) it examines the accuracy and adequacy of the evidence provided in the application and satisfies itself that there is sufficient evidence regarding dumping,

injury and causal link to justify initiation, the Authority notes that it had initiated the investigation only after satisfying itself of the prima facie evidence of dumping and injury and causal link thereof. The Authority notes that even at the present stage of investigation, the Authority finds that there is sufficient evidence that dumping margins in respect of the responding producers/exporters is significant and the dumped imports are causing injury to the domestic industry.

- v. As far as the argument of the domestic industry and the opposing interested parties that lots of information has been kept as confidential without providing any legitimate reasons and in violation of the Rules and detailed procedure laid down by the Authority in this regard, the Authority notes that the information provided by of the domestic industry and the opposing interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted, and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis. The Authority made available the non-confidential version of the evidences submitted by various interested parties in the form of public file. The Authority notes that any information which is available in the public domain cannot be treated as confidential.
- vi. As far as the argument that the import data for the application has been utilized from two different sources, i.e., DGCI&S import data for the period April 2011 to March 2012 and the import data from Tips Software Services Pvt. Ltd. for the periods from April 12-March 13, April 13-March 14 and April 14 to June 2014, the Authority notes that the Authority has procured DGCI&S transaction wise data and the analysis for the purpose of the present determination has been made on the DGCIS data.
- vii. As far as the argument that there are significant and substantial imports from the other countries which are as high as 77% in the period of investigation and that it indicates that the injury to the domestic industry is due to the imports from the other countries but not from the subject countries in the current investigation, the Authority notes that the imports from the subject countries have actually increased significantly in the POI and these imports are at significantly dumped prices. As regards the argument from Russian exporter, the Authority notes that the volume of imports from Russia is more than negligible limits under the Rules.
- viii. Regarding the argument that the majority of the imports into India are under duty free schemes which are not subject to any anti-dumping duty and when the imports under duty free schemes do not enter the Indian market, the same cannot be considered and be made subject to the anti-

dumping investigation, the Authority notes that the imports made under duty exemption scheme create competition and change the price line as the importers would procure the goods from foreign exporters or domestic producers whosoever gives them the competitive price. Therefore, the imports made under duty exemption scheme cannot be considered not to have affected the price in the market and, therefore, cannot be excluded while determining imports.

- ix. Regarding the argument that with regard to determination of the normal value for China, the Authority is required to first identify the market economy third country for determination of normal value and only where it is not possible to obtain necessary data from such third country, on any other reasonable basis, The Authority notes that the Normal Value could not be determined on the basis of price or constructed value in a market economy third country for the reason that the relevant information is not publicly available. Further, neither the responding producers from China PR have claimed market economy treatment nor have sought to rebut the non-market economy presumption. In a situation where none of the Chinese companies has claimed market economy treatment, the Designated Authority does not see any merit in the claim that the Authority should have firstly identify the market economy third country for determination of normal value for these Chinese producers/exporters.
- x. Regarding the argument that the analysis of various injury parameters has been made from the year 2012-13 but not from the base year 2011-12 and that the analysis of injury parameters is to be made from starting point to the end point over the injury investigation period, the Authority notes that it has analysed the trends for all the four years, just not from the base year and the POI and that of the previous year.
- xi. Regarding the argument that the domestic selling price details provided in proforma IVA and proforma IVB for both the subject countries, proforma IVB for China and proforma IVB for Russia are at variance and further that the price undercutting for Russia was shown higher as compared to price undercutting for China whereas the landed value for China was higher than the landed value for Russia, indicating that the price undercutting has been artificially created by the domestic industry in the current case whereas the same does not exist, the Authority notes that the domestic industry in performa IVB of the petition compared the selling price with the landed price on month to month basis for both the subject countries separately whereas in proforma IVA, the weighted average selling price of the domestic industry for the POI period has been taken. Therefore, the two could match. However, while issuing the preliminary findings, the Authority considered weighted average selling price for the POI. As regards different degree of price undercutting between Russia and China, the Authority notes that the different degree of price

undercutting from different countries does not imply that the country with lower price undercutting has not caused injury.

- xii. Regarding the argument that the domestic industry has not suffered injury in the current case based on the injury information in their application as well as on the basis of the injury information contained in the preliminary findings, the Authority notes that after examining the volume and price effects of imports of the subject goods from the subject countries and its impact on the domestic industry, it is noted that volume of imports of subject goods from subject countries declined in 2012-13 and thereafter increased significantly in absolute terms and in relation to production and consumption in India. The domestic industry has not suffered volume injury on account of dumped imports of subject goods from the subject countries. However, with regard to price effect on account of imports of the subject goods from the subject countries, it is noted that imports of the subject goods from subject countries are significantly undercutting the prices of domestic industry. Further, the domestic industry has suffered price suppression on account of imports of the subject goods from the subject countries in the POI. Profit, cash flow and return on investment remain negative. Despite imposition of anti dumping duty on other countries, the domestic industry is incurring losses in the POI because of the presence of dumped imports from the subject countries. With regard to consequent impact of the dumped imports on the domestic industry, it is concluded that even though the performance of the domestic industry has improved in respect of production, capacity utilization, domestic sales, market share, the performance deteriorated in terms of profits, return on investment and cash flows. Thus, the Authority concludes that the domestic industry has suffered material injury.
- xiii. Regarding the argument of PJSC Khimprom that the application against Russian Federation shall be terminated in accordance the WTO Agreement and that in the present investigation data regarding the amount of total import of the Product in India and import from Russia during POI shows that volume of import from Russia in every previous period before the POI and during the POI itself does not exceed 3 % of the volume of total import, and further that there is no evidence that potential import from Russia is going to be above the 3 % as well, the Authority notes that at the time of initiation of current investigation, the share of Russian imports was 3.40%. The Authority has now adopted DGCI&S transaction wise data for the purpose of determining volume and value of imports for the present investigation and it is noted that the share of imports from Russia is above de-minimis (4.44%).
- xiv. As regards the argument that the domestic industry has made claims on separate analysis for bulk and packed product but from a PDF copy of the import data provided, Luxi could not identify this aspect from the hard

copy of the import data so provided as part of the application, and further that after analysis of the import data, the values in both USD and Indian Rupees have been considered after mixing them up by the domestic industry which would lead to incorrect and misleading analysis of the import prices and the consequent injury to the domestic industry, the Authority notes that the argument relates to the secondary import data relied upon by the domestic industry in the petition whereas the Authority has issued the preliminary findings based on the DGCI&S import data and not the secondary data provided by the domestic industry in the petition. As regards the possible mixing of imports reported in US\$ and INR, it is clarified that the Authority has considered data in only one unit of measurement. The exporters' data is in US\$ and the same has been adopted, whereas the Indian data is in INR and the same has been considered. There is no mixing of the data either in the preliminary findings or in the present disclosure statement.

- xv. Regarding the argument that there are some specific contradictions in the import volume data regarding Khimprom's drums transaction in the sense that whereas its weight should always be 0.27 mt.-fold for technical reasons, but in the application there are many transactions (from both DGCI&S and Tips Software Services Pvt. Ltd database) which do not weigh 0.27 mt.-fold, the Authority notes that it has relied upon the transaction wise data of DGCI&S as it was provided.

ASSESSMENT OF DUMPING – METHODOLOGY AND PARAMETERS

Normal Value, Export Price and Dumping Margin

Market Economy Treatment (MET) Examination for all producers and exporters from China PR

20. The Authority notes that in the past three years, China PR has been treated as non-market economy country in the anti-dumping investigations by other WTO Members. Therefore, in terms of Para 8 (2) of the annexure 1 of AD rules, China PR is to be treated as a non-market economy country subject to rebuttal of the presumption by the exporting country or individual exporters in terms of the Rules for the purposes of preliminary determination.

21. As per Paragraph 8 of the Annexure I to the Anti Dumping Rules as amended, the presumption of a non-market economy can be rebutted if the exporter(s) from China PR provide information and sufficient evidence on the basis of the criteria specified in sub paragraph (3) in Paragraph 8

and establish to the contrary. The cooperating exporters/producers of the subject goods from China are required to furnish necessary information/sufficient evidence as mentioned in sub-paragraph (3) of paragraph 8 in response to the Market Economy Treatment questionnaire to enable the Designated Authority to consider the following criteria as to whether:-

- i. The decisions of concerned firms in China PR regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values;
- ii. The production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts;
- iii. Such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms; and
- iv. The exchange rate conversions are carried out at the market rate.

22. The Authority sent questionnaires to the known exporters from the subject countries, advising them to provide information in the form and manner prescribed. However, barring below mentioned producers and exporters from China PR, none of the producer/exporter from China PR has cooperated in this investigation by filing their Questionnaires' responses. The questionnaire response has been filed by the following companies:

- i. Shandong Liaocheng Luxi Sixth Chemical Fertilizer Co. Ltd., China PR
- ii. Lu Xi Chemical (Hong Kong) Co.Ltd., Hong Kong (Exporter)
- iii. Shandong Dongyue Fluo-Silicon Materials Co. Ltd., China PR
- iv. Ningbo Juhua Chemical & Science Co. Ltd., China PR
- v. Zhejiang Quhua Flour-Chemistry Co. Ltd., China PR
- vi. Farmasino Holding (HK) Limited, Hong Kong (Exporter)
- vii. HK Montage International Holding Limited, Hong Kong (Exporter)
- viii. Tricon Energy Ltd, USA
- ix. Tricon Dry Chemicals LLC, USA

23. It is noted that neither of the above mentioned producers has claimed market economy treatment nor has not sought to rebut the non-market economy presumption. Since none of the Chinese companies has claimed market economy treatment, the Designated Authority has not determined whether any of the Chinese producers could be granted market economy

treatment.

Normal Value in China

24. As none of Chinese producers and exporters has submitted the questionnaires' responses; the Authority has constructed the Normal Value in China PR on the basis of Para-7 to Annexure-I to the AD Rules.

25. Para 7 of Annexure I of the AD Rules provides that:

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

26. According to these Rules, the normal value in China can be determined on any of the following basis:

- a) On the basis of the price in a market economy third country, or
- b) The constructed value in a market economy third country, or
- c) The price from such a third country to other countries, including India.
- d) If the normal value cannot be determined on the basis of the alternatives mentioned above, the Designated Authority may determine the normal value on any other reasonable basis including the price actually paid or payable in India for the like product duly adjusted to include reasonable profit margin.

27. The Authority notes that for determination of the normal value based on the third country cost and prices, complete and exhaustive transaction-wise data on the domestic sales of third country export sales, as well as cost of production and cooperation of such producers in third country is

required, which is not available with the Authority in the present investigation. Also, no such verifiable information with regard to prices and costs prevalent in other such market economy third countries have been provided either by the applicant or by the responding exporters, nor any publicly available information could be accessed, nor the responding Chinese companies have made any claim with regard to an appropriate market economy third country.

28. Considering that there has been no MET response from any exporter/producer of the subject goods from China PR and further noting that information/data regarding appropriate market economy third country for determination of normal value in China PR is not available on record; the Authority has considered the normal value in China PR on available 'reasonable facts basis', in terms of second proviso of para 7 of Annexure 1 to the AD Rules. Accordingly, the Authority has constructed the normal value for China PR on the basis of the cost of production in India, duly adjusted, including selling, general and administrative expenses. Separate normal value has been determined for loose and packed form of the product in view of significant difference in packing costs. The constructed normal value determined for China PR is shown in the dumping margin table below.

Normal Value in Russia

29. The Authority sent questionnaires to the known exporters from Russia. The Authority has received response only from the producer Khimprom Public Joint Stock Company, Russia. The goods have been sold through its unrelated exporters/ traders, namely, Avestra Chemical DMCC, UAE; Quest Group DMCC, UAE; Trigon Gulf, FZCO, UAE; Quest Point LLP, UK and Quest International Trading SA, Canada, to customers in India. The company has exported *** MT of MDC during the POI. It is seen from the questionnaire response that Avestra Chemical DMCC, UAE; Quest Group DMCC, UAE; Trigon Gulf, FZCO, UAE; Quest Point LLP, UK and Quest International Trading SA, Canada, have not filed their questionnaire response despite exporting ***% of the total exports of subject goods to India of the producer Khimprom Public Joint Stock Company, Russia. Since the value chain was not complete, the Authority, at the stage of the provisional findings, had not determined the individual dumping margin in respect of Khimprom Public Joint Stock Company, Russia.

30. The Authority notes that inspite of giving opportunity to Khimprom, the company has not submitted any response of the above mentioned

exports/traders claiming that all the information which is in possession of Khimprom and available for Khimprom, had been provided for the Authority and that Khimprom does not have information regarding complete value chain because of nature of the relationship between Khimprom and its unrelated traders. In this regard, the Authority notes that since ***% of the subject goods produced by Khimprom have been exported to India by the above mentioned exporters, Khimprom cannot claim that it has no relationship with them and cannot ask these companies to file the responses to complete the value chain as has been done by other cooperative Chinese producers in this investigation. In the absence of completion of the value chain the Authority determines the normal value for Russia as a whole on the basis of the cost of production in India, duly adjusted, including selling, general and administrative expenses under Rules 6(8). Separate normal value has been determined for loose and packed form of the product in view of significant difference in packing costs. The constructed average normal value determined for Russia is shown in the dumping margin table below.

Export Price for China PR

Export Price for Shandong Liaocheng Luxi Sixth Chemical Fertilizer Co. Ltd., China PR (Producer) through Lu Xi Chemical (Hong Kong) Co.Ltd., Hong Kong (Exporter)

31. Shandong Liaocheng Luxi Sixth Chemical Fertilizer Co. Ltd. has reported export of the subject goods to India during the POI. The goods have been sold through its related exporter Lu Xi Chemical (Hong Kong) Co. Ltd., Hong Kong, as well unrelated exporters Tricon Energy, USA; Vinmar International Ltd, USA and Cosmos VU Ltd, Hong Kong, to customers in India. The company has exported ***MT of MDC during the POI. At the stage of the provisional findings, it was seen from the questionnaire response that Tricon Energy, USA; Vinmar International Ltd, USA and Cosmoss VU Ltd, Hong Kong had not filed their questionnaire response despite exporting ***% of the total exports of subject goods to India of the producer Shandong Liaocheng Luxi Sixth Chemical Fertilizer Co. Ltd. Since the value chain was not complete, the Authority, at the stage of the provisional findings, had rejected the complete response of the cooperative producer/exporter Shandong Liaocheng Luxi Sixth Chemical Fertilizer Co. Ltd. However, post provisional Findings, Tricon Energy, USA; Vinmar International Ltd, USA and Cosmos VU Ltd, Hong Kong filed their invoices/packing list and completed the value chain. Since the value chain is complete, the Authority determines the export price of Shandong Liaocheng Luxi Sixth Chemical Fertilizer Co. Ltd. on the basis of their data

so filed. The producer has claimed adjustments towards overseas transportation, Inland transportation, bank charges, insurance, customs & port handling charges, credit cost and VAT to arrive at ex factory export price. The Authority has allowed the same. The average export price at ex-factory level so determined is as shown in the Dumping Margin Table below.

Export Price for Shandong Dongyue Fluo-Silicon Materials Co. Ltd., China (Producer)

32. Shandong Dongyue Fluo-Silicon Materials Co. Ltd has reported export of the subject goods to India during the POI. The goods have been sold directly to customers in India. The sales to Indian customers are on both FOB and CIF basis. The company has exported ***MT of MDC to India during the POI. The producer has claimed adjustments towards overseas transportation, Inland transportation, bank charges, insurance, commission, credit cost and VAT to arrive at ex factory export price. The Authority has admitted the adjustments claimed by the exporter. Export price has been determined for packed form of the product. Accordingly, the average export price at ex-factory level so determined is as shown in the Dumping Margin Table below.

Export Price for Ningbo Juhua Chemical & Science Co. Ltd., China

33. Ningbo Juhua Chemical & Science Co. Ltd has reported export of subject goods to India during the POI. The goods have been sold through two channels. One is through its unrelated exporter HK Montage International Holding Ltd, Hong Kong who further sells the subject goods to another exporter/trader, namely, Farmasino Holding (HK) Ltd, Hong Kong and eventually to customers in India. The second channel is through Tricon Dry Chemicals LLC, USA to customers in India. The company has exported ***MT of MDC during the POI. At the stage of the provisional findings, it was seen from the questionnaire response that Tricon Dry Chemicals LLC, USA had not filed its questionnaire response despite exporting ***% of the total exports of subject goods to India of the producer Ningbo Juhua Chemical & Science Co. Ltd. Since the value chain was not complete, the Authority, at the stage of the provisional findings, rejected the complete response of the cooperative producer/exporter Ningbo Juhua Chemical & Science Co. Ltd. However, post provisional Findings, Tricon Dry Chemicals LLC, USA filed their questionnaire response and completed the value chain. Since the value chain is complete, the Authority determines the export price of Ningbo Juhua Chemical & Science Co. Ltd. on the basis of their data so filed. Accordingly, the average export price at

ex-factory level so determined is as shown in the Dumping Margin Table below.

Export Price for Zhejiang Quhua Flour Chemistry Co. Ltd., China

34. Zhejiang Quhua Flour Chemistry Co. Ltd. has reported export of subject goods to India during the POI. The goods have been sold through unrelated exporters/traders Farmasino Holding (HK) Ltd, Hong Kong, Mercy Group Co. Ltd, Hong Kong and Polychem Corporation, Taiwan, to customers in India. The sales to Indian customers are on FOB and CIF basis. The company has exported ***MT of MDC during the POI. It is seen from the questionnaire response that Mercy Group Co. Ltd, Hong Kong and Polychem Corporation, Taiwan have exported ***% of the subject goods of the producer/exporter Zhejiang Quhua Flour Chemistry Co. Ltd. but not filed their questionnaire response. The Authority, keeping in view that questionnaire response of ***% of the subject goods are available, accepts the response of the Zhejiang Quhua Flour Chemistry Co. Ltd. The producer/exporter has claimed adjustments towards overseas transportation, overseas insurance, Inland transportation, bank charges, credit cost, handling charges and VAT to arrive at ex factory export price. The Authority has admitted the adjustments claimed by the exporter. Separate export price has been determined for loose form of the product in view of significant difference in packing costs. Accordingly, the average export price at ex-factory level so determined is as shown in the Dumping Margin Table below.

Export price in case of non-cooperative producers and exporters from China PR

35. In view of the non cooperation of other exporters in this investigation, the export price for other exporters has been determined considering the export price of the cooperating exporter from China. The Authority has adopted lowest representative import price from amongst the cooperative producers/exporters during the POI as best facts available. Price adjustments have been considered towards overseas transportation, Inland transportation, bank charges, insurance, credit cost and VAT to arrive at ex factory export price. Separate export price has been determined for loose and packed form of the product in view of significant difference in packing costs. Accordingly, the average export price at ex-factory level so determined is as shown in the Dumping Margin Table below.

Export Price for Russia

36. The Designated Authority has considered information received from the DGCI&S and determined the export price considering all imports of the product under consideration in India. The price adjustments have been considered towards overseas transportation, Inland transportation, bank charges, insurance, commission, and port handling charges to arrive at ex-factory export price. Separate export price has been determined for loose and packed form of the product in view of significant difference in packing costs. Accordingly, the average export price at ex-factory level so determined is as shown in the Dumping Margin Table below.

Dumping Margin

37. Considering the normal values and export prices for the subject goods, separately for packed and loose/bulk form as determined above, dumping margin for the subject goods as a whole has been determined as follows. It is seen that the dumping margin for the subject goods is more than de minimis and significant.

Dumping Margin Table

Country	Producer/Exporter	Normal Value	Export Price	Dumping Margin	Dumping Margin	Dumping Margin
		US\$/MT	US\$/MT	US\$/MT	%	% Range
China PR	Shandong Liaocheng Luxi Sixth Chemical Fertilizer Co. Ltd. (Producer) and Lu Xi Chemical (Hong Kong) Co. Ltd., Hong Kong/Tricon Energy Ltd., USA/Vinmar International Ltd, USA/Cosmoss VU Ltd, Hong Kong (Exporters)	***	***	***	***	25-35
	Shandong Dongyue Fluosilicon Materials Co., Ltd.	***	***	***	***	40-50
	Ningbo Juhua Chemical & Science Co. Ltd. (Producer) and HK Montage International Holding Ltd, Hong Kong, Farmasino Holding (HK) Ltd, Hong Kong and Tricon Dry Chemicals LLC, USA (Exporters)	***	***	***	***	40-50

Country	Producer/Exporter	Normal Value	Export Price	Dumping Margin	Dumping Margin	Dumping Margin
		US\$/MT	US\$/MT	US\$/MT	%	% Range
	Zhejiang Quhua Flour-chemistry Co. Ltd. (Producer) and Farmasino Holding (HK) Limited, Hong Kong, Polychem Corporation, Taiwan and Mercy Group Co., Ltd., Hong Kong (Exporters)	***	***	***	***	55-65
	Any Other Producer/Exporter	***	***	***	***	70-80
Russia	All Producers/Exporters	***	***	***	***	40-50

ASSESSMENT OF INJURY

Injury Determination

Views of the Domestic Industry

38. The submissions made by domestic industry with regard to injury and casual link are as follows:

- i. Imports of the product under consideration declined in 2012-13 and thereafter increased consistently.
- ii. Imports in relation to production and consumption in India declined in 2012-13 and thereafter increased consistently.
- iii. Market share of the subject counties declined in 2012-13 and consistently increased thereafter and is significant in the POI. Market share of the domestic industry has increased in the POI marginally from the previous year as a result of imposition of anti dumping duties and market share of countries already attracting ADD has declined.
- iv. With reduction in the prices either by the foreign producers or by these traders, either the Indian producers must realign their prices with the changes in the import prices or traders' resale prices, or the petitioners must loose orders.

- v. Domestic industry prices reflect the combined effect of the prices which have been reported in the trade journals and the prices that are being offered by the traders.
- vi. Imported goods have been undercutting the prices of the domestic industry in both loose and packed form. Price undercutting in respect of the product under consideration as a whole is positive from the subject countries.
- vii. The domestic industry has been forced to reduce the prices too steeply and too frequently.
- viii. Inventories with the domestic industry increased till 2013-14, but thereafter declined during the POI.
- ix. Performance of the domestic industry has deteriorated in terms of profits, return on investments and cash profits to a very significant extent till 2013-14 but during the POI, it has increased slightly.
- x. The decline in profitability of the domestic industry was due to reduction in the import prices without any justifiable reasons. The domestic industry is suffering significant financial losses as a result of significant dumping.

View of the Importers/consumers and other interested parties

39. The submissions made by the interested parties with regard to injury and casual link are as follows:
- i. Analysis of injury parameters should be made from the base year but domestic industry has made it from the year 2012-13.
 - ii. The price undercutting of Russia is shown higher as compared to price undercutting of China whereas the landed value for China is higher than the landed value for Russia. It indicates that the price undercutting is created artificially.
 - iii. No increase in imports from subject countries over the investigation period and in comparison to domestic production and total demand.
 - iv. Market share of domestic industry has increased from 34% in the base year to 41% in the POI.
 - v. Capacity, production, capacity utilization, productivity and sales of the domestic industry have increased during the injury period which indicates growth of the DI's ability to raise funds is not affected.
 - vi. There is no price depression and suppression for the domestic industry.

- vii. Profitability, cash flows and ROCE have declined in the injury period but all these factors have increased in POI as compared to the previous year 2012-13.
- viii. Employment and wages have shown no injury to DI.
- ix. There exists no causal link between the alleged dumped import from the subject countries and injury to the domestic industry. There is inverse relation between decrease imports from subject countries and increase sales of domestic industry.
- x. The import prices from the subject countries have declined by 9% over the injury period whereas the price of domestic industry has increased by 7% over the same period. The effect of price on the domestic industry is due to the countries attracting ADD and not due to the subject countries.

Examination by the Authority

40. Rule 11 of the AD Rules read with its Annexure–II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, “.... taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles....” While considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.
41. Annexure-II of the AD Rules provides for an objective examination of both, (a) the volume of dumped imports and the effect of the dumped imports on prices, in the domestic market, for the like articles; and (b) the consequent impact of these imports on domestic producers of such articles. With regard to the volume effect of the dumped imports, the Authority is required to examine whether there has been a significant increase in dumped imports, either in absolute term or relative to production or consumption in India. With regard to the price effect of the dumped imports, the Authority is required to examine whether there has been a significant price undercutting by the dumped imports as compared to the price of the like product in India, or whether the effect of such imports is otherwise to depress the prices to a significant degree, or prevent price increases, which would have otherwise occurred to a significant degree.

42. As regards the impact of the dumped imports on the domestic industry, para (iv) of Annexure-II of the AD Rules states as follows:

“The examination of the impact of the dumped imports on the domestic industry 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 margin of dumping actual and potential negative effects on cash flow, inventories, employment wages growth, ability to raise capital investments.”

43. For the examination of the impact of the imports on the domestic industry in India, the Authority has considered such indices having a bearing on the state of the industry as production, capacity utilization, sales quantum, stock, profitability, net sales realization, the magnitude and margin of dumping etc. in accordance with Annexure II(iv) of the Rules supra.

Cumulative Assessment

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

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

45. In the present case-

- a) The margin of dumping from each of the subject countries is more than the limits prescribed above;
- b) The volume of imports from each of the subject countries is more than the limits prescribed above; and

c) Cumulative assessment of the effects of imports is appropriate since the exports from the subject countries directly compete inter se and with the like goods offered by the domestic industry in the Indian market. It is noted that there is no submission made by any interested party disputing cumulative assessment in the present case.

46. In view of the above, the Authority considers it appropriate to cumulatively assess the effects of dumped imports from the subject countries.

47. After elaborate investigations, interim anti dumping duty was earlier imposed on the imports of the product under consideration from European Union and USA vide notification dated 21st October, 2012 and definitive anti dumping duty was imposed vide notification dated 21st May, 2014. It is noted that whereas imports from EU and USA declined, imports from China and Russia increased between 2013-14 and the POI.

Demand and market share

48. For the purpose of assessment of the consumption/demand of the subject goods, the sales volume of DI and other Indian producers have been added to the total imports into India and the same has been summarized below:

Particulars	Unit	2011-12	2012-13	2013-14	POI
Sales of Petitioners	MT	60,286	72,879	70,476	73,205
Sales of Other Producers	MT	33,921	33,597	37,734	33,830
Subject Countries – Imports	MT	16,514	334	6,757	15,629
Countries Attracting ADD	MT	60,974	56,324	62,444	47,571
Other Countries	MT	6,956	279	484	540
Total demand/Consumption	MT	178,651	163,413	177,895	170,774

49. It is noted that overall demand for the product under consideration shows marginal decline. Domestic industry contended that (a) the decline in demand is because of reduction in consumption by some pharma companies, (b) injury to the domestic industry is not because of decline in demand, as combined capacities with the Indian industry was 117,000 MT as against demand of 170,774 MT in India in the POI, (c) in view of significant demand for the product in the country, there was no need for the domestic industry to suffer on account of profits, return on investment

and cash flow. The domestic industry further contended that whereas demand for the product under consideration showed an overall decline of 4.50%, imports from subject countries increased from 334 MT (2012-13) to 15,629 MT during the POI, thus showing almost 45 times increase over the period.

Volume Effects of Dumped Imports

Import Volume and Market Share

50. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. For the purpose of injury analysis, the Authority has relied on the import data procured from DGCI&S. The volume of imports of the subject goods from the subject countries has been analyzed as under:

Particulars	Unit	2011-12	2012-13	2013-14	POI
Import Volume					
Subject Countries	MT	16,514	334	6,757	15,629
China PR	MT	16,084	334	4,794	12,802
Russia	MT	430	-	1,963	2,827
Countries attracting ADD	MT	60,974	56,324	62,444	47,571
Other Countries	MT	6,956	279	484	540
Total Imports Volume	MT	84,444	56,936	69,685	63,739
Market Share in Import Volume					
Subject Countries	%	19.56	0.59	9.70	24.52
China PR	%	19.05	0.59	6.88	20.08
Russia	%	0.51	-	2.82	4.44
Countries attracting ADD	%	72.21	98.92	89.61	74.63
Other Countries	%	8.24	0.49	0.69	0.85
Total Imports	%	100.00	100.00	100.00	100.00

51. It is noted from the above table that imports of the subject goods from subject countries declined in 2012-13 and increased thereafter registering significant increase in the POI. It is noted that imports from countries attracting anti dumping duty declined with the imposition of anti dumping duty vide Notification No. 24/2013-Customs (ADD) dated 21st October, 2012 whereas imports from subject countries started increasing.

Imports in relative terms

52. Imports in relation to consumption and production have been analyzed as under:

Particulars	Unit	2011-12	2012-13	2013-14	POI
Subject Countries Imports					
In relation to Indian Production	%	16.81	0.31	6.05	14.53
In relation to Indian Demand/Consumption	%	9.24	0.20	3.80	9.15

53. It is noted that imports in relation to production and consumption declined in 2012-13 and increased thereafter.

Price effect of imports

54. With regard to the effect of the dumped imports on prices, the Designated Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared with the price of the like products 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. The impact of dumped imports on the prices of the domestic industry has been examined with reference to the price undercutting, price suppression and price depression, if any.

Price undercutting

55. In order to determine whether the imports are undercutting the prices of the domestic industry in the market, the Authority has compared landed price of imports with net sales realization of the domestic industry.

Particulars	Unit	2011-12	2012-13	2013-14	POI
China (Loose & Packed)					
Landed price of imports	Rs/MT	***	***	***	***
Net Selling Price	Rs/MT	***	***	***	***
Price Undercutting	Rs/MT	***	***	***	***
Price Undercutting (%)	%	***	***	***	***
Price Undercutting (% Range)	%	Negative	Negative	Negative	Negative
Russia (Loose & Packed)					
Landed price of imports	Rs/MT	***	***	***	***
Net Selling Price	Rs/MT	***	***	***	***
Price Undercutting	Rs/MT	***	***	***	***

Price Undercutting (%)	%	***	***	***	***
Price Undercutting (% Range)	%	Negative	-	Negative	5-15
Subject countries (Loose & Packed)					
Landed price of imports	Rs/MT	***	***	***	***
Net Selling Price	Rs/MT	***	***	***	***
Price Undercutting	Rs/MT	***	***	***	***
Price Undercutting (%)	%	***	***	***	***
Price Undercutting (% Range)	%	Negative	Negative	Negative	Negative

56. The Authority notes that the landed prices of the subject goods from Russia was below the selling price of the domestic industry during the POI, however in the case of China PR, the same is slightly more than the selling price of domestic industry resulting in marginally negative price undercutting.

Price-underselling

57. The Authority has also examined price underselling suffered by the domestic industry on account of dumped imports from the subject countries, as follows:

Particulars	Unit	China	Russia
Weighted Average Non Injurious Price	US\$/Mt	***	***
Weighted Average Landed Value	US\$/Mt	***	***
Price underselling	US\$/Mt	***	***
Price underselling	%	***	***
Price underselling	% Range	15-25	30-40

58. It is noted from the above table that the domestic industry has suffered significant price underselling during the investigation period on account of imports of the subject goods from the subject countries.

Price suppression and depression

59. In order to determine whether the dumped imports are suppressing or depressing the domestic prices and whether the effect of such imports is

to suppress prices to a significant degree or prevent price increases which otherwise would have occurred to a significant degree, the Authority considered the changes in the costs and prices over the injury period. Authority has considered the average price of loose and packed material for the purpose of this analysis. Table below shows the factual position:

Particulars	Unit	2011-12	2012-13	2013-14	POI
Average Selling price of DI	Rs./MT	***	***	***	***
Trend	Indexed	100	70	87	107
Average Landed Value of subject countries	Rs./MT	***	***	***	***
Trend	Indexed	100	81	84	91
Cost to Sales	Rs./MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	105	133	132

60. It is noted from the table above that cost of sales have increased over the period and selling price of the domestic industry declined in 2012-13 but increased thereafter. Further, landed price of imports has shown same trend as the selling price. Increase in selling price is much less than the increase in cost of sales. Thus imports are causing significant price suppression in the domestic market.

Economic parameters of the domestic industry

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

62. Various injury parameters relating to the domestic industry are discussed herein below:

i. Production, capacity and capacity utilization of the Domestic Industry

63. The production, domestic sales, capacity & capacity utilization of the domestic industry have been stated as follows:

Particulars	Unit	2011-12	2012-13	2013-14	POI
Plant Capacity	MT	***	***	***	***
Plant Production	MT	***	***	***	***
Plant Capacity Utilisation	%	***	***	***	***
Production PUC	MT	***	***	***	***
Domestic Sales Volumes	MT	60,286	72,879	70,476	73,205

64. The Authority notes that the product under consideration is jointly produced with Chloroform and Carbon Tetrachloride comes out as a by-product. Since the production facilities are common and the products are coproduced, capacity utilization has been examined by considering combined production of Methylene chloride and chloroform.

65. It is noted that one of the petitioner companies has enhanced capacity within the present injury period. Domestic sales, production and capacity utilization of the domestic industry have increased over the injury period. The domestic industry has contended that volume parameters are under the control of the domestic industry and domestic industry on its part is doing its best to produce and sell maximum volumes so that its fixed costs get observed over larger production. However, dumping is causing losses to the domestic industry.

ii. Market share

66. The effects of the dumped imports on the domestic sales and the market share of the domestic industry have been examined as below:

Particulars	Unit	2011-12	2012-13	2013-14	POI
Market Share in Demand					
Sales of Domestic Industry	%	33.75	44.60	39.62	42.87
Sales of Other Producers	%	18.99	20.56	21.21	19.81
Subject countries - Imports	%	9.24	0.20	3.80	9.15
Imports from countries attracting ADD	%	34.13	34.47	35.10	27.86
Imports from Other Countries	%	3.89	0.17	0.27	0.32

Total	%	100.00	100.00	100.00	100.00
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67. It is noted that market share of the domestic industry increased in 2012-13, declined in 2013-14 and thereafter increased in the POI. Market share of the subject countries declined in 2012-13 but increased thereafter significantly in the POI.

iii. Profits, return on investment and cash flow

68. The cost of sales, selling price and profit/loss of the domestic industry have been analysed as follows:

Particulars	Unit	2011-12	2012-13	2013-14	POI
Cost of Sales - Average	Rs/MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	105	133	132
Selling Price - Average	Rs/MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	70	87	107
Profit/Loss	Rs/MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	(140)	(184)	(47)
PBIT	Rs Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	(169)	(215)	(57)
Cash Profit	Rs Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	(116)	(149)	(22)
ROI	%	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	(80)	(95)	(11)

69. It is seen that the selling price of the domestic industry is below the level of cost of sales since 2012-13 resulting into losses. The domestic industry was suffering from injury in view of dumped imports from other countries as well. Low priced imports from countries currently attracting anti dumping duty forced the petitioners to reduce its prices and consequently the petitioner started incurring losses since 2012-13. The domestic industry has been able to increase its selling price in the POI with the imposition of anti dumping duties on countries attracting anti dumping duty. However, imports from subject countries have prevented the domestic industry from increasing its selling price even to the level of costs of sales and, therefore, the domestic industry continues to suffer financial losses in the POI.

70. The domestic industry is suffering cash losses and further, the return on investment also became negative in 2012-13 and the cash losses intensified in 2013-14, in view of significant dumping from countries now attracting anti dumping duty. Imposition of anti dumping duties on such countries have led to some marginal improvement in cash profit and return on investment in the POI, however dumped imports of subject countries prevents the domestic industry from recovering completely from ill effects of dumping.

iv. Inventories

71. The data relating to inventory of the subject goods are shown in the following table:

Particulars	Unit	2011-12	2012-13	2013-14	POI
Average Stock	MT	***	***	***	***
Trend	Indexed	100	167	328	117

72. It is noted from the above table that the average stock increased till 2013-14 and declined thereafter.

v. Employment and wages

73. The position with regard to employment and wages is as follows:

Particulars	Unit	2011-12	2012-13	2013-14	POI
Number of Employees	No	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>104</i>	<i>101</i>	<i>102</i>
Wages	Rs Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>123</i>	<i>165</i>	<i>151</i>

74. It is seen that when employment is maintained within a particular range, wages show increasing trend over the injury period.

vi. Productivity

75. Data relating to productivity shows as follows:

Particulars	Unit	2011-12	2012-13	2013-14	POI
Productivity per day	MT/Day	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>93</i>	<i>110</i>	<i>106</i>	<i>109</i>

Particulars	Unit	2011-12	2012-13	2013-14	POI
Productivity per employee	MT/Nos	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>114</i>	<i>113</i>	<i>114</i>

76. It is noted that the productivity of the domestic industry has increased and moved in the same direction as that of the production.

vii. Magnitude of Dumping

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

viii. Ability to raise capital investment

78. It is noted that the petitioner companies are multi product companies and one of petitioner companies has enhanced capacities during the injury period. However, despite significant additional investment made in the year 2011-12, the domestic industry should have been able to increase its profit before interest, tax and depreciation. However, even after imposition of ADD on other countries, the industry is suffering with losses, thus, affecting the ability to raise capitals.

ix. Factors affecting domestic prices

79. Consideration of the import prices from subject countries, change in the cost structure, competition in the domestic market, factors other than dumped imports that might be affecting the prices of the domestic industry in the domestic market show that the landed value of imported material from subject countries are significantly below the selling price and non injurious price of the domestic industry, causing significant price undercutting and underselling in the Indian market. There is no viable substitute to this product. Demand for the product is not a factor responsible for price suppression faced by the domestic industry. It is thus evident that the only factor responsible for the domestic industry prices are the import prices of the product and the cost of production of the domestic industry. As the information would show, the imports prevented the domestic industry from increasing their prices in line with the increase in the cost.

x. Growth

80. Growth of the domestic industry is adverse, as growth with regard to profits, return on investments and cash flow was significantly negative during period of investigation except 2011-12.

xi. Industry recovering from past effect of dumped imports

81. The domestic industry has contended that various injury parameters illustrated under the Rules are not exhaustive, and thus the Authority may analyse any other factor showing injury to the domestic industry. It has been submitted that the domestic industry is trying to recover from the ill effects of dumping caused by other countries which are now attracting anti dumping duties. However, the dumped imports from current subject countries are preventing the growth of the domestic industry. It is seen in this regard that the domestic industry continues to incur losses, despite imposition of anti dumping duties on other countries.

Conclusion on material injury

82. After examining the volume and price effects of imports of the subject goods from the subject countries and its impact on the domestic industry, it is noted that volume of imports of subject goods from subject countries declined in 2012-13 and thereafter increased significantly in absolute terms and in relation to production and consumption in India. Market share of the subject countries declined in 2012-13 and increased thereafter. It is noted that the domestic industry has not suffered volume injury on account of dumped imports of subject goods from the subject countries. However, with regard to price effect on account of imports of the subject goods from the subject countries, it is noted that imports of the subject goods from subject countries are significantly undercutting the prices of domestic industry. Further, the domestic industry has suffered price suppression on account of imports of the subject goods from the subject countries in the POI. Profit, cash flow and return on investment remain negative. Despite imposition of anti dumping duty on other countries, the domestic industry is incurring losses in the POI because of the presence of dumped imports from the subject countries. With regard to consequent impact of the dumped imports on the domestic industry, it is concluded that even though the performance of the domestic industry has improved in respect of production, capacity utilization, domestic sales, market share, the performance deteriorated in terms of profits, return on investment and cash flows. Thus, the Authority concludes that the domestic industry has suffered material injury.

Other Known Factors & Causal Link

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

a) Volume and prices of imports from third countries

84. It is noted that imports of product under consideration from other countries are either negligible in terms of volume or are attracting anti dumping duties. It is noted that the import prices from subject countries are much higher during the POI.

b) Contraction of demand and changes in the pattern of consumption.

85. As noted earlier, demand scenario and pattern of consumption for the subject goods in the domestic market show that there has been decline in the demand of the products concerned over the injury period which has been attributed to consumption by some pharma companies. It is, however, seen that injury to the domestic industry is not because of decline in demand, as combined capacities with the Indian industry was 189,000 MT as against demand of 170,774 MT in India. In view of significant demand for the product in the country, there was no need for the domestic industry to suffer on account of profits, return on investment and cash flow.

c) Developments in technology:

86. Technology for production of the product concerned has not undergone any change. Thus, development in technology is not a factor causing injury to the domestic injury.

d) Trade restrictive practices of and competition between the foreign and domestic producers

87. There is no trade restrictive practice which could have contributed to the injury to the Domestic Industry.

e) Export performance of the domestic industry

88. The injury information examined by the Authority is for domestic operations only and, therefore, export performance has not caused injury to the Domestic Industry.

f) Productivity of the Domestic Industry

89. It is noted that the productivity of the domestic industry in terms of production per employee as well as production per day has increased over the period.

90. It is thus noted that listed known other factors do not show that the domestic industry could have suffered injury due to these other factors. The Authority examined whether the dumping of the product has caused injury to the domestic industry. The following parameters show that injury to the domestic industry has been caused by dumped imports:

- a) The imports of the subject goods from the subject countries were significantly undercutting the prices of the domestic industry in the market.
- b) The domestic industry was prevented from increasing its prices. The price suppression suffered by the domestic industry is because of dumping of the product by the subject countries.
- c) The domestic industry is forced to sell at prices even below the cost of production which is resulting into significant financial losses. The price suppression caused by the imports thus results in financial losses in the POI.
- d) Performance of the domestic industry with regard to profits, cash flow and return on investments is negative as a result of price suppression and price undercutting. Thus, dumping of the product has led to deterioration in performance of the domestic industry in terms of profits, cash flow and return on investments.
- e) Despite imposition of anti dumping duty on other countries, the domestic industry is incurring losses in the POI because of the presence of dumped imports from the subject countries.

91. It is, therefore, concluded that the domestic industry suffered material injury due to the dumped imports.

Magnitude of Injury Margin

Injury Margin

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

Particulars	Unit	China	Russia
Weighted Average Non-Injurious Price	US\$/Mt	***	***
Weighted Average Landed Value	US\$/Mt	***	***
Injury Margin	US\$/Mt	***	***
Injury Margin	%	***	***
Injury Margin	% Range	15-25	30-40

Country	Producer/Exporter	Non-Injurious Price	Landed Price	Injury Margin	Injury Margin	Injury Margin
		US\$/MT	US\$/MT	US\$/MT	%	% Range
China PR	Shandong Liao Cheng Luxi Sixth Chemical Fertilizer Co. Ltd. (Producer) and Lu Xi Chemical (Hong Kong) Co. Ltd., Hong Kong/Tricon Energy Ltd., USA/Vinmar International Ltd, USA/Cosmoss VU Ltd, Hong Kong (Exporters)	***	***	***	***	10-20
	Shandong Dongyue Fluosilicon Materials Co., Ltd.	***	***	***	***	10-20
	Ningbo Juhua Chemical & Science Co. Ltd. (Producer) and HK Montage International Holding Ltd, Hong Kong, Farmasino Holding (HK) Ltd, Hong Kong and Tricon Dry Chemicals LLC, USA (Exporters)	***	***	***	***	20-30
	Zhejiang Quhua Flour-chemistry Co. Ltd. (Producer) and Farmasino Holding (HK) Limited, Hong Kong, Polychem Corporation, Taiwan and Mercy Group Co., Ltd.,	***	***	***	***	20-30

	Hong Kong (Exporters)					
	Any Other Producer/Exporter	***	***	***	***	40-50
Russia	All Producers/Exporters	***	***	***	***	30-40

POST DISCLOSURE STATEMENT COMMENTS

Post Disclosure Statement comments of the opposing interested parties

93. Post disclosure comments of the opposing interested parties, in brief, are as follows:
- i. Since the Authority is making analysis of dumping margin and injury margin separately for loose/bulk and packed form of the product, the determination of dumping margin and injury margin should be done separately for loose/bulk and packed form of the product for the individual companies examined. The weighted average dumping margin and weighted average injury margin may be made on the basis of the weight of the loose/bulk and packed product for the export sales to India by them but not on the basis of simple average as it may lead to incorrect determination of dumping margin and injury margin.
 - ii. The import data from IBIS shows higher imports. The share of Russia in total imports is de minimis as their share in the total imports is merely 2.94%. No analysis or reasons have been recorded in the Disclosure Statement to negate the contention that the imports reported in IBIS import data are correct. There is also no analysis of the actual imports by the cooperative exporters from China and one participating exporter from Russia with the imports reported in DGCI&S import data base for the respective subject countries.
 - iii. The analysis with regard to the impact of the substantially high imports of about 80% from the countries attracting ADD has not been carried out as to how the imports from those countries are having no impact on the state of the domestic industry and the injury to the domestic industry is only due to the imports from the subject countries.
 - iv. The observation in the Disclosure Statement that the normal value for China can be determined on any of the basis prescribed in Para 7 of Annexure I is flawed and is in violation of the mandatory procedure laid down in the case of Shenyang Matsushita 2005 (181) ELT 320 (SC).
 - v. Since an exporter from Russia has filed its information in Appendix 1 for the domestic prices in Russia, the same may be considered for the determination of the normal value for China in view of the provisions of Para 7.
 - vi. There is no injury to the domestic industry from the alleged dumped imports from the subject countries and there is absence of causal link.

- vii. Weighted average injury margin for the companies may be computed on the basis of the separate weight of the loose/bulk and packed product for the export sales to India by them.
- viii. The Dumping Margins for Shandong Liaocheng Luxi Sixth Chemical Fertilizers Co. Ltd. and Ningbo Juhua Chemical & Science Co. Ltd. have been rightly granted. However, Tricon Dry Chemicals LLC have not been included in the relevant trade channels in the dumping margin table.
- ix. The Ministry of Industry and Trade of the Russian Federation states that:
 - (a) Construction of normal value is not in conformity with the provisions of AD Agreement. Usage of alternative methods of normal value determination is justified only if there are no sales of like product in the ordinary course of trade or when because of particular market situation or low volume of sales do permit a proper comparison.
 - (b) Even if the information provided by interested party is not ideal in all respects, it cannot be arbitrarily excluded from taking into consideration.
 - (c) Normal value has been constructed for JSC Khimprom in violation of Article 2 and 6.8 of AD Agreement. The Directorate General failed to take into account difficulties faced by Khimprom in procuring data of unrelated entities.
 - (d) Export price has been calculated on the basis of data provided by Indian producers and not based on the data violating Article 6.8. Applicable data provided by JSC Khimprom was not taken into account. The Authority failed to establish the existence of association or any compensatory arrangement between exporters and importers.
 - (e) Market share in demand of Russian exports constitutes only 1.66%. Such small percentage cannot cause any injury to the domestic industry.
 - (f) The Authority failed to address the positive conditions of domestic industry in 2011-2014 such as increase in market share in demand, sales. Overload of the domestic production capacity by 10% in 2012-13.
 - (g) No reasons have been presented as to why the negative dynamics of few factors outweighed the positive dynamics of a large amount of other factors.

Post Disclosure Statement comments of the Domestic Industry

94. Post Disclosure Comments of the Domestic Industry, in brief, are as follows:

- i. Domestic industry has suffered material injury and such injury is evidenced by adverse price effect of dumped imports from the subject countries.

- ii. The information is for the injury period and just not POI and preceding year. Otherwise, it defeats the very purpose of calling data for longer period. Since the product under consideration was being dumped from other countries in 2013-14, the domestic industry was facing injury in this period in respect of imports from those countries. In the POI, the suppressing/depressing effects were limited because of check on the dumping from other countries. The domestic industry was, however, still faced with pressure on profits for the reason that fresh dumping started from present subject countries.
- iii. In an unprecedented decision and in contravention to repeated affidavits filed by the Directorate before the Delhi High Court in NIP related writ petitions, the Minutes of Meeting circulated by the DGAD with regard to these writ petitions pending in the High Court, the NIP has been determined without adding return on capital employed on captive inputs. The interpretations being drawn by the DGAD from the NIP law in different cases are inconsistent with the law, and DGAD has filed unambiguous replies in these writ petitions fully supporting the NIP law. Thus, the proposal to determine NIP in the present case without adding return on capital employed in captive inputs is tantamount to going beyond even the NIP law and introducing subjective assessment on an unambiguous fact. The proposal is inconsistent with the following:
 - a. Rule 17(1)(b) which requires the Authority to determine quantum of anti-dumping duty which would be adequate to address injury to the domestic industry;
 - b. Annexure-III which requires the Authority to determine the cost of production considering the best utilization of raw materials and at period of investigation rates.
 - c. The replies filed by the Designated Authority before the Delhi High Court in the following writ petitions wherein the NIP law has been challenged "as such" and "as applied". The Designated Authority has stated in these affidavits that if captively produced inputs are transferred at a rate based on the cost of production, then the Designated Authority allows reasonable returns on capital employed in production of captively produced inputs in addition to their cost of production.
 - d. The Minutes of the meeting notified by the DGAD consequent to the meeting convened by the Designated Authority on 29.12.2015 to discuss the suggestions/comments received from various interested parties for amending provisions of Annexure III of Antidumping Rules. This meeting was chaired by the Designated Authority and attended by all the officers of DGAD. The then Consultant was also present in the meeting. These Minutes of Meeting were communicated by the DGAD vide email dated 20th January, 2016 wherein the Authority has stated that if the domestic industry accounts for the captively produced inputs at the cost of production, an additional return @ 22% on capital employed for assets utilized for producing such inputs is also allowed.

Examination by the Authority

95. The Authority notes that most of the post Disclosure Statement submissions made by the domestic industry and the opposing interested parties are repetitive in nature and have already been dealt with in the Disclosure Statement and again have been addressed in this Final Findings Notification under the appropriate headings. The additional issues to the extent considered relevant have been addressed as under:

- i. As regards the argument that the normal value for China needs to be determined as per the hierarchy laid down in Para 7 of Annexure I, the Authority notes that there is no denying the fact that hierarchy must be followed, provided sufficient evidence with regard to the methodology is made available before the Authority. The Authority notes that the petitioner had not provided an evidence of price or constructed value in a market economy third country. The price from a market economy third country to other countries was also not made available by the petitioner. It may be noted that the prices in market economy third country could also not be adopted for the reasons that (a) the desired information has not been made available by any interested party, (b) the product under consideration involved a number of different types which vary in associated costs & prices; (c) price adjustments to determine the ex-factory prices are not available. The price from market economy third country to India could not be adopted as these imports are attracting anti dumping duty and, therefore, are dumped import prices. The Chinese producers or importers or any other interested party made no claim nor advanced any evidence either with regard to the price or the constructed value in a market economy third country. Further, the response of the cooperative producer from Russia was not complete and thus its data could not be analysed to the desired extent. Under the circumstances, the Authority is of the opinion that the only option available is to determine the normal value on "any other basis", considering estimates of the cost of production, duly adjusted, including a reasonable profit margin.
- ii. As regards the argument that no analysis has been made on the countries attracting ADD causing injury, it is noted that the injury caused by the other countries attracting ADD is being addressed by the anti dumping duty currently imposed on them. Further, it has been specifically noted in the relevant part of this Notification that the imports from countries attracting ADD have declined whereas the imports from the present subject countries have increased.
- iii. It is clarified that the determination of dumping margin and injury margin has been done separately for loose/bulk and packed form of the product for the

individual companies examined and the weighted average dumping margin and the weighted average injury margin have been determined on the basis of the weight of the loose/bulk and packed product.

- iv. As regards the contention that import data from IBIS shows higher imports and the volume of imports from Russia on this basis is 2.94% and thus de-minimis, the Authority notes that the import data has been adopted on the basis of DGCI&S data.
- v. The claims of the Russian exporter with regard to determination of the normal value and dumping margin have been appropriately dealt in the dumping margin determined hereinabove.
- vi. The name of Tricon Dry Chemicals LLC has now been included in the relevant trade channels of the dumping margin table.
- vii. As regards the determination of individual dumping margin for Khimprom, the Authority reiterates that the normal value could not be determined on the basis of questionnaire response filed in view of significant deficiencies in the questionnaire response. The Authority holds that complete questionnaire response from the producer-exporter is must for determination of individual dumping margin.
- viii. As regards the low market share of Russia in demand/consumption of the product under consideration in India, the Authority notes that there is no de-minimis criteria on the basis of consumption of the product under consideration in India. The Rules provide negligibility test in terms of total imports of the product under consideration in India and it is seen that imports from Russia are beyond the limits prescribed under the law.
- ix. As regards injury suffered by the domestic industry in the past and dumping from other sources, the Authority notes that with imposition of anti dumping duty on imports from other sources, dumping has intensified from present set of countries. The current volume of imports from the subject countries must be seen in the light of past dumping and anti dumping duty imposed on the product.
- x. As regards positive developments in some parameters of the domestic industry, the Authority notes that the injury analysis is required to be carried out by considering overall performance of the domestic industry. The investigation has clearly shown that the performance of the domestic industry on collective and cumulative basis shows deterioration over the injury period.

- xi. As regards the contention that in contravention to repeated affidavits filed by the Directorate before the Delhi High Court in NIP related writ petitions and the Minutes of Meeting circulated by the DGAD with regard to these writ petitions pending in the High Court, the NIP was determined without adding return on capital employed on captive inputs and thus, the proposal to determine NIP in the present case without adding return on capital employed in captive inputs is tantamount to going beyond even the NIP law and introducing subjective assessment on an unambiguous fact, the Authority notes that the Directorate has indeed filed three counter affidavits in the Delhi High Court in three separate civil writ petitions bearing numbers 145 of 2013; 2453 of 2013 and 3782 of 2013 and in all the three writ petitions, the Directorate has taken the consistent stand that if captively produced inputs are transferred at a rate based on cost of production as per the books of accounts by the domestic industry, then Designated Authority allows reasonable return on capital employed in production of captively produced inputs in addition to their cost of production.
- xii. In the civil writ petition number 145 of 2013, the counter affidavit has been filed stating that “It is further submitted that Annexure to the antidumping rules further mandates the Designated Authority to consider inter alia the best utilization of raw materials and utilities at the rates adopted in the books of accounts maintained by the domestic industry. The Designated Authority, therefore, considers the actual price for the purchased inputs and in respect of the *captively* produced inputs at the transfer rate adopted in the books of accounts maintained by the domestic industry. The Designated Authority further allows the return on investment for the captively produced inputs if such inputs were transferred at cost of production”.
- xiii. Further, in the civil writ petitions 2453 of 2013 and 3782 of 2013, the counter affidavit has been filed stating that “The principle for determination of NIP provides that the actual rates (as per actual value of inputs consumed) as per cost and financial records of the domestic producers are to be considered after necessary examination and reconciliation. If captively produced inputs are transferred at a rate based on cost of production, then Designated Authority allows reasonable return on capital employed in production of captively produced inputs in addition to their cost of production”.
- xiv. Keeping in view this consistent stand taken in the High Court on the methodology for determination of NIP as per the NIP law, the Authority is of the view that the domestic industry’s contention that the proposal of the Authority to determine NIP in the present case without adding return on capital employed in captive inputs will not only tantamount to going beyond the NIP law but also be in contravention of the stand taken by the Authority

before the Delhi High Court has merit. In this regard, the Authority has noted that the domestic industry in the present case has transferred the captively produced inputs at the rates based on its cost of production (as per the cost and financial records maintained by the domestic industry). The Authority, therefore, has decided to determine the NIP of the domestic industry in the present case by allowing reasonable return on capital employed used in the production of captively produced inputs in addition to their cost of production. The NIP of the domestic industry has been revised accordingly.

INDIAN INDUSTRY'S INTEREST & OTHER ISSUES

96. The Authority recognizes that the imposition of anti-dumping duties might affect the price levels of the product in India. However, fair competition in the Indian market will not be reduced by the imposition of anti-dumping measures. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by dumping practices, prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods. The purpose of anti-dumping duties, in general, is to eliminate injury caused to the Domestic Industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti dumping duties, therefore, would not affect the availability of the product to the consumers. The Authority notes that the imposition of the anti-dumping measures would not restrict imports from the subject countries in any way, and therefore, would not affect the availability of the product to the consumers. The consumers could still maintain two or even more sources of supply.

RECOMMENDATION

97. 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 the normal values.
 - b. The domestic industry has suffered material injury on account of the subject imports from the subject countries.
 - c. The material injury has been caused by the dumped imports of the subject goods from the subject countries.
98. The Authority notes that the investigation was initiated and it was notified to all the known 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 AD Rules and having established positive dumping margins as well as material injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of duty is required to offset dumping causing injury. The domestic industry has requested for imposition of anti dumping duty to address injury being suffered.

99. 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. Accordingly, the anti-dumping duty equal to the amount indicated in the table below is recommended to be imposed from the date of notification to be issued in this regard by the Central Government, on all imports of the subject goods originating in or exported from the subject countries.

Duty Table

SN	Sub-heading	Description of goods	Country of origin	Country of export	Producer	Exporter	Amount	Unit	Currency
1	2903 12	Dichloro methane (Methylene Chloride)	China PR	China PR	Shandong Dongyue Fluosilicon Materials Co., Ltd.	Shandong Dongyue Fluosilicon Materials Co., Ltd.	143.71	MT	US Dollar
2	2903 12	- do -	China PR	China PR	Zhejiang Quhua Flour-Chemistry Co. Ltd.	Zhejiang Quhua Flour-Chemistry Co. Ltd./Farmasino Holding (HK) Limited, Hong Kong/ Polychem Corporation, Taiwan/ Mercy Group Co., Ltd., Hong Kong	166.83	MT	US Dollar
3	2903 12	- do -	China PR	China PR	Shandong Liaocheng Luxi Sixth Chemical Fertilizer Co. Ltd.	Shandong Liaocheng Luxi Sixth Chemical Fertilizer Co. Ltd.	122.14	MT	US Dollar
4	2903 12	- do -	China PR	China PR	Shandong Liaocheng Luxi Sixth Chemical Fertilizer Co. Ltd.	Lu Xi Chemical (Hong Kong) Co. Ltd., Hong Kong	122.14	MT	US Dollar
5	2903 12	- do -	China PR	China PR	Shandong Liaocheng Luxi Sixth Chemical Fertilizer Co. Ltd.	Lu Xi Chemical (Hong Kong) Co. Ltd., Hong Kong and Tricon Energy Ltd., USA/Vinmar International Ltd,	122.14	MT	US Dollar

						USA/Cosmoss VU Ltd, Hong Kong			
6	2903 12	- do -	China PR	China PR	Ningbo Juhua Chemical & Science Co. Ltd.	Ningbo Juhua Chemical & Science Co. Ltd./ HK Montage International Holding Ltd, Hong Kong/ Farmasino Holding (HK) Ltd, Hong Kong/Tricon Dry Chemicals LLC, USA	162.16	MT	US Dollar
7	2903 12	- do -	China PR	China PR	Any combination other than the combinations specified above		279.78	MT	US Dollar
8	2903 12	- do -	China PR	Any	Any	Any	279.78	MT	US Dollar
9	2903 12	- do -	Any country other than subject countries	China PR	Any	Any	279.78	MT	US Dollar
10	2903 12	- do -	Russia	Russia	Any	Any	219.00	MT	US Dollar
11	2903 12	- do -	Russia	Any	Any	Any	219.00	MT	US Dollar
12	2903 12	- do -	Any country other than subject countries	Russia	Any	Any	219.00	MT	US Dollar

*Note: Where there is overlapping of anti-dumping duty on the subject goods with respect to a subject country in different customs notifications, the duty applicable to that subject country shall be one imposed under the customs notification in which the said country has been specifically mentioned under the Column "Country of Origin".

100. Subject to the above, the Authority confirms the Preliminary Findings Notification No. 14/33/2014-DGAD dated 30.10.2015.
101. Landed value of imports for the purpose of this Notification shall be the assessable value as determined by the Customs under the Customs Act, 1962 (52 of 1962) and includes all duties of customs except duties under sections 3, 3A, 8B, 9 and 9A of the said Act.
102. An appeal against the findings after its acceptance by the Central Government shall lie before the Customs, Excise and Service Tax Appellate Tribunal (CESTAT) in accordance with the Customs Tariff Act, 1975 as amended in 1995 and Customs Tariff Rules, 1995.

(A.K. Bhalla)
Additional Secretary & Designated Authority

