

## UKRAINE - ANTI-DUMPING MEASURES ON AMMONIUM NITRATE

### Report of the Appellate Body

WT/DS493AB/R and Add.1

*Adopted by the Dispute Settlement Body  
on 30 September 2019*

Ukraine, *Appellant*  
 Russian Federation, *Appellee*  
 Argentina, *Third Participant*  
 Australia, *Third Participant*  
 Brazil, *Third Participant*  
 Canada, *Third Participant*  
 China, *Third Participant*  
 Colombia, *Third Participant*  
 European Union, *Third Participant*  
 Japan, *Third Participant*  
 Mexico, *Third Participant*  
 Norway, *Third Participant*  
 United States, *Third Participant*

Appellate Body Division:

Zhao, Presiding Member  
 Bhatia, Member  
 Servansing, Member

### TABLE OF CONTENTS

	Page
1. INTRODUCTION .....	5241
2. ARGUMENTS OF THE PARTICIPANTS .....	5244
3. ARGUMENTS OF THE THIRD PARTICIPANTS .....	5245
4. ISSUES RAISED IN THIS APPEAL .....	5245
5. RELEVANT BACKGROUND INFORMATION .....	5246
6. ANALYSIS OF THE APPELLATE BODY .....	5248
6.1 Claims under Articles 6.2, 7.1, and 11 of the DSU Relating to the Original Investigation Phase.....	5248

Report of the Appellate Body

6.1.1	Introduction.....	5248
6.1.2	The Panel's findings.....	5249
6.1.2.1	The Panel's findings under Article 6.2 of the DSU.....	5249
6.1.2.2	The Panel's findings under Article 5.8 of the Anti-Dumping Agreement .....	5252
6.1.3	Whether the Panel erred in its analysis under Article 6.2 of the DSU in finding that the 2008 amended decision and the 2010 amendment were identified as specific measures at issue in Russia's panel request .....	5255
6.1.4	Whether the Panel erred under Articles 7.1 and 11 of the DSU by ruling on Russia's claim under Article 5.8 of the Anti-Dumping Agreement with respect to the 2008 amended decision and the 2010 amendment.....	5263
6.1.5	Whether the Panel erred under Article 11 of the DSU by failing to examine properly the arguments and evidence presented by Ukraine regarding the authority of Ukrainian courts and investigating authorities to calculate dumping margins under Ukrainian law.....	5264
6.1.6	Conclusion .....	5275
6.2	Claims under Articles 2.2, 2.2.1, and 2.2.1.1 of the Anti-Dumping Agreement Relating to MEDT's Determinations of Dumping in the Interim and Expiry Reviews .....	5276
6.2.1	Introduction.....	5276
6.2.2	The Panel's findings.....	5277
6.2.2.1	The Panel's findings under Article 2.2.1.1 of the Anti-Dumping Agreement .....	5277
6.2.2.2	The Panel's findings under Article 2.2 of the Anti-Dumping Agreement .....	5280
6.2.2.3	The Panel's findings under Article 2.2.1 of the Anti-Dumping Agreement .....	5282
6.2.3	Overview of relevant aspects of the legal standard in Articles 2.2, 2.2.1, and 2.2.1.1 of the Anti-Dumping Agreement .....	5284
6.2.4	Whether the Panel erred in its interpretation and application of the second condition in the first sentence of Article 2.2.1.1 of the Anti-Dumping Agreement in finding that MEDT did not provide an	

	adequate basis for rejecting the reported gas cost under that condition.....	5288
6.2.5	Whether the Panel erred in its interpretation and application of Article 2.2 of the Anti- Dumping Agreement in finding that, when constructing normal value, MEDT failed to calculate the cost of production "in the country of origin" .....	5298
6.2.6	Conclusion .....	5305
7.	FINDINGS AND CONCLUSIONS .....	5309
7.1	Claims under Articles 6.2, 7.1, and 11 of the DSU Relating to the Original Investigation Phase.....	5309
7.2	Claims under Articles 2.2, 2.2.1, and 2.2.1.1 of the Anti- Dumping Agreement Relating to MEDT's Determinations of Dumping in the Interim and Expiry Reviews.....	5310
7.3	Recommendation .....	5312

Report of the Appellate Body

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## LIST OF ANNEXES

### ANNEX A

#### NOTICE OF APPEAL

<b>Contents</b>		<b>Page</b>
Annex A-1	Ukraine's Notice of Appeal	5313

### ANNEX B

#### ARGUMENTS OF THE PARTICIPANTS

<b>Contents</b>		<b>Page</b>
Annex B-1	Executive summary of Ukraine's appellant's submission	5315
Annex B-2	Executive summary of Russia's appellee's submission	5320

### ANNEX C

#### ARGUMENTS OF THE THIRD PARTICIPANTS

<b>Contents</b>		<b>Page</b>
Annex C-1	Executive summary of Argentina's third participant's submission	5331
Annex C-2	Executive summary of Australia's third participant's submission	5333
Annex C-3	Executive summary of Brazil's third participant's submission	5335
Annex C-4	Executive summary of the European Union's third participant's submission	5336
Annex C-5	Executive summary of Japan's third participant's submission	5337
Annex C-6	Executive summary of the United States' third participant's submission	5338

### ABBREVIATIONS USED IN THIS REPORT

Abbreviation	Description
Anti-Dumping Agreement	Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994
DSB	Dispute Settlement Body
DSU	Understanding on Rules and Procedures Governing the Settlement of Disputes
EuroChem	JSC MCC EuroChem
GAAP	generally accepted accounting principles
GATT 1994	General Agreement on Tariffs and Trade 1994
Gazprom	JSC Gazprom
ICIT	Intergovernmental Commission on International Trade
MEDT	Ministry of Economic Development and Trade of Ukraine
reported gas cost	price of gas that the Russian producers under investigation paid and reported in their records
SCM Agreement	Agreement on Subsidies and Countervailing Measures
surrogate price of gas	price of gas exported from Russia at the German border, adjusted for transportation expenses
Working Procedures	Working Procedures for Appellate Review
WTO	World Trade Organization

Report of the Appellate Body

## PANEL EXHIBITS CITED IN THIS REPORT

Panel Exhibit No.	Short title (if applicable)	Description
RUS-2b	2008 original decision	ICIT, Decision on the application of definitive anti-dumping measures on imports of ammonium nitrate originating in Russia No. AD-176/2008/143-47 (21 May 2008)
RUS-3b		ICIT, Notice on the initiation and conduct of the interim review of the anti-dumping measures on imports of ammonium nitrate originating in Russia No. AD-296/2013/4423-06 (4 July 2013)
RUS-4b	2014 extension decision	ICIT, Notice on the changes and extension of anti-dumping measures on imports of ammonium nitrate originating in Russia (8 July 2014)
RUS-5b	Judgment of the Appellate Court	Judgment No. 2-a-8850/08 by the Kiev Appellate Administrative Court (26 August 2009)
RUS-6b	Judgment of the District Court	Judgment No. 5/411 by the District Administrative Court of Kiev (6 February 2009)
RUS-7b	Judgment of the Higher Court	Judgment No. K-42562/09 by the Higher Administrative Court of Ukraine (20 May 2010)
RUS-8b	2010 amendment	ICIT, Decision implementing court orders regarding EuroChem (25 October 2010)
RUS-10b	Investigation Report	MEDT, Materials on interim and expiry reviews of the anti-dumping measures on imports of ammonium nitrate originating in Russia (25 June 2014)
RUS-12b	2008 amended decision	ICIT, Consolidated version of the Decision on the application of definitive anti-dumping measures on imports of ammonium nitrate originating in Russia No. AD-176/2008/143-47 (21 May 2008, as amended on 25 October 2010)

## Ukraine - Ammonium Nitrate

Panel Exhibit No.	Short title (if applicable)	Description
RUS-27b		ICIT, Notice on the initiation and conduct of the expiry review of the anti-dumping measures on imports of ammonium nitrate originating in Russia No. AD-294/2013/4423-06 (24 May 2013)
UKR-9		Law of Ukraine "On Protection of the National Producer Against Dumped Imports" (22 December 1998)
UKR-10		Extracts from the Code of Administrative Procedure of Ukraine
UKR-12		Resolution of the Plenum of the High Commercial Court of Ukraine No. 15 (26 December 2011)
UKR-13		Resolution of the District Administrative Court of Kiev in case No. 826/11526/14 (23 September 2014)
UKR-14		Ruling of Kiev Administrative Court of Appeal in case No. 826/11526/14 (3 December 2014)
UKR-15 (BCI)		Application of EuroChem to the Supreme Court of Ukraine in case No. 826/11526/14 (12 February 2015)
UKR-16		Resolution of the Supreme Court of Ukraine No. 21-122a15 (21 April 2015)
UKR-42b (BCI)		ICIT, Decision on application of definitive anti-dumping measures on imports into Ukraine of glass containers used for medical purposes up to 0.15 litres originating from Russia No. AD-293/2013/4423-06 (24 May 2013)
UKR-43		Code of Administrative Procedure of Ukraine, Extracts
UKR-44		Law of Ukraine "On Enforcement Proceedings", Extracts
UKR-53b (BCI)		Letter dated 8 October 2010 from MEDT to ICIT regarding the agenda for the ICIT meeting on 15 October 2010

## Report of the Appellate Body

<b>Panel Exhibit No.</b>	<b>Short title (if applicable)</b>	<b>Description</b>
UKR-54b (BCI)		ICIT, Meeting agenda of 25 October 2010
UKR-55b (BCI)		Letter dated 21 October 2010 from MEDT to ICIT regarding the agenda for the ICIT meeting on 25 October 2010
UKR-56b (BCI)		MEDT, Information on appeal of ICIT Decision on the application of definitive anti-dumping measures on imports of ammonium nitrate originating in Russia No. AD-176/2008/143-47



## CASES CITED IN THIS REPORT

Short Title	Full Case Title and Citation
<i>Argentina – Footwear (EC)</i>	Panel Report, <i>Argentina – Safeguard Measures on Imports of Footwear</i> , WT/DS121/R, adopted 12 January 2000, as modified by Appellate Body Report WT/DS121/AB/R, DSR 2000:II, p. 575
<i>Australia – Salmon</i>	Appellate Body Report, <i>Australia – Measures Affecting Importation of Salmon</i> , WT/DS18/AB/R, adopted 6 November 1998, DSR 1998:VIII, p. 3327
<i>Brazil – Desiccated Coconut</i>	Appellate Body Report, <i>Brazil – Measures Affecting Desiccated Coconut</i> , WT/DS22/AB/R, adopted 20 March 1997, DSR 1997:I, p. 167
<i>Brazil – Retreaded Tyres</i>	Appellate Body Report, <i>Brazil – Measures Affecting Imports of Retreaded Tyres</i> , WT/DS332/AB/R, adopted 17 December 2007, DSR 2007:IV, p. 1527
<i>Canada – Continued Suspension</i>	Appellate Body Report, <i>Canada – Continued Suspension of Obligations in the EC – Hormones Dispute</i> , WT/DS321/AB/R, adopted 14 November 2008, DSR 2008:XIV, p. 5373
<i>Canada – Wheat Exports and Grain Imports</i>	Panel Report, <i>Canada – Measures Relating to Exports of Wheat and Treatment of Imported Grain</i> , WT/DS276/R, adopted 27 September 2004, upheld by Appellate Body Report WT/DS276/AB/R, DSR 2004:VI, p. 2817
<i>Chile – Price Band System</i>	Appellate Body Report, <i>Chile – Price Band System and Safeguard Measures Relating to Certain Agricultural Products</i> , WT/DS207/AB/R, adopted 23 October 2002, DSR 2002:VIII, p. 3045 (Corr.1, DSR 2006:XII, p. 5473)
<i>China – HP-SSST (Japan) / China – HP-SSST (EU)</i>	Appellate Body Reports, <i>China – Measures Imposing Anti-Dumping Duties on High-Performance Stainless Steel Seamless Tubes ("HP-SSST") from Japan / China – Measures Imposing Anti-Dumping Duties on High-Performance Stainless Steel Seamless Tubes ("HP-SSST") from the European Union</i> , WT/DS454/AB/R and Add.1 / WT/DS460/AB/R and Add.1, adopted 28 October 2015, DSR 2015:IX, p. 4573

## Report of the Appellate Body

Short Title	Full Case Title and Citation
<i>China – Rare Earths</i>	Appellate Body Reports, <i>China – Measures Related to the Exportation of Rare Earths, Tungsten, and Molybdenum</i> , WT/DS431/AB/R / WT/DS432/AB/R / WT/DS433/AB/R, adopted 29 August 2014, DSR 2014:III, p. 805
<i>China – Raw Materials</i>	Appellate Body Reports, <i>China – Measures Related to the Exportation of Various Raw Materials</i> , WT/DS394/AB/R / WT/DS395/AB/R / WT/DS398/AB/R, adopted 22 February 2012, DSR 2012:VII, p. 3295
<i>Colombia – Textiles</i>	Appellate Body Report, <i>Colombia – Measures Relating to the Importation of Textiles, Apparel and Footwear</i> , WT/DS461/AB/R and Add.1, adopted 22 June 2016, DSR 2016:III, p. 1131
<i>Dominican Republic – Import and Sale of Cigarettes</i>	Appellate Body Report, <i>Dominican Republic – Measures Affecting the Importation and Internal Sale of Cigarettes</i> , WT/DS302/AB/R, adopted 19 May 2005, DSR 2005:XV, p. 7367
<i>EC – Bananas III</i>	Appellate Body Report, <i>European Communities – Regime for the Importation, Sale and Distribution of Bananas</i> , WT/DS27/AB/R, adopted 25 September 1997, DSR 1997:II, p. 591
<i>EC – Fasteners (China)</i>	Appellate Body Report, <i>European Communities – Definitive Anti-Dumping Measures on Certain Iron or Steel Fasteners from China</i> , WT/DS397/AB/R, adopted 28 July 2011, DSR 2011:VII, p. 3995
<i>EC – Fasteners (China) (Article 21.5 – China)</i>	Appellate Body Report, <i>European Communities – Definitive Anti-Dumping Measures on Certain Iron or Steel Fasteners from China – Recourse to Article 21.5 of the DSU by China</i> , WT/DS397/AB/RW and Add.1, adopted 12 February 2016, DSR 2016:I, p. 7
<i>EC – Hormones</i>	Appellate Body Report, <i>European Communities – Measures Concerning Meat and Meat Products (Hormones)</i> , WT/DS26/AB/R, WT/DS48/AB/R, adopted 13 February 1998, DSR 1998:I, p. 135
<i>EC – Poultry</i>	Appellate Body Report, <i>European Communities – Measures Affecting the Importation of Certain Poultry Products</i> , WT/DS69/AB/R, adopted 23 July 1998, DSR 1998:V, p. 2031