Fertiliser Association of India

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Press Release

Fertilisers continue to play an important role in enhancing agricultural productivity. About 50% increase in foodgrain production is credited to the use of fertilisers along with other agricultural inputs like high yielding variety seeds, irrigation and better farm management practices. Domestic fertiliser industry has been performing well its function of supplying the essential plant nutrients to Indian farmers. It has also been helping the government in reaching the subsidy to about 138 million farming families across the country, and that too without any cost to the government. India is not endowed with adequate natural resources to produce fertilisers. Yet a world class domestic fertiliser industry has been set up based on indigenous and imported raw materials. Indian fertiliser industry ranks among the most efficient fertiliser industry of the world in terms of energy, raw material and operational efficiency, environmental standards and safety and security of the plants. There is a large infrastructure in the form of handling, storage and transportation of fertilisers from plants and ports to every corner of the country. The sector can also boast of very high quality of trained manpower in every segment of business viz., production, marketing, logistics finance, agriculture production, etc.

The fertiliser policies of 1970s and 1980s helped the industry to grow and achieve the objectives of increasing domestic production and making fertilisers available to the farmers at affordable prices. However, the policies in the sector have not kept pace with the changing economic environment. Therefore, the growth of the sector has been stifled in last 15 years. In recent years, the issues related to governance, procedures, non-allocation of enough funds for fertiliser subsidy in Union Budget have also surfaced. These have resulted in delay in payment of industry dues for months or even years. Secondly, such micro-management of industry is affecting even day to day operations.

Issues can be divided into broad categories of allocation in budget, issues related to procedures and governance, import duty structure and issues related to prevailing policies. Major issues are briefly given in the following paragraphs:

1. Issues Related to Budget Allocations and Payment of Subsidy and Freight Bills

- Budget constraints for fertiliser subsidy have been one of the most serious issues impacting the operations of fertiliser industry. Budget allocations get exhausted in first five months of the financial year due to gross under-budgeting for fertiliser subsidy in the successive Union Budgets. The year ends with carry forward of huge amount of unpaid subsidy bills which has been of the order of Rs.30-40,000 crores for the past 3 years. The current year (2015-16) started with a previous year's backlog of Rs.40,000 crore. The budget allocation for 2015-16 is Rs.71969 crore. Out of this Rs. 7000 crore was used for repaying the bank loan for the previous year. Thus the amount left for 2015-16 is only Rs 65969 crore. This amount got exhausted for urea with the payment of monthly on account payment for August, 2015 and for P & K fertilisers the allocation is expected to get exhausted with payment for the months of September/October, 2015. Apart from monthly on account bills for the rest of the months till February, 2015, there are past arrears of balance payment since November, 2012, differential road freight bills pending since 2008-09, payment of increased fixed cost under Modified NPS-III policy, etc. Unless, additional funds are allocated through supplementary grants, the current financial year (2015-16) is also likely to end with unpaid subsidy bills of about Rs.45,000 crores. The average outstandings of Rs.35000 crore on a regular basis has resulted in additional interest burden of about Rs.3500 crore annually to the industry. With hardly any margins available under the Subsidy Pricing regime, most of the companies are incurring losses on account of this additional cost of borrowing.

2. **Governance, Administrative and Implementation Issues**

Even when money (budget allocation) is available, payments are held up due to procedural delays and administrative micro-managements by the Department of Fertilizers. Payment procedures have been made more and more complicated in recent years resulting in avoidable delays in disbursing genuine dues of the industry. These issues include the following:

(i) **Non-payment of fixed cost :** Fixed Costs for urea were not updated after 2002-03 under NPS policy Stage-I to Stage III. The matter was also taken up to the Group of Ministers. After long deliberations, the Cabinet approved increase in Fixed Cost by Rs.350 per tonne with minimum Fixed Cost of Rs.2300 per tonne of urea. Special Allowance of Rs.150 per tonne of urea was also approved by the Cabinet for gas based plants more than 30 years old. This policy was notified on 2nd April, 2014. The companies have submitted their bills along with supporting data. These were processed by FICC and concurrence for payment was given by the Internal Finance Division. But the payments are yet to be made even after 20 months since the policy was notified. This has two serious implications. First, an amount of about Rs.1000 crore is pending with the Government. Second, under the New Urea Policy 2015, the payment for additional production beyond reassessed capacity is linked to the minimum Fixed Cost. Unless the minimum Fixed Cost of Rs.2300 per tonne is updated, the payment for urea production beyond reassessed capacity will remain restricted to the earlier minimum fixed cost of Rs.1285 per tonne, which renders additional domestic production unviable. This is an example when government has not implemented its own notified policy for last 20 months. Such inaction is against the spirit of "Make in India".

(ii) **Balance payment of subsidy**: The balance payment for urea and P&K fertilisers have not been made since November, 2012. Subsidy dues pending on this account have accumulated to more than Rs.10,000 crore. This is because payment procedures have been made more and more complex in recent years. It took industry almost two years to complete the compliance of dealers acknowledging the receipt of material in mobile Fertiliser Monitoring System. State governments have to certify the quality and quantity of fertilisers received in the state. But a number of state governments are non-compliant of the procedures. This issue was addressed and formed part of the Cabinet Note for NBS policy for P&K fertilisers, which was approved by the CCEA on 13th May, 2015. But the interpretation of this policy is being done in a manner that non-action by the State governments and consequent delays in payment are being continuously allowed to perpetuate with no accountability. Industry continues to suffer due to misinterpretation of procedures and lack of coordination between Central and State governments.

(iii) **Merger of freight on P&K fertilisers with product subsidy**: In order to simplify the administration of subsidy and payment procedures, the CCEA approved on 13.05.2015 merger of freight on P&K fertilisers. The Press Note issued after the CCEA approval on 13.5.2015 also contained this decision. This decision was taken in light of increasing the `ease of doing business' in the country. However, to our dismay this issue was left out in the policy notified on 25th June, 2015. This is another example of non-implementation of well-intended decision of the Cabinet.

(iv) **Doing away with monthly supply plans for P&K fertilisers**: P&K fertilisers are decontrolled. However, DOF has been issuing Supply Plan and linking subsidy payment to adherence to Supply Plan by individual units. The Cabinet note as taken by the DOF for NBS policy during 2015-16 had discussed this issue. The Press Note issued in this regard by DOF after the CCEA decision on 13th May, 2015 had stated the following:

"*Movement plan for P&K fertilizers has also been freed to reduce monopoly of few companies in a particular area so that any company can sell any P&K fertilizer in any part of the country. Rail freight subsidy has been decided to be given on a lump sum basis so that the companies economise on transport. This will help farmers and reduce pressure on the railway network. The Government continues to have legal tools to direct fertilizer suppliers to supply fertilizers in any part of the country where there would be any shortage*".

Inspite of what is stated above, the Department of Fertilizers is insisting for approval of the Monthly Supply Plans.

(v) **Reimbursement of marketing margin on gas from KG-D6**: The Marketing Margin is charged by different gas suppliers on supply of gas from various sources including imported gas as LNG. It is recognized as a part of the delivered cost of gas in urea pricing. However, the Department of Fertilizers refused to reimburse Marketing Margin on supply of gas from KG-D6, which started in March 2009. Industry represented continuously for three years. Finally FAI had to file a Writ Petition in Hon'ble Delhi High Court in 2012. Department of Fertilizers (DoF) agreed to pay the Marketing Margin in their affidavit filed in Delhi High Court but has not paid the same. The Hon'ble High Court had passed an order dated 12.11.2014 to determine marketing margin within 12 weeks and pay an interim amount @ Rs.200/TCM. However, DoF had filed an application for extension of time till end June 2015. DoF also gave a commitment in the Court to pay interim amount within two weeks on 14.05.2015. But, no payment has been released on this account till date inspite of the court taking a serious view of non-compliance of its order. The industry's dues of Rs.600 crores are stuck with Government since 2009 onwards.

(vi) **Non-reimbursement of Additional cost due to non-recognised input taxation on urea in Gujarat & UP** : DOF was not recognizing additional VAT imposed in Gujarat and Uttar Pradesh on inputs like natural gas, naphtha etc. used for urea production. After lot of persuasion, DOF allowed recovery of these taxes in the form of higher MRP of urea in these two states w.e.f. 1st April, 2011. But, the issue of recovery of these taxes for the period prior to 1st April, 2011 remained to be resolved. After following up with DOF for 4 years with no positive results, the industry was forced to move Delhi High Court. The Hon'ble High Court of Delhi in its Order dated 8th April, 2015 directed DOF to decide the matter within 2 months from the date of Court Order. But, DOF is yet to resolve this issue blocking Rs.310 crores of urea units operating in Gujarat and UP despite Delhi High Court's direction to resolve the issue. The decision is pending inspite of a precedence of similar reimbursement by DOF. Similar ACTN has been allowed by DOF in respect of urea production by NFL in its Vijaipur plant in Madhya Pradesh. The matter is pending in Delhi High Court. Another decision pending with the DOF is relating to reimbursement of ACTN is on the additional production under the New Urea Policy 2015 which needs to be resolved.

(vii) **Non-payment of differential road freight from 2008-09 to 2014-15**: In case of Urea and P&K fertilisers, differential secondary freight claims from 2008-09 to 2014-15 are pending. This also includes freight for direct movement by road. DOF has already notified the leads from rake points as well as per tonne per kilo meter rates. However, the Computerised Fertilizer Monitoring System (FMS) has not been enabled by the DOF to accept the secondary freight differential claims.

(viii) **Balance freight claims for 2013-14 and 2014-15 for imported urea**: DOF has not settled balance freight claims for the entire years 2013-14 and 2014-15 for Imported Urea for all the companies. All the companies have submitted freight claims by providing date wise movement and details of delivery challans, etc. Though companies are entering dispatch details in the FMS website but the system has not been enhanced to capture all the details like vessel wise breakup of the total freight claim.

(ix) **Non-payment of regular freight:** Regular freight bills in respect of Urea and P&K fertilisers are pending for February-March, 2015 and April-June, 2015.

3. **Policy Related Issues**

The Indian fertiliser sector has been suffering also due to lack of timely policy decisions. Government has been reiterating its intent of major reforms in the sector, including the new government in the Centre, for quite a few years.

However, the pace of movement has been very slow. Some of the pending policy issues are being highlighted below:

(i) **The issue of imbalanced use of primary nutrients and P&K fertilisers**: Government approved Nutrient Base Subsidy (NBS) Scheme in 2010. But this was implemented partially only for P & K fertilisers w.e.f.1st April, 2010. Urea, which comprise 50% of the total fertiliser product used in India, continues to be under price control of the government. The farmers' price of urea fixed by the government is significantly low compared to the cost of production/import. Subsidy on urea has continued to increase over the years, due to almost static retail price reaching a level of 75% of the cost of production. This has distorted price ratio of urea; DAP from 1:2 in 2009-10 to 1:4.5 in 2014-15. This has led to excess use of urea vis-à-vis complex fertilisers. Such a policy is hurting the Indian soils due to imbalanced use of even the primary nutrients. The present government recognized this problem very early in July 2014 during first budget presentation but so far no action has been taken to balance the farmers' price of various nutrients. Neither urea has been covered under NBS which would deregulate its pricing, nor has the government been able to effectively correct the price distortion under the current pricing regime for urea.

(ii) **Decanalisation of import of urea** : Urea import is currently canalised through 3 state trading enterprises namely IPL, MMTC and STC. The payment for imported urea is made up front by the government, whereas subsidy on all other fertiliser products is paid much after the products reach the districts. The industry has been pleading for decanalisation of import of urea in the interest of adequate availability and free imports by the industry at competitive prices instead of bulk import by the Government which influences international prices whenever government tenders are floated.

(iii) **Direct transfer of subsidy to farmers**: The government has expressed its intension of direct transfer of subsidy to the farmers. But its implementation is getting delayed. The industry is fully cooperating with the government in implementation of this policy. However, the industry's payments should not be held up in this process, as is happening currently due to involvement of retailers' confirmation and certification by the state governments.

(iv) **Issues of naphtha based units under NUP 2015**: Under NUP-2015, the energy norms for naphtha based plants have been reduced significantly. There subsidy has been capped to the cost of production based on weight average cost of RLNG excluding state taxes. But, these units are not allowed to continue with energy norms of Stage-III for 5 years, as allowed to other converted plants. These plants are also not allowed special allowance of Rs.150/tonne of urea, as allowed to other gas based units more than 30 years old. In addition, the state taxes on inputs are also not recognised and reimbursed those being statutory obligations. This will seriously impact their viability.

(v) **Compensation for loss on sale of fertiliser bonds**: The Government of India issued special securities (fertiliser bonds) worth Rs.27,500 crores during 2007-08 and 2008-09 in lieu of cash payment of subsidy. These bonds were thrust upon the industry much against their wish, as the Government did not have funds to clear these dues in cash. Some of the companies were compelled to sell these bonds in the market at heavy discounts to meet immediate cash requirement. The industry lost Rs.548 crores. Subsequently, Government bought back these bonds through RBI in 2011. But even RBI bought these bonds at heavy discount and the industry lost Rs.1781 crores. The total loss is Rs.2331 crores. Besides, the industry is still saddled with unsold bonds of face value of Rs.1947 crores. The Government has so far compensated only Rs.779 crores of the loss. The industry was forced to take legal measures for compensation of the balance amount of loss and buyback of the remaining bonds, as repeated persuasion with the DOF did not get any positive response for more than 2 years. The matter is pending in Delhi High Court.

(vi) **Energy consumption norms for units using coal under NUP 2015** : The energy consumption norms for coal using units have been revised downwards to 6.5 Gcal per tonne w.e.f. 2018-19 under New Urea Policy 2015 (NUP-2015). These units include IFFCO-Phulpur-I, NFL-Nangal, NFL-Bhatinda, NFL-Panipat, SFC-Kota, and Kanpur Fertilisers. The Stage-III energy norms of these units ranged between 7 and 7.8 Gcal. Reduction in energy norms of this order cannot be achieved without significant investment to replace use of coal with gas. But, there is no provision in the policy for recovery of such investments. For urea plants which are using significant quantity of coal, the cost of energy is lower through coal but the quantum of energy consumed per tonne of urea is higher due to low efficiency of coal. The government saves significant amount of subsidy by encouraging use of coal. Not allowing these plants to continue with the energy norms prescribed for 2015-16 to 2017-18 beyond 2017-18 or alternatively, compensating them based on energy cost of pooled gas will seriously impact their viability. Coal using units cannot be expected to achieve energy efficiency equivalent to gas based plants.

(vii) **Operation of gas pooling mechanism for urea plants**: Government implemented pooling of gas for most urea plants w.e.f. 1st June, 2015. Industry had welcomed it because it can help to bring reforms in urea sector. However, urea units are facing serious difficulties in receiving gas supply to meet their full requirement. There is always large fluctuation in supply of domestic gas. The use of domestic gas is given the first priority due to its price lower than imported LNG. Make up quantity of gas is procured as LNG through spot market. There has been large unanticipated reduction in supply of domestic gas for last one month or so. Ideally this should be made up by pool operator through mechanism prescribed in the guidelines notified on 20th May, 2015. However, pool operator has not been able to do so. Industry has requested government to allow the individual companies to procure spot LNG through competitive bidding as was being done earlier. This will help the units to maintain production in the event of sudden reduction in supply of domestic gas and pool operator is not able to meet the shortfall. Industry has also requested representation in Empowered Pool Management Committee (EPMC).

Urea plants of Nagarjuna Fertilizers and Chemicals Ltd. (NFCL), Kakinada are not receiving full quantity of gas for the last two years resulting in partial utilization of capacity. It has affected the viability of the unit. The unit is not able to take LNG due to absence of LNG terminal on East Coast. Pooling of gas for urea plants should ensure supply of full requirement of gas by way of product swap. It means LNG on West coast be supplied to NFCL under swapping arrangement with domestic gas available in Andhra Pradesh. It is already being done for power plants in Andhra Pradesh.

(viii) **Supply of domestic gas for P&K fertilisers**: Supply of domestic gas to P&K fertilisers is equally important as it is for urea in the interest of indigenous production of complex fertilisers and balanced fertilisation of Indian soils. The gas utilisation policy approved by Empowered Group of Ministers (EGOM) has not made any discrimination between urea and P&K fertilisers. But, DOF suddenly stopped supply of domestic gas to one of the P&K units in Maharashtra. The company had to approach Delhi High Court for restoration of gas supply. Both single judge and a bench of Delhi High Court have passed order for restoration of supply of gas. But the government has failed to implement the court order. This is another example (in addition to case of Marketing Margin) where government has failed to abide by court orders.

4. Import Duty Structure/Rationalisation of duty on Imports

(i) **Reduction in exemption of customs duty on imported raw materials and project imports:** There is same level of import duty on imported raw materials (phosphoric acid, sulphuric acid, ammonia and LNG) and finished products. There is same level of subsidy on imported as well as domestically produced P&K fertilisers. FAI has been pleading for several years for reduction/exemption in custom duty on import of raw materials to improve the competitiveness of Indian industry. FAI has also requested to exempt the projects import for fertiliser plants to encourage investment in the sector. This policy was already in place but expired in 2015-16. This needs to be extended by at least 5 years. These steps will encourage domestic production at competitive cost vis-à-vis imports and promote the concept of 'Make in India'. There was no positive response from the government in previous budget. This year again, we have represented on the issue.

5. **What does the Industry Want:** In view of the above mentioned issues, the fertiliser industry wants the following:

(i) Supplementary grant of Rs. 40,000 crore to clear current year's (2015-16) dues including major part of backlog of previous years. If the entire amount cannot be allocated in a single year, it can be spread over a period of next 2-3 years.

(ii) Adequate Budget allocation for fertiliser subsidy for the year 2016-17 which is estimated at about Rs.75,000 crores excluding any backlog from previous year. Additional allocation will be needed to clear the backlog, carried forward from 2015-16.

(iii) Immediate release of payment towards increase in fixed cost @ Rs. 350 per tonne of urea with minimum fixed cost of Rs. 2300 per tonne and special allowance @ Rs. 150 per tonne of urea to old plants, without further delay, which has already been notified in April, 2014.

(iv) The procedure for payment of 'balance payments' be simplified, and pending payments since November, 2012 be cleared urgently.

(v) The decision of the CCEA for merger of freight with product subsidy and doing away with the monthly supply plan for P&K fertilisers be implemented urgently to improve ease of doing business in fertiliser sector.

(vi) Supply of domestic gas discontinued to one of P&K fertiliser plant be restored urgently in compliance of court orders and also as per the spirit of the gas allocation policy approved by the EGOM. There should not be any discrimination between urea and P&K fertilisers in allocation of domestic gas. NFCL urea units should be supplied full quantity of gas by way of product swap.

(vii) The payment of adhoc Marketing Margin @ Rs. 200 per thousand cubic meter of KG-D6 gas. The final rates need to be notified by the government in compliance with the court orders.

(viii) Immediate reimbursement of additional cost due to non-recognized input taxes (ACTN) on urea in Uttar Pradesh and Gujarat for the period prior to 1st April, 2011. ACTN should now be applied on entire urea production including production beyond reassessed capacity under the New Urea Policy 2015.

(ix) Differential Road Freight Claims for the period 2008-09 to 2014-15 should be cleared urgently.

(x) Balance freight claims on imported urea for the period 2013-14 and 2014-15 also needs urgent reimbursement by the government.

(xi) Regular monthly freight payment from February 2015 onwards for urea and April 2015 onwards for P&K fertilisers also needs to be expedited.

(xii) Price distortion in urea and P&K fertilisers should be corrected in the interest of balanced fertilisation. This may be done by extending NBS policy to urea. Even under the existing policy, the price distortion may be addressed by adjusting subsidy and MRP of urea through administrative decisions.

(xiii) Urea Import be decanalised.

(xiv) Government must introduce a system of direct transfer of subsidy to farmers sooner than later. Industry is fully cooperating with the government in this direction.

(xv) The new norm for coal based units beyond 2018-19 can only be achieved by changing fuel from coal to gas. This will increase the cost of production even with lower revised norm. Therefore, coal using units be allowed to retain their energy norms applicable for 2015-17 even beyond 2018-19.

(xvi) Naphtha based units be allowed to retain their energy norms of stage-III for at least five years on similar lines as allowed to other recently converted units, as their subsidy has been capped based on cost of LNG. The State Taxes on all feed and fuel should also be reimbursed is being done for other urea units.

(xvii) The loss on sale of fertiliser bonds be compensated 100% including the loss suffered prior to buy back scheme of the government. The left over bonds also needs to be bought back and loss, if any, on such bonds be compensated.

(xviii) Under the Gas Pooling Mechanism, fertiliser companies be allowed to buy spot LNG on their own by inviting offers for the same as was allowed earlier, in case the pool operator is not able to make good any shortfall in supply of domestic gas. Also industry be given representation in the Empowered Pool Management Committee (EPMC) for transparency in the pool operation mechanism.

(xix) Key raw materials namely ammonia, phosphoric acid, rock phosphate, sulphur, sulphuric acid and imported LNG should be exempted from customs duty. Similarly fertiliser project imports be exempted from customs duty to encourage investment in the sector which has not been forthcoming for 15 years.