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**F. No.7/11/2019-DGTR
Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Trade Remedies)
4th Floor, Jeevan Tara Building, 5- Parliament Street, New Delhi 110001**

Dated the 14th October 2020

**FINAL FINDINGS
NOTIFICATION
CASE NO. (MTR) 06/2019**

Subject: Mid-Term Review, limited to the product scope of definitive Anti-Dumping duty imposed on Dimethylacetamide' [N,N-Dimethylacetamide] (DMAC) from China PR and Turkey.

BACKGROUND

1. Vide Notification No.14/41/2016-DGAD dated 21.2.2018, the Designated Authority recommended imposition of definitive anti-dumping duty on imports of "Dimethylacetamide' [N, N-Dimethylacetamide] (DMAC)" (hereinafter also referred to as the subject goods) originating in or exported from China PR and Turkey (hereinafter also referred to as the subject countries). The definitive anti-dumping duty was imposed by the Central Government vide Notification No. 12/2018-Customs (ADD) dated 20.3.2018.
2. F. No. 7/11/2019-DGTR M/s Indorama Industries Limited (hereinafter also referred to as the 'Applicant') has filed an application before the Designated Authority (hereinafter referred to as the 'Authority') in accordance with the Customs Tariff Act, 1975 as amended from time to time (hereinafter referred to as the 'Act') and the Customs Tariff(Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 as amended from time to time (hereinafter referred to as the 'Rules') for initiation of limited mid-term review investigation concerning exclusion of Dimethylacetamide' [N, N-Dimethylacetamide] (DMAC)" of specific grade having minimum purity of 99.9%, maximum alkalinity levels of 0.003%, maximum acidity levels of 0.005%, maximum iron ppm as 0.05, Maximum water content of 0.01%, claiming that the specific conductivity (20% vol aq soln) of the subject goods manufactured by the Domestic Industry is too high for using the same in the production of spandex.

PROCEDURE

3. The procedure described herein below has been followed by the Authority with regard to the subject investigation:

- i. The Authority issued a public notice dated 17.07.2019 published in the Gazette of India Extraordinary, initiating mid-term review of the anti-dumping investigation concerning import of the subject goods.
- ii. The Authority informed the Embassy of China and Turkey in India about the initiation of the subject investigation requesting them to inform concerned exporters/producers about the same.
- iii. The Authority made available copies of the non-confidential petition to M/s Balaji Amines and M/s Rashtriya Chemicals and Fertilisers Ltd, constituents of the domestic industry in the original investigation.
- iv. The Authority made available non-confidential version of the evidence presented by the interested parties in the form of a public file kept open for inspection by other interested parties as per Rule 6 (7).
- v. The Authority examined the information furnished by the Applicant and the Domestic Industry to the extent possible to verify the claims made by the Applicant importer in its application.
- vi. Since the petition is for a limited purpose of exclusion of a certain type of product under consideration, the Authority is not required to evaluate the quantum of dumping and injury, therefore stipulation of POI is not required.
- vii. Further information was sought from the Applicant importer and the Domestic Industry to the extent deemed necessary. Verification of the data and claims of the Applicant importer was conducted to the extent considered necessary for the purpose of the investigation.
- viii. Verification of data and claims of the Domestic Industry was also carried out to the extent considered necessary for the purpose of the investigation.
- ix. In accordance with Rule 6(6) of the Rules, the Authority also provided opportunity to the interested parties to present their views orally in a public hearing held on 30th August, 2019. Second and third public hearings were conducted on 5th December, 2019 and 7th August, 2020 respectively. Subsequently due to change of the Designated Authority, and keeping in view the direction passed by the Hon'ble Supreme Court in the case of Automotive Tyre Manufacturer Association (ATMA) vs Designated Authority, in Civil Appeal No. 949 of 2006 on 07-01-2011, the parties, who presented their views in the oral hearings, were requested to file written submissions of their views expressed orally, followed by rejoinder submissions.

- x. A Disclosure Statement was issued on 18.8.2020 containing the essential facts under consideration of the Designated Authority, thereby granting time to the interested parties up to 21.8.2020 to furnish their comments, if any, on Disclosure Statement. The Authority has examined the post disclosure comments received from the interested parties.
- xi. ‘***’ in these final findings represents information furnished by an interested party on confidential basis, and so considered by the Authority under the Rules.

Submissions made by the Applicant

4. The submissions made by the Applicant are as follows:
- a. The product under consideration defined in the original investigation was ‘Dimethylacetamide’ [N, N-Dimethylacetamide]. Dimethylacetamide is a compound with the formula $\text{CH}_3\text{C}(\text{O})\text{N}(\text{CH}_3)_2$ and bears the chemical nomenclature ‘N, NDimethylacetamide’. Abbreviations like DMAC is also normally used to denote the product under consideration in the market parlance. It is a clear, colourless-to-yellow liquid soluble in water and other organic substances with a pale amine like or ammoniac odour. Subject goods are classified under customs heading 292419000.
 - b. The Applicant has sought exclusion of a particular grade of DMAC which is not produced by the domestic Industry and at the same time is critical to the manufacturing of elastomeric yarn (spandex). Some of the issues submitted by the Applicant with respect to the product are given as under:
 - i. DMAC produced by the Domestic Industry is of lower purity. Test results of Rashtriya Fertilizer and M/s Balaji Amines show that the purity offered by them is below 99.9%.
 - ii. Certificate of Analysis (COA) provided by Rashtriya Fertilizer and M/s Balaji Amines does not indicate the alkalinity which is extremely critical for our application.
 - iii. Test results of DMAC produced by Rashtriya Fertilizer and M/s Balaji Amines show acidity levels higher than 0.01%. As per the International Standards, these levels are very high and cannot be used in the production of elastomeric yarns.
 - iv. Specifications of the domestic industry and their test results show that the water (moisture) content is much higher than the prescribed content under the International Standards for elastomeric yarns. As indicated in our application as well as in the correspondence with M/s Balaji Amines, it has been clarified that the moisture content has to be below 0.01% (100 ppm). It is understood that the domestic industry is not in a position to supply anything below 0.2% moisture content.

- v. DMAC colour (APHA) is not given in the Certificate of Analysis of M/s Balaji Amines whereas it is a critical parameter for being used in production of elastomeric yarns.
 - vi. PH (20% volaqsoln) is also not given in the Certificate of Analysis of M/s Balaji Amines. This is also a critical parameter for use in production of elastomeric yarns.
 - vii. For the production of elastomeric yarns, the DMAC must have conductivity of 0.1 micro-semens/cm, whereas, the specification and test results in respect of Rashtriya Fertilizers reflect much higher conductivity i.e., 4-5%. As regards M/s Balaji Amines, the COA does not even refer to conductivity as a parameter.
- c. The said product is used for the production of elastomeric yarns in the country. The specific grounds for seeking the exclusion of the above product submitted by the Applicant are as under:
- i. That the Domestic Industry has admittedly not produced the said grade during the period of investigation.
 - ii. That they are not in a position to supply the said product to the domestic user industry.
 - iii. That the said products are technically or commercially not substitutable with the goods produced by the Domestic Industry.
 - iv. That the Domestic Industry itself has admitted that they are not in a position to supply the said grade. Sufficient evidence indicating their technical and commercial inability to supply the said grade is also attached with this application.
 - v. That the Domestic Industry does not even intend to produce and supply the required grade of DMAC.
- d. The above stated position is confirmed by the fact that despite repeated efforts by the Applicant throughout the years, neither of the domestic producers has been able to supply the subject goods to the Applicant or even make a positive offer which could meet the specification required by the Applicant.
- e. In para 4 of the initiation notification, the maximum water content has been mistakenly written as 0.2% max instead of 0.01% max. This is an apparent typographical error. In fact, the initiation notification itself in para 6(b) under 'grounds of review' clarifies that the water content requirement of the Applicant is 0.01% max.

- f. The water content specification as required by the Applicant is 0.01% max and not 0.2% max. The various communications with the sole respondent, the application as well as the initiation notification clearly indicate that there has been a typographical error on the face of the records.
- g. The sole participating domestic producer has attempted to build a narrative that the requirements such as conductivity and alkalinity etc were not pointed out as a requirement by the Applicant in its earlier communications with M/s Balaji Amines, and neither are they a part of the scope of present the MTR. The Applicant submits that the participating domestic producer is trying to mislead the Authority by giving misleading information in the context of the communications made with the Applicant regarding the product specifications. The Applicant has specifically communicated to M/s Balaji Amines its product requirements, including the requirements with respect to moisture and specific conductivity. In fact, on 10.05.2019, the Manager Marketing of M/s Balaji Amines, Mr. S.D. Patel had specifically requested the Applicant to share the MOA (memorandum of analysis) for alkalinity and the conductivity parameters. Further, a reminder mail was sent by the representative of M/s Balaji Amines on 11.05.2019 again requesting for the same information. In response to the requests of M/s Balaji Amines, the Applicant sent the test procedures for testing conductivity and alkalinity on 11.05.2019.
- h. M/s Balaji Amines specifically asked the Applicant for ways to lower down the specific conductivity. In response to their enquiry, on 16.05.2019, the Applicant shared the specifications of resin required to lower down the conductivity of the subject goods. This clearly indicates that the issue of conductivity was always a part of the issues involved.
- i. The Authority may also note that all these communications with M/s Balaji Amines are made prior to the initiation of the present proceedings. In such a scenario, the submission of M/s Balaji Amines that requirements such as Specific Conductivity (20% vol aq soln), alkalinity etc were not pointed out as a requirement by the Applicant in its earlier communications with M/s Balaji Amines, is patently misleading.
- j. As regards the submission of M/s Balaji that the requirements such as Specific Conductivity (20% vol aq soln), Conductivity etc. are not covered under the product scope, the Applicant submits that the Grounds of Review in para 6(d) of the initiation notification clearly cover specific conductivity as a ground of review. In such a scenario the submission of M/s Balaji Amines in this regard is wrong and fallacious and is liable to be rejected. Without prejudice, the contention of the domestic producer is without any legal basis. An initiation notification contains only the prima facie information with regard to the grounds of review and the final decision of the Authority is an outcome of the detailed investigation by the Authority on factual as well as legal premises.
- k. As regards the claim of the participating domestic producer that DMAC produced and sold by M/s Balaji Amines has comparable features with the DMAC produced and

exported from China PR and Turkey, it is stated that the subject goods produced by M/s Balaji Amines do not meet with the requirements of the Applicant on various counts such as color, moisture content, alkalinity, conductivity etc. The Applicant has been trying to buy the subject goods from M/s Balaji Amines since long and M/s Balaji Amines has not been able to provide the subject goods with required specifications. As per latest sample analysis report, the conductivity and alkalinity is higher than acceptance limit.

- l. To substantiate its contention, the Applicant submitted copy of its communication dated 10.07.2015 to M/s Balaji Amines wherein the Applicant requested them to provide their specifications with respect to various parameters including alkalinity, moisture content, specific conductivity etc. The Applicant also submitted a copy of the certificate of analysis (COA) issued by M/s Balaji Amines dated 11.07.2015 wherein M/s Balaji allegedly failed to provide the subject goods with specifications pertaining to various parameters such as alkalinity, iron content and specific conductivity.
- m. The submission of M/s Balaji Amines that DMAC produced and sold by M/s Balaji Amines has comparable features with the DMAC produced and exported from China PR and Turkey is without any basis and remains unsubstantiated. The Applicant requires DMAC with specific technical specifications for the production of elastomeric yarns (spandex). The Applicant needs the subject goods with specific technical specifications as provided by the technology provider. In fact, it is for this reason that the Applicant has been importing the subject goods by paying the anti-dumping duties even after the imposition of duties. To substantiate this claim, the Applicant submitted the DMAC technical specification requirements as provided by the technology provider. The Applicant also submitted a brief write-up on the significance of moisture, conductivity, Acidity and Alkalinity of the DMAC.
- n. Another manufacturer in the country i.e. M/s Hyosung Corporation has started producing spandex yarn and test report confirms that the samples of DMAC supplied by M/s Balaji Amines failed on conductivity and water content parameters.
- o. As regards the product brochure of Akkim, Turkey enclosed by M/s Balaji Amines in their written submissions, the said product brochure is listing out the general specifications of the subject goods only. M/s Balaji Amines has not informed the Authority that even Akkim specifies the detailed technical specifications wherever the users require the subject goods with such specific technical specifications. In this context, the Applicant has also been a regular importer of Akkim, Turkey for the subject goods with specific technical parameters and that even Akkim provides the subject goods with specific technical specifications with respect to various parameters such as Alkalinity, Iron content, color, specific conductivity etc. Applicant submitted commercial invoices of M/s Akkim from Turkey along with specific technical specifications with respect to the said parameters in order to substantiate their claims.
- p. In 2016, the Applicant rejected the goods supplied by M/s Akkim, Turkey only because the moisture content in the lot was 0.017% instead of 0.01%. The said

rejection of the goods supplied by the exporter happened even before the duties were imposed on the subject goods. The applicant submitted relevant documents substantiating the rejection of the product supplied by M/s Akkim, Turkey.

- q. In response to the claim of the participating domestic producer that the Applicant has not demonstrated that the subject goods, they are concerned with is 'not a like article' to DMAC as defined in the original investigation. The Applicant submitted that M/s Balaji Amines has misunderstood the contention and the basis of the Applicant for requesting the product exclusion, both legally and factually. The Applicant is seeking exclusion of a particular grade of DMAC on the ground that the same is not manufactured by the Domestic Industry and, therefore, it ought to have been excluded as per the consistent practice of the Authority. When the domestic industry does not manufacture a product with technical specifications as required by the Applicant, there is no reason as to why the Applicant should be forced to pay anti-dumping duties. The fact that the Applicant is seeking a 'product exclusion' by itself indicates that the product specification for which exclusion is sought by the Applicant is like article to the product on which duties have been imposed. Needless to say that an 'unlike article' would never form a part of the Product under Consideration in the first place and, therefore, cannot be subject to anti-dumping duties.

Submissions made by the Participating Domestic Producer

- a. Properties such as specific conductivity (20% vol aq soln), water content etc were not pointed out as a requirement at all in the earlier communications made by the Applicant to M/s Balaji Amines nor are they part of the scope of the present MTR as specified in para 5 of the present MTR.
- b. DMAC is used in many user segments such as pharmaceuticals, textiles etc. and the requirements of specific users may vary in terms of their purity etc. However, that is how the product is produced and supplied by the producers. The production of the product is not restricted to any particular user segment and every user can approach any DMAC producer to get the product of his choice. Thus, DMAC offered by producers, be it in India or foreign countries, do meet such requirements as specified by the users and such variations are only a matter of fine tuning in the manufacturing and it is not that certain producers can only offer certain type of DMAC and certain producers cannot offer any such particular type.
- c. The product brochure of Akkim, Turkey shows that the company showcases two major types in its brochure wherein one is pharmaceutical quality and the other is textile quality. The brochure also shows that the highest purity requirement of min 99.9% is seen in pharmaceutical segment and the purity associated with textile is only min 99.6%. M/s Balaji Amines supplies largely to pharmaceutical companies wherein the purity requirements are higher which alone reflects that the contention that the Applicant is not getting min 99.9% purity material in India is a baseless allegation. Applicant in fact requires the material for a textile product. Though the Applicant talked

about international standards for Spandex yarn for Elastomeric Yarn, no such document is provided to the Authority.

- d. The contention of the legal representatives of the Applicant that the spandex/elastomeric yarn industry does not come under “textile industry” but instead comes under petrochemical sector is false. The Applicant states in their website that the spandex yarn produced by the company was sold to the textile industry which means spandex yarn is an input for the textile industry. There are two major user segments for DMAC. One is for pharmaceutical and the other one is textile. Spandex yarn being in the textile segment, the DMAC requirement would be in the range of 99.6% for the spandex yarn producers whereas M/s Balaji Amines is supplying to a more niche segment like pharmaceutical where the purity requirement is 99.9%.
- e. Conductivity requirements are not intrinsic to DMAC. Such requirements may arise in case of various chemicals etc, but it is not a parameter defined in the production of DMAC in any specific manner. Conductivity is understood to be the degree to which a specified material conducts electricity, calculated as the ratio of the current density in the material to the electric field which causes the flow of current and such a character in a given range cannot be seen as a factor involved in the basic property of DMAC invariably. It is a very general phenomenon and no exclusion should be warranted on grounds of conductivity which is not a parameter unique and intrinsic in the production of DMAC.
- f. The Applicant has not submitted the details of their imports, wherein conductivity parameters of DMAC were evident in the import documents. The Applicant must be asked to demonstrate based on verifiable documentary evidences that the DMAC they imported, had a particular conductivity specification reflected in the import documents.
- g. The Applicant had submitted in the hearing that they do not question the ‘like article’ determination made by the Authority in the original case and there are no dispute on the comparability of the PUC imported and the like article domestically manufactured. Thus, the dispute is apparently limited to the contention that Applicant could not source the specification mentioned in para 4 and 5 of the initiation notification which we have already denied. Appropriate test reports are already submitted.
- h. The Applicant has not demonstrated that the subject product they are concerned with is 'not a like article' to DMAC as defined for the purpose of Anti-dumping duties in Notification No.12/2018-Customs dated 20.3.2018.
- i. The products mentioned by the Applicant are only inter se types of DMAC defined as PUC in the relevant AD Duty notifications and all such specifications are achieved by the Indian producers of DMAC as per the needs of the users. It is part of regular manufacturing of DMAC and there is no difficulty in achieving such specifications. In fact, M/s Balaji Amines already supplies DMAC with such specification to many users. It is just that the Applicant here is unwilling to buy from M/s Balaji Amines as their intention is to get the DMAC once again at dumped and throw away prices and have

been falsely alleging that the DMAC produced by the Indian producers cannot meet their demand. Even the test reports submitted are misleading. The DMAC is produced at different purity worldwide and niche specification for a particular user is achieved based on their request by fine tuning the production which is a process, regularly done by the producers. They are in a position to supply DMAC with the specifications required by the applicant.

- j. The exclusion of DMAC with such specifications has no justification. Firstly, they are only inter se types of DMAC defined as PUC and not any different or dislike article per se. Secondly, the domestic industry is supplying DMAC with all such specifications and the allegations to the contrary are bereft of any merit. M/s Balaji has the capacity to produce DMAC with such specifications as pointed out by the Applicant. M/s Balaji Amines has carried out a laboratory test of its DMAC and the result of the same was enclosed with the earlier submission. The report shows that the DMAC produced by M/s Balaji Amines meets all specifications as required by the Applicant. Thus, the exclusion of types such as Minimum Purity (99.9% min.) and Maximum Alkalinity level (0.003% max), Maximum Acidity level (0.005% max), Maximum iron ppm as (0.05), Maximum Water (0.2% max) do not warrant any exclusion.
- k. It is not a correct statement that M/s Balaji Amines is not producing the PUC with the technical specification required by the applicant. The Authority may note that the test reports are the evidence on which Balaji Amines Ltd can rely upon to submit before the Authority that the Company is in a position to supply DMAC with the specifications required by the Applicant.
- l. The Authority may conduct any required verification or test to examine the factual position of the issue at hand. In fact, the Applicant has been changing the required specifications of the subject product frequently which shows the intention of the Applicant is only to avoid the duties and there are no merits in their contentions.

Examination by the Authority

5. The para 4 of the initiation notification mentioned exclusion of specific grade of Dimethylacetamide' [N, N-Dimethylacetamide] (DMAC)' having the following technical specification:
 - i. Minimum Purity (99.9% min.) and Maximum Alkalinity level (0.003% max)
 - ii. Maximum Acidity level (0.005% max)
 - iii. Maximum iron ppm as (0.05)
 - iv. Maximum Water (0.2% max)
6. Further, para 6 of the initiation notification, under the heading "grounds of review" mentioned the following parameters as grounds of review:

- a) DMAC produced by the Domestic Industry is of lower purity. Test results of Rashtriya fertilizer Ltd. and M/s Balaji Amines shows that the purity offered by them is below than 99.9%.
 - b) Water content specification and test results of Rashtriya fertilizer and M/s Balaji Amines are much higher than 0.01% the international standards for Spandex
 - c) Test results of DMAC produced by Rashtriya fertilizer Ltd. and M/s Balaji Amines show acidity levels higher than 0.01%. As per International Standards for Spandex, these levels are very high for producing Elastomeric Yarns.
 - d) Specific conductivity (20% vol aq soln) specification is much higher of Rashtriya fertilizer and conductivity test results is not given in certificate of analysis (CoA) of M/s Balaji Amines.
7. During the investigation, it was pointed out by the Applicant that the maximum water requirement mentioned in para 4 as 0.2% max appears to be a typographical error. It was also pointed out that the initiation notification itself in para 6(b) clarifies that the water content requirement of the Applicant is 0.01% max. The Applicant also notified that the Applicant requires the subject goods with conductivity of max 0.1 micro-semens/cm.
 8. As regards, the claims of the opposing domestic producer that the properties such as specific conductivity were not pointed out as a requirement at all in the earlier communication by the Applicant to M/s Balaji Amines nor are they a part of the scope of the present MTR as specified in para 5 of the present MTR. The Authority holds that the Applicant has produced a communication made to M/s Balaji Amines as early as in 2015 wherein they specifically mentioned conductivity as a required parameter.
 9. As regard the contention of the opposing domestic producer that the Applicant being in textile industry requires less purity product, the Authority holds that submission of the domestic producer does not have any merit since although the spandex/elastomeric yarns is used in the textile sector, the spandex/elastomeric yarn industry itself comes under petrochemical sector.
 10. In any case, the Authority conducted on the spot verification of the Applicant's plant to understand the requirement of the Applicant in detail. During the verification, it was noted that the required conductivity of the subject goods required was lower than 0.1 micro-siemens/cm.
 11. As regards the submission of M/s Balaji Amines that the Authority should check for the specifications such as conductivity from the test reports of the DMAC imported by the Applicant, the Authority notes that it examined the certificate of analysis and the test reports of the DMAC imported by the Applicant in selected months of last 4 years and it was noted that the parameters mentioned by the Applicant such as specific conductivity, min. water content etc. are always mentioned in the certificate of analysis and the test reports of the DMAC imported by the Applicant. Further, the specifications of subject goods imported by the Applicant have been in consonance with the parameters specified by the Applicant in its review application.

12. The Applicant also provided the specifications of DMAC for the production of Spandex as provided by the technology provider. The same is in consonance with the specifications specified by the Applicant in its application.

Submissions made by the Applicant importer

13. Further submissions made by the Applicant are as follows:
- i. The application for imposition of duties was filed by two domestic producers, M/s Rashtriya Chemicals and Fertilizers Ltd. (RCF) and M/s Balaji Amines Ltd. It is to be noted that only M/s Balaji Amines Ltd. has participated in the present review investigation. Under the present circumstances, the opposition to the application can, at best, be considered to have been made only on behalf of a single domestic producer namely M/s M/s Balaji Amines in view of the fact that M/s Rashtriya Chemicals and Fertilizers Ltd. has not participated in the investigation. Accordingly, the Authority should hold that there is no opposition to the present application by the “Domestic Industry” as such.
 - ii. While one of the two above-said domestic producer M/s Rashtriya Chemicals and Fertilizers Ltd. did not at all cooperate with the Authority, the other domestic producer M/s. Balaji Amines Ltd. has also not participated in the investigation in good faith. As a matter of fact, the participating domestic producer has continuously impeded the investigation process by providing unsubstantiated statements and claims.
 - iii. In the present case, the Authority has thrice provided the opportunity to the parties to explain their claims/objections. However, on all three instances, no technical person from M/s. Balaji Amines Ltd., or for that matter, any person well versed with the technical/commercial aspects of the issues involved, considered it necessary to attend the hearing. It needs to be appreciated that the presence of the proper representative of the company M/s Balaji Amines was absolutely necessary as the grounds of review solely revolve around the technical specifications. It was incumbent upon the sole responding producer to assist the Authority in its decision-making process.
 - iv. As regards the contention of the opposing domestic producer that the Applicant has no *locus standi* to challenge the product scope when one of the producers/exporters from China PR i.e. Zhejiang Jiangshan Chemical Go., Ltd., who had cooperated with the Authority in the original investigation, also did not raise any issues regarding any product exclusion, the Applicant submits that in terms of Rule 23(1A), a request for review may be filed by any interested party including an importer or user. There is no distinction made among the different interested parties in the Rule or anywhere else in the law. When the Rules categorically bestow the right to seek mid-term review on all interested parties including the importers/users, the domestic producer’s submission to restrict the legal right of the Applicant, is completely devoid of any merit.
 - v. As already submitted by the Applicant, the Applicant requires specific grades of the product under consideration for the production of elastomeric yarns. The Applicant is

the sole producer of the elastomeric yarns in the country. Therefore, the Chinese producer might not have known the differences in technical specifications of the products produced by it and the product produced by the domestic industry in the absence of any party before the Authority requiring the subject goods with specific technical specifications. It may be mentioned that the domestic producers, despite having full information about the name and address of the Applicant, provided wrong address of the Applicant in the petition. Further, the Applicant was having continuous discussions with the domestic producers for supply of required specifications of DMAC and the domestic producers were repeatedly assuring the Applicant that they will be able to supply the specifications required by the Applicant. Thus, it is clear that the Applicant could not participate in the original investigation for good reasons which, in any case, cannot curtail the right of the Applicant to seek a review under Rule 23(1A).

- vi. The cooperating domestic producer has not understood the rationale or the premise for seeking the exclusion by the Applicant. It may be noted that the Applicant herein is not seeking user-based exclusion but the claim is based entirely on the inability of the Domestic Industry to produce DMAC of certain technical specifications which are used in a particular application. In this context, it is submitted that the Authority in a plethora of cases, has excluded certain product types based on several criteria including but not limited to non-production by the domestic producers.
- vii. The Authority has always been considerate about the requirements of the user industries while including/excluding specific grade of products in the product under consideration. However, where the Domestic Industry apprehends any circumvention of anti-dumping duties, the Authority has granted user-based exclusions also. In fact, in the recent investigation concerning “Cold Rolled Flat Products of Stainless Steel originating in or Exported from China PR, Korea, European Union, South Africa, Taiwan, Thailand and USA”, dated 18.08.2017, the Authority noted the need of not saddling the anti-dumping duties on the bonafide users of the product grade included in the product under consideration through anti-circumvention investigation.
- viii. The exclusion of a product grade/type for the bonafide users is not something out of the book. Similar exclusions/exemptions have been given in other cases like met coke from China, Aluminium Radiators from China etc. In the present case, the Applicant has demonstrated that its requirement for specific product grade/specification is genuine and bonafide. The Applicant has also demonstrated that the domestic industry is not in a position to supply the specific product grade/specification as required by the Applicant. In such a scenario, it is critical for the Applicant that the Authority excludes the product grade/specification as mentioned above.
- ix. The Applicant has already demonstrated to the Authority during the visit of its officers to the plant of the Applicant on 01.09.2019 that the Applicant cannot use the subject goods produced by the domestic producers due to their inability to supply the specific grades/specification of the subject goods. The Applicant also demonstrated that there

is a significant cost factor involved for the Applicant if it uses the goods produced by the domestic producers.

Submissions made by the participating domestic producer

14. The submissions made by the other interested parties are as follows:

- i. The Applicant's contention that the non-participation of the M/s Rashtriya Chemicals and Fertilizers Ltd. (RCF) should be held against the domestic industry holds no legal basis. The present MTR review is limited as stipulated in para 5 of the initiation notification and establishing conditions of Rule 2(b) is not essential in the present case. Nevertheless, M/s Balaji Amines Ltd. one of the producers of subject goods in India, whose production represents a major proportion in the total Indian production is cooperating with the Authority and have provided all relevant information to enable the present MTR investigation a seamless one.
- ii. The Applicant, who is a user of DMAC, has no *locus standi* to challenge the product scope now when one of the producers/exporters from China PR i.e. Zhejiang Jiangshan Chemical Co., Ltd on whose product the Applicant has placed their reliance has cooperated with the Applicant.
- iii. The Applicant in the oral hearing tried to tweak the above argument as if M/s Balaji Amines has submitted that the users as such are not entitled to make a product review application or they cannot dispute the product scope. The attempt has no merit. It is clarified that the issue is not that the users as such do not have the locus to raise concerns on scope of PUC etc. The issue is that the Applicant in the present matter does not have the locus as the concerned exporter from whom the Applicant is procuring the so called special grade DMAC had cooperated in the original matter and did not raise any issue on the scope of PUC and like article aspect. When the concerned producer/exporter found the products comparable a user eventually trying to create a difference in the product supplied by such foreign producer and the Indian companies have no legal sanctity.
- iv. The Applicant has questioned the non-participation of technical personnel from the company in the hearing. The issue is totally baseless and has no substance. There is not even a single issue which was raised by the Applicant and not properly addressed by the legal representatives of M/s Balaji Amines.
- v. The PUC definition or inclusion/exclusion is never done based on user requirements as the thumb rule is likeness with the imported product and such principles cannot be compromised in the present case.
- vi. India has conducted more than 450 AD Investigation and the definition of PUC was never made based on user requirements. A PUC is always defined taking into consideration the basic product features. Even the like article test is conducted between imported product and the product that is domestically manufactured.

Different users having different product specification for a basic chemical like DMAC is very usual and such differences in the user requirements do not render DMAC different products viz. all such users. There are users of DMAC who want purity such as 99% or even less. Thus, the product is produced in differing specifications in India and abroad and the requirements of the Applicant here can also be met by the domestic industry fully, provided they are ready to buy from the domestic industry and their requirements are bona fide and not any strategy to avoid ADD in force.

- vii. Should the Applicant continue like a serious and genuine buyer with clarity on their requirements, the domestic industry has always had the capacity and technical knowhow and ability to supply DMAC of their choice and it is not at all an impossible task, as is being alleged.

Examination by the Authority

15. The Authority notes the argument of the Applicant regarding non-participation of M/s Rashtriya Chemicals and Fertilizers Ltd. and holds that it is not necessary for all the constituents of the Domestic Industry to participate in the review.
16. The Authority notes the submission of the domestic producer that the Applicant has no locus-standi to file the present review petition since the Chinese exporter from whom the Applicant imported the PUC had participated in the original investigation and did not raise any issue regarding product differentiation or exclusion at that time. The Authority holds that the Applicant has sought review on the ground that the products sought to be excluded in the present review petition are specifically required for spandex industry and the domestic industry is not able to provide the same. The Authority further notes that the Applicant is the one of the two spandex manufacturers in the country and the Chinese producer might not have known the specific technical characteristics of the goods/produced by domestic industry and specific technical requirements of the PUC during the original investigation.
17. The Authority notes the following submissions on technical aspects of PUC made by the Applicant:
 - i. The Authority notes the claim of the Applicant that the polymerization process involved in the manufacturing of Spandex yarn requires DMAC of conductivity below 0.1 micro-semens/cm. The Applicant has stated that high conductivity results into micro impurities which react with amino and hydroxyl groups which are reactants in polymer-forming system and, therefore, DMAC with higher conductivity is not suitable in their production process. It has been claimed that the DMAC imported by the Applicant always have conductivity below 0.1 micro-semens/cm. The Applicant further explained that the imported DMAC after usage in the process, is then recovered and purified in the solvent refine plant having distillation process. DMAC obtained from the distillation process has the conductivity in the range of 0.2 to 0.6 micro-semens/cm. and to further reduce the

conductivity to the desired level of less than 0.1 micro-semens/cm , the Applicant have also installed an ion-exchange plant. The Authority notes that the Ion-exchange plant has been claimed as an essential requirement for lowering down the conductivity of the subject goods. The Applicant has submitted that M/s Balaji Amines does not have Ion-exchange plant to lower down the conductivity of the subject goods and therefore, they cannot produce the subject goods with the desired specifications. The Applicant has also provided the Certificate of Analysis of the DMAC imported by them indicating that its conductivity is below 0.1 micro-semens/cm.

- ii. As regards the significance of moisture, the Authority notes the submission made by Applicant that the moisture content in the DMAC reacts with the NCO group of prepolymer and it forms amino groups and CO₂. Due to this, the required reactant NCO would not be available to react with the chain extenders amino groups to get urea bond formation which limits the properties of the yarn. A chemical process called hydrolytic degradation occurs when it reacts with water. Polymer forming chain scission of the linkage will cause the reduction of molecular weight and degradation. It can also cause higher impurities. It creates the polymer gels and swelling in the polymer due to the side reaction which significantly reduces the spinning performance. Therefore, it is essential to limit the moisture content in DMAC to avoid unsuitable product in the end stream.
 - iii. As regards the acidity parameter, the Authority notes the submissions by the Applicant that DMAC with higher acidity reacts with NCO group of pre-polymer and it forms unsuitable intermediates and CO₂. Also, it catalyses the acidic hydrolysis reaction. The required reactant NCO would not be available to react with Chain Extenders amino groups to get urea bond formation. This phenomenon leads to reduction in the polymer molecular weight, generation of impurities, and so chain dissociation in the linkage. Therefore, it is important to limit the Acidity within the specification to make required quality product.
 - iv. As regards the alkalinity parameter the Authority notes the submission of the Applicant that DMAC with higher alkalinity implies presence of higher amount of Alkaline substances, it reacts with NCO group of pre-polymer and it forms unsuitable intermediates causing micro impurities, The amount of required Amines for NCO group of pre-polymer will reduce significantly as the alkaline substances reacts with NCO. It changes the reaction mechanism and causes reduction in polymer molecular weight. Further, it changes the polymer morphology structure. Hence it is important to limit the Alkalinity within the specification to make desired product.
18. The Authority notes that the opposing domestic producer i.e. M/s Balaji Amines has claimed that the properties such as specific conductivity were not pointed out as a requirement at all in the earlier communication by the Applicant to M/s Balaji Amines nor are the part of scope of present MTR as specified in para 5 of the present MTR. In this regard, the Authority notes that the Applicant has produced a communication sent to M/s Balaji Amines in 2015 wherein they mentioned conductivity as a required parameter. Further the Authority notes that communications on testing of sample has happened between domestic producer and Applicant

during 2019. The Applicant has submitted a communication dated 27th April 2019 with M/s Balaji Amines which was made prior to the initiation of the present MTR investigation.

19. As regards the submission of the participating domestic producer that the Authority has never done user-based exclusion, the Authority holds that, in past also, the Authority has excluded specific products/product grades for bonafide usage by the user Industry. In the Anti-circumvention investigations concerning imports of “Cold Rolled Flat Products of Stainless-Steel originating in or Exported from China PR, Korea, European Union, South Africa, Taiwan, Thailand and USA”, dated 18.08.2017, the Authority excluded Anti-dumping duty on imports destined for usage by a category of bonafide users. The Applicant has also submitted the copies of customs notification no. 12/2012 dated 17th March 2012 and customs notification no. 12/2014 dated 11th July 2014 demonstrating an exemption in imports duty on the imports of MDI and PT MEG to justify user based exemption. The Authority also notes the apprehension by the domestic producer of a possible abuse of AD measure through circumvention if exemption to a particular grade of PUC was accorded.
20. As regards the contention of the opposing domestic producer that the petitioner requires less purity product for its production and that the domestic industry can produce the subject goods with 99.9% purity which is required in pharmaceutical sector, the Authority notes that unlike the requirements of the pharma industry, the subject goods are contested by the Applicant on the ground that it contains micro level impurities which results into higher conductivity of the subject goods leading to undesirable reaction with the functional groups which are critical for the spandex manufacturing process.
21. The Authority notes that the demand of the Product under Consideration vis-à-vis the requirement of the Applicant in the original investigation was 7912 MT in the POI (1st April 2015 – 30th September 2016). The demand during the previous 3 years ranged between 7500 MT to 10000 MT per annum. The Applicant never procured the subject goods from any of the domestic producers and have relied on imports, which were about *** MT in 2015-16, *** MT in 2016-17, *** MT in 2017-18 and *** MT in 2018-19. During 2019-20 it was around *** MT in the first 6 months. The share of imports made by the Applicant are less than 10 % of the demand in the country.
22. The Authority in order to assess the essentiality of dependence on imports by the Applicant in view of having the required technical specifications of the PUC considered the following aspects;
 - (a) **Commercial Aspects**
23. The selling prices of the PUC by the domestic industry sold in India (pre and post levy of ADD) and also the landed value of the grade of PUC imported by the petitioner from subject and non-subject countries, are as depicted below:

Net selling price of the PUC of the cooperating Domestic Producer

	2015-16	2016-17	2017-18	2018-19	2019-20 (up to Sep 19)
Net Selling Price - Rs/Kg	***	***	***	***	***
Index	100	97	113	156	134

Imports of the PUC by Applicant

Country	2015-16		2016-17		2017-18		2018-19		2019-20 (up to Dec. 19)	
	Vol.(MT)	Rs/kg	Vol.(MT)	Rs/kg	Vol.(MT)	Rs/kg	Vol.(MT)	Rs/kg	Vol.(MT)	Rs/kg
Belgium	***	***	***	***	***	***	***	***	***	***
China	***	***	***	***	***	***	***	***	***	***
Japan	***	***	***	***	***	***	***	***	***	***
Turkey	***	***	***	***	***	***	***	***	***	***

- i. The Authority holds that apart from the subject countries i.e. China and Turkey, on which the AD duty is in force, the Applicant has also imported appreciable quantity of the subject goods from other non-subject countries e.g. Japan and Belgium in past 3 years.
- ii. It is also noted by the Authority that the Applicant has never bought any subject goods from the domestic Industry due to the non-availability of the subject goods with the required technical specifications. However, the Applicant has submitted that they would have procured the subject goods from Domestic Industry, if these were available to them with the required specifications irrespective of the prices.

(b) Technical Aspects

24. The Authority requested the Department of Textile and Fibre Engineering, IIT, Delhi to analyse the technical specification of DMAC required for manufacture of elastomeric yarn through spandex process. The technical inputs given by IIT, Delhi indicates that production of fibre grade polyurethane requires specific technical parameters of DMAC.

Post Disclosure Comments:

Submissions of the Applicant (by-APJSLG):

25. The product under consideration be redefined for excluding the technical specifications from the scope of the product under consideration.
26. Selling prices of Balaji do not represent prevailing prices of the subject goods in the country, especially when there is another domestic producer present in the country, and, it therefore, would not be sufficient to make any conclusion relating to commercial aspects of the investigation based on the selling price of Balaji.
27. Imports do not form part of commercial decisions of the Applicant, rather, they pose as a necessity owing to the technical inability of the domestic producers to provide the subject goods which are required by the Applicant, as the subject goods are highly technical in nature, and the Applicant procures them only after ensuring the technical compatibility. In 2016, the Applicant had rejected the goods supplied by Akkim, Turkey because the moisture content was 0.017% as against the required 0.01%.
28. The Applicant has tried to procure subject goods with the specific technical parameters from Balaji and the communications were made since 2015, however, Balaji failed to provide the same.
29. DMAC quality data of the Applicant and also the Certificate of Analysis (CoA) and invoices for imports made by the Applicant in 2017, 2018 and 2019 indicates the parameters subject to the present Mid-term review.
30. Test report dated 05.02.2020 shows that the goods supplied by Balaji failed to comply with sought parameters like conductivity and alkalinity.
31. It is proposed by the Applicant that a user-based exemption similar in the case of “Cold Rolled Flat Products of Stainless Steel originating in or Exported from China PR, Korea, European Union, South Africa, Taiwan, Thailand and USA” may be granted in the present case and a declaration may be provided that bonafide usage shall be exempted from the Notification No.14/41/2016-DGAD dated 21.2.2018 along with the corresponding Customs Notification No. 12/2018-Customs (ADD) dated 20.03.2018.

Submissions of the participating domestic producer i.e. M/s Balaji Amines Ltd (by-M.S. Pothal):

32. Test Report dated 25.01.2020 clearly substantiates that that the DMAC produced by Balaji Amines Ltd meets the technical specifications required by the applicant. However, the said test report is not addressed in the Disclosure Statement, and the DI is not aware of any submissions/ examination refuting the said report.
33. As long as the imported product DMAC is defined in the anti-dumping notification, exclusions from the product scope cannot be carved out on basis of particular specifications required by the petitioner.
34. The needs of the petitioner were considered when they showed interest in buying DMAC from Balaji and it was understood that the same could be provided after some fine tuning in the existent manufacturing process.
35. The foreign producers in the Original Investigation had admitted that the DMAC supplied by them and the domestic industry were like articles.
36. The petitioner cannot argue that the test report dated 25.1.2020 falls after initiation and has no persuasive value and the report is not barred by time as no investigation periods were set for this investigation, and, negotiations between the parties were still ongoing after the initiation.
37. The petitioner had always preferred to import and was in fact never ready to approach the company.
38. The copy of the report prepared by the Department of Textile and Fibre Engineering, IIT, Delhi to analyse the technical specification of DMAC required for manufacture of elastomeric yarn through spandex process was not provided to Balaji. It would have been better if the Authority sent the samples of DMAC produced by Balaji and that imported by the petitioner for comparison purposes to such institutes.
39. Any exclusion of DMAC to be used by the petitioner or by spandex yarn producers as such from the scope of ADD will lead to large circumvention of duties in force. For example, if DMAC to be used for spandex yarn is excluded, even the users in pharmaceutical or other sector start getting such material which will not vitiate their requirements in any manner. Thus, balance of convenience lies in not excluding any type from the scope of PUC.

Examination by the Authority

40. Authority notes that in the original investigation, the product under consideration was the 'Dimethylacetamide' [N, N-Dimethylacetamide]. Dimethylacetamide is the organic compound with the formula $\text{CH}_3\text{C}(\text{O})\text{N}(\text{CH}_3)_2$ and bears the chemical nomenclature 'N, N-Dimethylacetamide'. Abbreviations like DMAC is also normally used to denote the product under consideration in the market parlance. It is a clear, colourless- to- yellow liquid soluble in water and other organic substances with a pale amine like or ammoniacal odour.
41. Present mid-term review is requested for exclusion of specific grade of 'Dimethylacetamide' [N, N-Dimethylacetamide] (DMAC)" having the following technical specification:
- I. Minimum Purity (99.9% min.) and Maximum Alkalinity level (0.003% max)
 - II. Maximum Acidity level (0.005% max)
 - III. Maximum iron ppm as (0.05)
 - IV. Maximum Water (0.01% max)
 - V. Conductivity (0.1 micro-semens/cm max)
42. The present review is therefore only for the limited purpose of investigating the need for exclusion of the above-referred product from the scope of the product under consideration in the original investigation. Authority also notes that the applicant did not participate in the original investigation.
43. Authority notes that in the MTR initiation notification the maximum water content erroneously mentioned is 0.2% max, which should be corrected to read as maximum water content (0.01% max or 100 ppm).
44. Authority notes that the sole participating domestic producer initially admitted that they supply largely to pharmaceutical companies and purity requirements are higher in pharma sector.
45. Authority notes that spandex industry has its specific requirements with respect to parameters like purity, water content & conductivity etc for the manufacturing of the spandex fibre, which are different from pharmaceuticals.
46. Authority notes that the analysis report from IIT-Delhi also supports the technical requirements of the particular grade of DMAC for the manufacturing of Spandex fibre.
47. It is noted that evidence on record suggests that the domestic producer(s) do not have the capability to produce DMAC of the grade required for spandex yarn manufacturing.

Conclusion

48. The authority notes that there is specific grade of DMAC required for Spandex Industry.

49. In view of the above, Authority concludes that technical specification based exclusion of the product under consideration is required to cater to the specific need of Spandex fibre producers.
50. The product exclusion will be strictly limited to actual users only, exclusively for actual Spandex yarn manufactures when imported for manufacturing of Spandex yarn. The actual user shall provide declarations to customs at the time of import regarding bonafide usage in this regard. Actual users would also maintain the monthly record in the form of verifiable consumption register for presentation before any law enforcing agency on demand.

Recommendation

51. "Dimethylacetamide" [N, N-Dimethylacetamide] (DMAC)" having following technical specifications, when meant for consumption in spandex yarn manufacturing, shall be excluded from the product under Consideration in the Notification No.14/41/2016-DGAD dated 21.02.2018 read with the corresponding Custom Notification No.12/2018-Customs (ADD) Dated 20.03.2018.
- I. Minimum Purity (99.9% min.) and Maximum Alkalinity level (0.003% max)
 - II. Maximum Acidity level (0.005% max)
 - III. Maximum iron ppm as (0.05)
 - IV. Maximum water (0.01% max or 100 PPM)
 - V. Conductivity (0.1 micro-semens /cm max)
52. An appeal against the order of the Central Government arising out of these findings shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act, 1975.



(B. B. Swain)

Special Secretary & Designated Authority