

(NON-CONFIDENTIAL)



**Government of Pakistan
National Tariff Commission**

Report

on

**Conclusion of Sunset Review of Anti-dumping Duties Imposed on Dumped
Imports of Formic Acid 85% originating in and/or exported from
Republic of Finland and Federal Republic of Germany**

A.D.C No. 09/2005/NTC/FA/SR/10

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A. INTRODUCTION

The National Tariff Commission (“Commission”) implements the Anti-Dumping Duties Ordinance, 2000 (“Ordinance”) and the Anti-Dumping Duties Rules, 2001 (“Rules”). Sections 58 and 62 of the Ordinance relate to review and determination of likelihood of continuation or recurrence of dumping of goods into the Islamic Republic of Pakistan (“Pakistan”), and likely continuation or recurrence of material injury to the domestic industry caused by such imports. The Commission initiated this review in pursuance to Section 58 of the Ordinance to determine likelihood of continuation and recurrence of dumping and injury to the domestic industry.

Having regard to the Section 58 of the Ordinance, a definitive anti-dumping duty shall not expire if the Commission determines in a review that the expiry of such anti-dumping duty would be likely to lead to continuation or recurrence of dumping and injury.

Having regard to the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (hereinafter referred to as the “Agreement on Anti-dumping”).

The Commission has conducted and concluded a review under the Ordinance and the Rules.

B. BACKGROUND

2. Imposition of Definitive Anti-dumping Duties

The Commission imposed definitive anti-dumping duties @ 13.63 percent and 6.25 percent *ad val* on dumped imports of Formic Acid 85% (“Formic Acid”), exported by Kemira Oyj, Porkkalankatu 3, 00101 Helsinki, Finland (“Kemira”) and BASF, Zentralabteilung Steuern, ZRC-C 104, 67056 Ludwigshafen, Germany (“BASF”) respectively for a period of five years effective from March 09, 2006.

3. New investigation

The Commission received a written application from Tufail Chemical Industries Limited, Mezzanine Floor, Progressive Center, 30-A, Block-6, P.E.C.H.S, Karachi (the Applicant) on behalf of the domestic industry producing Formic Acid 85% and above (FA) on December 31, 2010. The Applicant alleged that Formic Acid produced and exported by People’s Republic of China and Republic of Korea is exported to Pakistan at dumped prices. The Commission

upon examining the accuracy and adequacy of the evidence provided in the application established that there is sufficient evidence of alleged dumping and injury to justify initiation of an investigation on February 23, 2011. The Commission concluded that investigation and imposed definitive antidumping duties on dumped imports of Formic Acid 85% and above from the above-mentioned countries ranging from 3.48 percent to 44.10 percent for a period of five years with effect from February 10, 2012.

C. PROCEDURE

4. The procedure set out below has been followed with regard to this review.

5. **Notice of Impending Expiry of Definitive Anti-dumping Duty**

The Commission published a notice of impending expiry of anti-dumping duties in this case on December 10, 2010, in official gazette¹ and national press² in accordance with Section 58(2) of the Ordinance.

6. **Receipt of Application**

On January 24, 2011 the Commission received a written application from domestic producer of Formic Acid namely M/s Tufail Chemical Industries Limited. Mezz. Floor, Progressive Center, 30-A/6. P.E.C.H.S, Main Shahrah-e-Faisal, Karachi, Pakistan, (the "Applicant") in terms of Section 58(3) of the Ordinance. This application was filed in response to the notice of impending expiry of the anti-dumping duty imposed on Formic Acid importable from Kemira, Finland and BASF, Germany. The Applicant argued that expiry of anti-dumping duty on Formic Acid is likely to lead to continuation or recurrence of dumping of Formic Acid and injury to the domestic industry producing Formic Acid.

7. **Evaluation and Examination of the Application**

The examination of the application showed that it met the requirements of Section 58(3) of the Ordinance as it contained sufficient evidence of recurrence of dumping of Formic Acid and subsequent injury to the domestic industry there from.

¹ The official Gazette of Pakistan (Extraordinary) dated December 10, 2010.

² The "Daily Business Recorder" and the "Daily Al-Sharq" of December 10, 2010 issue.

8. Domestic Industry

8.1 In terms of Section 2(d) of the Ordinance domestic industry is defined as follows:

““domestic industry” means the domestic producers as a whole of the domestic like product or those of them whose collective output of that product constitutes a major proportion of the total domestic production of that product, except that when any such domestic producers are related to the exporters or importers, or are themselves importers of the allegedly dumped investigated product in such a case “domestic industry” shall mean the rest of the domestic producers.”

8.2 The Commission’s investigation revealed that neither the Applicant nor any other domestic producer was itself an importer of the product under review or related to the exporters involved in alleged dumping of the product under review into Pakistan. Hence the Applicant or any other domestic producer of Formic Acid is not subjected to exception of domestic industry.

9. Standing of the Application

9.1 In terms of Section 24(1) of the Ordinance,

“.... an application shall be considered to have been made by or on behalf of the domestic industry only if it is supported by those domestic producers whose collective output constitutes more than fifty percent of the total production of a domestic like product produced by that portion of the domestic industry expressing either support for or opposition to the application.”

Furthermore, Section 24(2) of the Ordinance provides that:

“..... no investigation shall be initiated when domestic producers expressly supporting an application account for less than twenty five percent of the total production of the domestic like product produced by the domestic industry.”

9.2 The application was filed by the Applicant, who is a major producer of Formic Acid in Pakistan. Other three units in the domestic industry namely Farus Combine, Akbari Chemicals and Raiwind Chemicals remained indifferent in this investigation.

9.3 As per information supplied in the application and obtained from other sources, the Applicant produced 73 percent of the total domestic production of Formic Acid during the

year Oct 2009- Sep2010. Details of the production of Formic Acid by the domestic industry are as follows:

**Table-I
Production by domestic industry**

Name of the Unit	Percentage Share in Domestic Production	Status
Tufail Chemical Industries Limited.	73	Applicant/ Supporting
Farus Combine	20	Indifferent
Akbari Chemicals	4	Indifferent
Raiwind Chemicals	3	Indifferent
Total	100	

Source: Applicant

9.4 The application fulfils the requirements of Section 24 of the Ordinance which enjoins upon the Commission to assess the standing of the domestic industry on the basis of the degree of support for or opposition to the application expressed by the domestic producers of the like product. In terms of Section 24(1) of the Ordinance, an application shall be considered to have been made by or on behalf of the domestic industry only if it is supported by those domestic producers whose collective output constitutes more than fifty percent of the total production of a domestic like product produced by that portion of the domestic industry expressing either support for or opposition to the application. Furthermore, Section 24(2) of the Ordinance provides that no investigation shall be initiated when domestic producers expressly supporting an application account for less than twenty five percent of the total production of the domestic like product produced by the domestic industry.

9.5 It may be noted from the above table that the Applicant is the major domestic producer of Formic Acid in Pakistan representing 73 percent of total domestic production, whereas, the other units represent 31 percent (estimated) of domestic production. The application has been filed by the Applicant whereas other units are indifferent. Therefore, the application is considered to have been made by the domestic industry as it is supported by 100 percent of the total production of the like product produced by that portion of the domestic industry expressing its opinion. The application, therefore, fulfils the requirement of Section 24(1) of the Ordinance.

9.6 The application also fulfilled the requirements of Section 24 (2) of the Ordinance, as the domestic producers expressly supporting this application account for 73 percent of total production of the domestic product produced by domestic industry.

9.7 On the basis of the above information and analysis, the Commission determined that the application has been made on behalf of domestic industry, as it fulfills the requirements of Section 24 of the Ordinance.

10. Applicant's Views

The Applicant, *inter alia*, raised the following issues in its application regarding likelihood of continuation and recurrence of dumping of Formic Acid, and injury to the domestic industry caused therefrom:

- i. Formic Acid produced by Kemira and BASF and Formic Acid produced in Pakistan by the domestic industry are like products;
- ii. After imposition of definitive anti-dumping duties, Kemira and BASF stopped exporting Formic Acid to Pakistan from 2006-07. Therefore, recurrence of dumping is likely if anti-dumping duties are terminated; and
- iii. Likely continuation / recurrence of injury is expected if dumping of Formic Acid by Kemira and BASF recur, mainly through:
 - a) Increase in volume of imports
 - b) price undercutting
 - c) price suppression
 - d) decline in sales;
 - e) decline in output;
 - f) decline in productivity;
 - g) decline in market share;
 - h) negative effect on capacity utilization;
 - i) negative effect on profit
 - j) negative effect on inventories;
 - k) negative effect on cash flow;
 - l) negative effect on employment and wages;
 - m) negative effect on ability to raise capital or investment; and
 - n) negative effect on growth, return on investment.

11. Initiation of Review

11.1 Upon examination of application, the Commission established that it met the requirements of Section 58(3) of the Ordinance and the Commission initiated a review on February 26, 2011 to determine whether expiry of the anti-dumping duty imposed on Formic Acid would be likely to lead to recurrence of dumping and injury.

11.2 In terms of Section 27 of the Ordinance, the Commission issued a notice of initiation of review, which was published in the Official Gazette³ of Pakistan and in two widely circulated national newspapers⁴ (one in English language and one in Urdu Language) on February 26, 2011.

11.3 The Commission notified Embassy of the Republic of Finland ("Finland") and Embassy of the Federal Republic of Germany ("Germany") in Pakistan (by sending a copy of the notice of initiation of review) on February 26, 2011. Copies of notice of initiation were also sent to Kemira and BASF and the Applicant on February 28, 2011, in accordance with the requirements of Section 27 of the Ordinance.

11.4 In accordance with Section 28 of the Ordinance, on February 28, 2011, the Commission also sent copy of full text of the written application (non-confidential version) to the Kemira and BASF.

12. Product under Review and Domestic Like Product

Product under Review

12.1 The product under review is Formic Acid 85% originating in and/or exported from Finland and Germany into Pakistan. It is classified under PCT Heading No. 2915.1100. The product under review is mainly used as an input by leather industry (for leather softening, tanning), in textile industry (as neutralizing agent in yarn & fabrics dyeing), in food industry (in antiseptic, disinfectants, preservatives), and in pharmaceutical industry (as synthesis of vitamin B, in alkaloids etc).

³ The official Gazette of Pakistan (Extraordinary) dated February 26, 2011.

⁴ The 'Daily DAWN' and the 'Daily Express' of February 26, 2011 issue.

Domestic like product

12.2 The domestic like product is Formic Acid 85% produced by the domestic industry in Pakistan. The domestic like product is also classified under PCT Heading No. 2915.1100. The domestic like product is mainly used as an input by leather industry (for leather softening, tanning), in textile industry (as neutralizing agent in yarn & fabrics dyeing), in food industry (in antiseptic, disinfectants, preservatives), and in pharmaceutical industry (as synthesis of vitamin B, in alkaloids etc). Major uses of the domestic like product are, therefore, identical to those of the product under review.

12.3 The Commission in its original investigation had determined that the product under review and the domestic like product were like products. On the basis of the above, the Commission has determined that the product under review, the domestic like product and like product are alike products.

13. Period of Review (POR)

The Commission has sought necessary information for the last three years i.e. from October 01, 2007 to September 30, 2010 from the Applicant, Kemira and BASF to determine likely recurrence of dumping and injury.

14. Interested Parties

The Commission gave an opportunity (through notice of initiation) to all interested parties to participate in this review and register themselves as an interested party with the Commission. However, no one registered itself as interested party in this review.

15. Information/Data Gathering

15.1 The Commission sent questionnaires to the Kemira and BASF on February 28, 2011, asking them to respond within 37 days of the dispatch of the questionnaires i.e. by April 07, 2011.

15.2 The Commission has an access to the import statistics of Pakistan Revenue Automation Limited ("PRAL"), the data processing arm of the Federal Board of Revenue, Government of Pakistan. For the purpose of this review the Commission has used import data obtained from PRAL's database in addition to the information provided by the Applicant. The Commission also used data of International Trade Center (ITC) for purposes of this review.

15.3 Thus the Commission has sought from all available sources the relevant data and information deemed necessary for the purposes of determination of likelihood of recurrence of dumping of Formic Acid and injury to the domestic industry. In terms of Rule 12 of the Rules, during the course of this review, the Commission satisfied itself as to the accuracy of information supplied by the Applicant to the extent possible.

16. Questionnaire(s) Response by the Exporters/ Foreign Producers

16.1 Kemira, Finland

16.1.1 The Commission sent questionnaire to the Kemira on February 28, 2011, asking it to respond within 37 days of the dispatch of the questionnaire i.e. by April 07, 2011. Kemira responded to the Commission's questionnaire on March 30, 2011.

16.1.2 According to the information, Kemira is involved in production and sale of the product under review/like product in its domestic market, as well as, for export. It used to export the product under review in 30 liter cans, mostly to leather and textile industries in Pakistan. However, Kemira did not export the product under review to Pakistan during 2008-2010. Kemira further added that "If the antidumping duty would be removed, Kemira could consider re-entering the Pakistani market for the IP, which has been impossible for past five years."

16.1.3 The information submitted by Kemira in response to the questionnaire was analyzed which was found deficient in many respects mainly on the ground that "Kemira is not exporting to Pakistan" hence the information is not relevant. However, the deficiencies were communicated on December 13, 2011 with the request to furnish at least minimum statistical and financial by December 20, 2011. Kemira requested for an extension in deadline for submission of information by December 30, 2011, which was granted.

16.1.4 The information submitted by Kemira in response to the deficiency letter was analyzed at the Commission which was still deficient. These deficiencies were identified via email dated January 02, 2012. Kemira did not provide information on actual production, cost of production and volume of exports to major destinations as requested by the Commission.

16.1.5 The information by Kemira has been accepted for the purposes of this sunset review. However the Commission has relied on the best information available on the points for which

information has not been supplied by Kemira. Likely Recurrence of Dumping for Kemira has been determined on the basis of information collected in the stated manner.

16.2 BASF, Germany

16.2.1 The Commission sent questionnaires to BASF, Germany on February 28, 2011, asking it to respond within 37 days of the dispatch of the questionnaires i.e. by April 07, 2011. BASF responded to the Commission's questionnaire on March 28, 2011.

16.2.2 According to the information, BASF is involved in production and sale of the product under review/like product in its domestic market. It used to export the product under review to Pakistan. However, BASF did not export the product under review to Pakistan after imposition of antidumping duty.

16.2.3 The Commission has accepted information supplied by BASF for the purposes of this sunset review. Likely Recurrence of Dumping for BASF has been determined on the basis of information collected by the Commission accordingly.

17. Public File

The Commission, in accordance with Rule 7 of the Rules, has established and maintained a public file at its offices. This file remained available to the interested parties for review and copying from Monday to Thursday between 1100 hours to 1300 hours throughout the review. This file contains non-confidential versions of the application, response to the questionnaires, submissions, notices, reports, correspondence, and other documents for disclosure to the interested parties.

18. Confidentiality

18.1 In terms of Section 31 of the Ordinance, the Commission shall keep confidential any information submitted to it, which is by nature confidential, or determined by the Commission to be of confidential nature for any other reason, or provided as confidential by parties in a review, upon good cause shown to be kept confidential.

18.2 The Applicant and exporters/foreign producers requested to keep confidential the information, which is by nature confidential in terms of Section 31 of the Ordinance. This information includes data relating to sales, sale prices, cost to make and sell, inventories,

production, profit/(loss), return on investment, cash flow, growth, investment, salaries & wages, number of employees and capacity. In addition to this, the Applicant, exporters/foreign producers and other interested parties also provided certain information on confidential basis, as its disclosure would cause adverse effect upon them.

18.3 Pursuant to requests made by the Applicant, exporters/foreign producers and other interested parties to treat certain information as confidential, the Commission has determined confidentiality in light of Section 31 of the Ordinance and for the reasons that disclosure of such information may be of significant competitive advantage to a competitor, or because its disclosure would have a significant adverse effect upon the interested parties providing such information.

18.4 However, in terms of Sub-Section (5) of Section 31, non-confidential summaries of all confidential information, which provides reasonable understanding of the substance submitted in confidence, were placed in public file.

19. Hearing

19.1 In terms of Rule 14 of the Rules, the Commission shall, upon request by an interested party, hold a hearing at which all interested parties may present information and arguments.

19.2 No request for hearing was received in this review.

20. Written Submissions by the Interested Parties

All interested parties were invited to make their views/comments and to submit information and documents (if any) not later than 45 days of the date of publication of notice of initiation of the review. The Commission received written comments in this review after the deadline prescribed in notice of initiation. Comments received from interested parties and germane to this review under the Ordinance are reproduced in and the Commission's views/determination thereto are placed at Annex – I.

21. Disclosure of Essential Facts

21.1 In terms of Rules 14(8) of the Rules, and Article 6.9 of Agreement on Anti-dumping, the Commission disclosed essential facts, and in this context circulated a Statement of Essential Facts (hereinafter referred to as the "SEF") on January 06, 2012 to the Applicant, Kemira and BASF.

21.2 Under Rule 14(9) of the Rules, the interested parties were required to submit their comments (if any) on the facts disclosed in SEF, in writing, not later than fifteen days of such disclosure. The Commission received comments from the following interested parties.

- i) The Applicant
- ii) Kemira

21.3 Comments received from the Applicant and Kemira on essential facts and germane to this review under the Ordinance are reproduced in and the Commission's views/determination thereto are placed at Annex – II.

D. LIKELY RECURRENCE OF DUMPING OF FORMIC ACID

22. In accordance with Section 58 of the Ordinance, the Commission is required to examine whether dumping was continuing or there is likelihood of continuation and/or recurrence of dumping and injury on the expiry of the measures (definitive anti-dumping duty) on product under review.

23. Dumping

In terms of Section 4 of the Ordinance dumping is defined as follows:

“an investigated product shall be considered to be dumped if it is introduced into the commerce of Pakistan at a price which is less than its normal value”.

24. Normal Value

24.1 In terms of Section 5 of the Ordinance “normal value” is defined as follows:

“a comparable price paid or payable, in the ordinary course of trade, for sales of a like product when destined for consumption in an exporting country”.

24.2 Section 6 of the Ordinance states:

“(1) when there are no sales of like product in the ordinary course of trade in domestic market of an exporting country, or when such sales do not permit a proper comparison because of any particular market situation or low volume of the sales in the domestic

market of the exporting country, the Commission shall establish normal value of an product under review on the basis of either:

- “a) the comparable price of the like product when exported to an appropriate third country provided that this price is representative; or
- “b) the cost of production in the exporting country plus a reasonable amount for administrative, selling and general costs and for profits.

“(2) Sales of a like product destined for consumption in domestic market of an exporting country or sales to an appropriate third country may be considered to be a sufficient quantity for the determination of normal value if such sales constitute five per cent or more of the sales of an investigated product to Pakistan:”.

24.3 Ordinary course of trade is defined in Section 7 of the Ordinance as follows:

“(1) The Commission may treat sales of a like product in domestic market of an exporting country or sales to a third country at prices below per unit, fixed and variable, cost of production plus administrative, selling and other costs as not being in the ordinary course of trade by reason of price and may disregard such sales in determining normal value only if the Commission determines that such sales were made –

- “(a) within an extended period of time which shall normally be a period of one year and in no case less than a period of six months;
- “(b) in substantial quantities; and
- “(c) at prices which do not provide for the recovery of all costs within a reasonable period of time.

“(2) For the purposes of sub-clause (b) of sub-section (1), sales below per unit cost shall be deemed to be in substantial quantities if the Commission establishes that –

- “(a) a weighted average selling price of transactions under consideration for the determination of normal value is below a weighted average cost; or
- “(b) the volume of sales below per unit cost represents twenty per cent or more of the volume sold in transactions under consideration for the determination of normal value.

“(3) If prices which are below per unit cost at the time of sale are above the weighted average cost for the period of investigation, the Commission shall consider such prices as providing for recovery of costs within a reasonable period of time.”

25. Export Price

The “export price” is defined in Section 10 of the Ordinance as “a price actually paid or payable for an investigated product when sold for export from an exporting country to Pakistan”.

26. Determination of Likely Continuation or Recurrence of Dumping of the Product under Review

To determine likely recurrence or continuation of dumping of the product under review following factors have been considered. Information on these factors has been gathered from different sources including the exporters/foreign producers, the Applicant, PRAL, different websites and importers of the product under review:

- i) Whether exporters/foreign producers from the Exporting Countries stopped or continued exporting to Pakistan the product under review after imposition of antidumping duties;
- ii) Whether exporters of the Exporting Countries have developed other export markets after imposition of antidumping duties;
- iii) Changes in installed capacities and production of product under review of exporters/foreign producers after imposition of antidumping duties;
- iv) Export price of exporters/foreign producers to countries other than Pakistan during POR;
- v) Trade remedial actions taken by other countries on exports of Formic Acid from the Exporting Countries during last five years; and
- vi) Current investigation by the Commission on alleged dumped imports of Formic Acid originating in/and or exported from People’s Republic of China and Republic of Korea.

26.1 The exporters/ foreign producers reduced and then stopped the export of product under review to Pakistan after imposition of definitive antidumping duties. There were no exports of product under review to Pakistan during POR from the exporters/foreign producers under review. Apparently, the reason for zero exports was diminishing competitiveness due to

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imposition of antidumping duties. The diminishing competitiveness may be restored with removal of antidumping duties on imports from Kemira, Finland and BASF, Germany and imposition of antidumping duty on import of Formic Acid from China and Korea. This may lead to recurrence of dumping from Kemira, Finland and BASF, Germany, if antidumping duty is removed.

26.2 The data of exports to various destinations was furnished by BASF, Germany while Kemira, Finland did not furnish data on its export markets. Kemira, Finland was requested to provide the data on its major export markets to which it replied that it does not categorize any export destination as major export destination. Hence it did not furnish any details. However Kemira, Finland provided data on its export sales. The export sales to Pakistan and other major importing countries for the two exporters during last year of POI and POR on the basis of sources mentioned above are shown in the table below:-

Table - II
Export Sales of Kemira, Finland

Year	Export Sales
Oct 2007 – Sep 2008	100
Oct 2008 – Sep 2009	64
Oct 2009 – Sep 2010	91

Source: Kemira, Finland

Note: The actual figures have been indexed w.r.t. export sales of product under review for Oct 2007 – Sep 2008.

Table – III
Export Sales of BASF, Germany

BASF, Germany				
	2004-05	2007-08	2008-09	2009-10
Pakistan	5	0	0	0
Brazil	10	18	14	15
France	6	2	2	1
India	6	8	4	2
Turkey	11	9	8	9
Italy	11	16	13	18
Others	52	56	40	32
Total	100	110	82	76

Source: BASF

Note: The actual figures have been indexed w.r.t. total exports of product under review for 2004-2005.

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26.3 It may be noted from the table above that total exports of Kemira decreased by 9 percent during POR while the exports of BASF has reduced by 24 percent as compared to 2004-05. This reflects that Kemira and BASF did not develop alternate markets. In view of this likelihood exists for recurrence of dumping from both the exporters.

26.4 The changes in capacities, production, sales and inventories of the two exporters under review during 2004-05 and the POR are shown in the table below:-

**Table IV
Installed Capacity, Production and Sales**

Kemira				
	2004-05	2007-08	2008-09	2009-10
Installed capacity	100**	96.25	111.25	125
Production	*	*	*	*
Sales				
Domestic	0.0054	52.5	37.5	41.25
Export	0	13.75	8.75	12.5

Source: Kemira, Finland *did not furnish data.

Note: The actual figures have been indexed w.r.t. installed capacity of product under review for 2004-05.

**Table V
Installed Capacity, Production and Sales**

BASF				
	2004-05	2007-08	2008-09	2009-10
Installed capacity	100	133	133	133
Production	96	111	83	81
Sales	0	0	0	0
Domestic	13	13	13	14
Export	67	71	52	49
Internal transfers	0	18	15	14

Source: BASF

Note: The actual figures have been indexed w.r.t. installed capacity of product under review for 2004-05.

26.5 The table above shows that the installed capacity of Kemira and BASF has increased by 25% and 33% respectively in 2010 as compared to 2005. The unutilized capacities increased substantially for both the exporters. There is a strong likelihood for recurrence of dumping from both the exporters, in case antidumping duties are removed.

** As per on-the-spot investigation report conducted during original investigation

26.6 The average export price of the two exporters during POI and POR is shown in the table below:-

Table – VI
Average Export Prices

Kemira, Finland				
	2004-05	2007-08	2008-09	2009-10
Pakistan	100	170	199	161
Germany	85	94	90	89
Belgium	96	108	154	153
Netherlands	--	133	184	147
Turkey	121	193	196	167
Italy	118	182	185	165
UK	106	183	177	181
USA	139	136	122	164
Others	111	184	197	170
Total	102	147	157	147

Source: ITC

Note: The actual figures have been indexed w.r.t. average export price to Pakistan of product under review for 2004-05.

Table – VII
Average Export Prices

BASF, Germany				
	2004-05	2007-08	2008-09	2009-10
Pakistan	100	--	--	--
Brazil	113	143	152	145
France	106	164	185	167
India	94	108	125	132
Turkey	134	159	176	167
Italy	101	152	178	164
Others	107	145	169	162
Total	108	147	172	166

Source: BASF

Note: The actual figures have been indexed w.r.t. average export price to Pakistan of product under review for 2004-05.

26.7 As per table above, the exports of Kemira to Pakistan is of Formic Acid having concentrations higher than 85%. The above information shows that exporters under review has been introducing product under review at variety of prices and has large capacity to export. If anti-dumping duties are removed it may lead to large influx of imports of product under review from exporters under review that may lead to recurrence of dumping and injury to domestic industry of Pakistan.

26.8 No other country took trade remedial actions on exports of Formic Acid from the exporting countries during last five years.

26.9 The Commission initiated an antidumping investigation on imports of Formic Acid into Pakistan originating in/and or exported from China and South Korea. The Commission imposed definitive antidumping duty at the rate of 3.48 percent to 44.10 percent ad valorem on dumped imports of the Formic Acid importable from China and Korea for a period of five years effective from February 10, 2012.

26.10 The imposition of definitive antidumping duties on dumped imports of Formic Acid into Pakistan w.e.f March 09, 2006 resulted in shift of imports from these countries to China. After imposition of definitive antidumping duties on dumped imports of Formic Acid from Finland and Germany, imports from these sources declined sharply. On the other hand, imports of Formic Acid from China, which were almost nil (***)MT in the year 2004-05 increased ***MT in the year 2010.

26.11 As mentioned earlier, as there are zero exports by these exporters to Pakistan, the Commission does not have export prices to Pakistan to determine dumping margin. Therefore, it is not possible for the Commission to calculate fresh dumping margin for Finnish and German exporters. In these circumstances, the best available information to the Commission is the dumping margin calculated in the original investigation. In addition to this, in terms of Section 62 of the Ordinance it is not mandatory to calculate dumping margin in the review under Section 58 of the Ordinance.

26.12 It is established that if anti-dumping duty imposed on imports of Formic Acid from BASF, Germany and Kemira, Finland is terminated it may lead to recurrence of dumping as Finnish and German exporters were not able to export during imposition of anti-dumping duty. There is idle capacity available with exporters to dump in Pakistan. Therefore, the Commission has determined that there is likelihood of recurrence of dumping from BASF, Germany and Kemira, Finland; in case antidumping duty @6.25 and 13.63 *ad val* is removed.

E. LIKELY CONTINUATION OR RECURRENCE OF INJURY TO DOMESTIC INDUSTRY

27. Likelihood of Continuation or Recurrence of Injury

27.1 The Applicant has stated in its application that existing antidumping duties imposed in March 2006 on the exporters/foreign producers have helped the domestic industry to recover from its previously stagnant condition. The Applicant further stated that it is likely that

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dumping of Formic Acid by the Exporters will recur in case anti-dumping duties are terminated, which will lead to material injury to the domestic industry. In order to determine the likelihood of recurrence and continuation of injury in terms of Section 58(3) of the Ordinance, the Commission analysed likelihood of injury in the following paragraphs.

27.2 in the analysis of likely continuation of injury to domestic industry, it is added that after imposition of antidumping duties on imports of product under review from Kemira, Finland and BASF, Germany, there exports reduced to zero. However, dumped imports of China and South Korea significantly increased thereby causing injury to domestic industry. In the period of review, the domestic industry suffered material injury from dumped imports from China and South Korea. The removal of antidumping would result into likely continuation of injury being caused to domestic industry.

28. Likely Volume of Dumped Imports

Facts

28.1 The information obtained from PRAL shows that after imposition of antidumping duties, the exporters/foreign producers stopped exporting product under review to Pakistan. Following table shows quantity of Formic Acid imported into Pakistan during last three years:

**Table - VIII
Imports of Formic Acid during Last 3 Years**

Year	Kemira	BASF	Other Sources
2004-05 (Original POI)	100	217	73
Oct 2007 – Sep 2008	0	0	292
Oct 2008 – Sep 2009	0	0	209
Oct 2009 – Sep 2010	0	0	269

Source: PRAL and cooperating exporters

Note: The actual figures have been indexed w.r.t. imports from Kemira of product under review for 2004-05.

Analysis

28.2 The above table shows that there were no imports of Formic Acid from Kemira, Finland and BASF, Germany during last three financial years mainly because it was subject to 13.63 percent and 6.25 anti-dumping duties respectively. The absence of imports from Kemira and BASF was apparently because they were not competitive after imposition of definitive antidumping duties. In case antidumping duties imposed on these exporters are terminated, it is likely that it would lead to recurrence of dumping.

Conclusion

28.3 On the basis of above information and analysis the Commission has concluded that in case antidumping duties are terminated, it is likely it would lead to recurrence of dumping and volume of dumped imports would increase.

29 Likely Price Effects

29.1 There effect of dumped imports on domestic sale prices of Formic Acid in the domestic market i.e. price under-cutting, price suppression, and price depression can not be determined as there were no imports of the product under review from dumped sources during last three years. However, during original POI, the domestic industry faced price undercutting, price depression and price suppression due to dumped imports of the product under review. The Commission is of the view that in case anti-dumping duties imposed on Formic Acid are removed, the prices of imports would decline to a level below than that of domestic like product. The reduced prices of imports may lead to either one or all adverse price effects including price undercutting, price depression and price suppression.

Conclusion

29.2 There is likelihood that recurrence of dumping may lead to price undercutting, price depression and price suppression.

30 Likely Effects on Market Share

Facts

30.1 During the POR, domestic demand for Formic Acid in Pakistan was met through sales by the domestic industry and imports. The domestic consumption of Formic Acid is ascertained by combining the domestic industry's sales and total imports, and this is referred to here as the total domestic market. The total domestic market for Formic Acid during the POR is given in following table:

Table - IX
Domestic Market of Formic Acid

Year	Sales by the Applicant	Sales by other units	Total Sales by domestic industry	Import from					Total Imports	Total market
				Germany	Finland	China	Korea	Others		
2004-05 (Original POI)	32	8	40	33	15	1	1	10	60	100
Oct 07-Sep 08	39	15	54	0	0	30	12	2	44	98
Oct 08-Sep 09	29	11	40	0	0	21	10	1	32	72
Oct 09- Sep 10	25	11	36	0	0	36	5	0	41	77

Source: Applicant, cooperating exporters and PRAL data

Note: The actual figures have been indexed w.r.t. total market of like product for 2004-05.

Analysis

30.2 The above table shows that the domestic market of Formic Acid decreased by 27.5 in 2008-09 over 2007-08. However domestic market of Formic Acid increased by 8.3 percent in 2009-10 over 2008-09. The domestic industry's market share increased from 40 percent in the year 2004-05 to 55 percent in the year 2007-08 and 56 percent in year 2008-09. However, it decreased to 47 percent in 2009-10. Market share of imports from other sources increased from 12 percent in the year 2004-05 to 53 percent in the year 2009-10. The market share of China increased sharply, as BASF started to export Formic Acid from its production facility in China. There were no imports from dumped sources of product under review during period of review. This shows that imports of Formic Acid from other sources benefited from the imposition of anti-dumping duty on Finnish exporter/producer and German exporter/producer.

Conclusion

30.3 The above information and analysis shows that there were no imports from dumped sources during the POR. In the event, imports from dumped sources would likely to effect negatively market share of domestic industry in case antidumping duties are removed.

31. Likely Effects on Sales

Facts

31.1 As per information obtained from the Applicant, total sales of the domestic like product by the domestic industry in domestic market during POI was as follows:

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Table -X
Sales of the Domestic Like Product (MT)

Period	Sales by domestic industry	Increase/(decrease) in sales
Oct 2007 – Sep 2008	100	--
Oct 2008 – Sep 2009	74	-26
Oct 2009 – Sep 2010	66	-7

Source: Applicant

Note: The actual figures have been indexed w.r.t. sales by domestic industry of domestic like product for Oct 2007 – Sep 2008.

Analysis

31.2 The above table shows that the sales of the domestic like product by the domestic industry decreased by 25.86 percent in the year 2008-09 over the sales during the year 2007-08 and further decreased by 9.75 percent in the year 2009-10 over the sales during the year 2008-09.

Conclusion

31.3 On the basis of above information and analysis, the Commission has concluded that the domestic industry experienced decrease in its sales of the domestic like product due to increased dumped imports of the investigated product from China and Korea during POR. The stoppage of imports from Kemira and BASF was apparently due to imposition of definitive antidumping duties. In case antidumping duties imposed on these exporters are terminated, it is likely that it would lead to recurrence of dumping which is likely to affect sales of domestic industry negatively.

32 Likely Effects on Production and Capacity Utilization

Facts

32.1 The installed capacity, production and the capacity utilization of the domestic industry during the last three years, as provided by the Applicant were as follows:

Table - XI
Production and Capacity Utilization

Period	Production	Capacity Utilization (%)
Oct 2007 – Sep 2008	100	93
Oct 2008 – Sep 2009	77	69
Oct 2009 – Sep 2010	61	55

Source: Applicant

Note: The actual figures have been indexed w.r.t production for Oct 2007 – Sep 2008.

Analysis

32.2 The above table shows that the production of domestic like product decreased throughout the POR and the capacity utilization level decreased from 93% in Oct 2007 – Sep 2008 to 69% in Oct 2008 – Sep 2009. Capacity utilization further decreased to 55% during Oct 2009 – Sep 2010.

Conclusion

32.3 On the basis of the above analysis, the Commission has concluded that the domestic industry has suffered injury on account of capacity utilization. This was partly due to shrinkage of demand for product under review and imports from other sources. It is likely that domestic industry will suffer more on account of capacity utilization in case antidumping duties are removed.

33. Likely Effects on Profits

Facts

33.1 Information submitted by the Applicant on its profits is given in the following table:

Table - XII
Net Profit

Year	Net Profit/(Loss)
2004-05 (Original POI)	-47
Oct 2007 – Sep 2008	100
Oct 2008 – Sep 2009	62
Oct 2009 – Sep 2010	51

Source: Applicant

Note: The actual figures have been indexed w.r.t profit for Oct 2007 – Sep 2008.

Analysis

33.2 It appears from the above that profit on the manufacturing of Formic Acid has reduced persistently over the years. The profit in the year 2007-08 Rs.*** which was reduced to Rs.*** in the year 2008-09 and further reduced Rs. *** in the year 2009-10. On the basis of this it is concluded that the domestic industry suffered injury on account of declined in profit.

Conclusion

33.3 On the basis of available facts, the Commission has concluded that, it is likely that in case anti-dumping duties imposed on imports of product under review from Kemira and BASF

is terminated, it is likely that recurrence of dumping would result in further deterioration of domestic industry on account of profit.

34. Likely Effects on Inventories

Facts

34.1 The data provided by the Applicant on the position of inventories is as follows:

**Table - XIII
Opening and closing Inventory**

Year*	Opening Inventory	Closing Inventory
2004-05 (Original POI)	100	151
Oct 2007 – Sep 2008	23	31
Oct 2008 – Sep 2009	31	59
Oct 2009 – Sep 2010	59	64

Source: Applicant

Note: The actual figures have been indexed w.r.t opening inventory for 2004 – 2005.

Analysis

34.2 The data given in table above shows that the inventory level of the domestic like product increased from ***MT in Oct 2007 – Sep 2008 to ***MT in Oct 2009 – Sep 2010.

Conclusion

34.3 The Commission has concluded that the domestic industry is likely to suffer injury on account of increase in inventory levels, in case anti-dumping duties are removed.

35. Likely Employment, Salaries & Wages, and Productivity

Facts

35.1 The data submitted by the Applicant on employment in the domestic industry and the wages paid during the POR is given in following table:

Table - XIV
Employment, Salaries & Wages and Productivity

Year*	No. of Employees	Salaries and Wages (Rs.)	Domestic Production	Productivity per worker	Salaries and Wages Rs. Per MT
2004-05 (Original POI)	100	100	100	100	100
Oct 2007 – Sep 2008	82	224	110	133	203
Oct 2008 – Sep 2009	88	264	84	96	312
Oct 2009 – Sep 2010	79	247	67	85	367

Source: Applicant

Note: The actual figures have been indexed w.r.t number of employees, wages, Production, productivity per worker and salaries & wages per MT for 2004 – 2005.

Analysis

35.2 The above table shows that the number of employees increased from *** in Oct 2007 – Sep 2008 to *** in Oct 2008 – Sep 2009 but it reduced to *** in Oct 2009 – Sep 2010. During the same period, wages increased from Rs.***/MT to Rs.16,195 and then reduced to Rs.***/MT. Productivity of the employees declined during the POR.

Conclusion

35.4 From the foregoing, the Commission concludes that the productivity per worker is likely to suffer in case anti-dumping duties are removed.

36. Likely Effect on Return on Investment

Facts

36.1 Return on investment of the domestic industry is determined from the figures of the applicant's equity and net profit given in its audited accounts. Based on that information investment and return on investment of the domestic industry is given in table below:

Table - XV
Investment and Return on Investment

Financial Year	Return on Investment (%)
2007-08	23
2008-09	16
2009-10	21

Source: Applicant

Analysis

36.2 It appears from the above table that return on investment was reduced from 23% in 2007-08 to 16% in 2008-09. It has again increased 21% in the year 2009-10. A major shift in the investment portfolio of the company is the operation of Sulphonic Acid; an independent plant, in the financial year 2009-10. The activity for this might have been started in the year 2008-09 thereby reducing return in the year. Similarly a return in year 2009-10 also reflects a significant profit on the manufacture of Sulphonic Acid. Therefore, it cannot be determined that domestic industry suffered an injury on account of return on investment.

Conclusion

36.3 On the basis of the above, the Commission cannot conclude that the Applicant did not suffer injury on account of return on investment during the POR. However, in case the antidumping duties are removed, there is likelihood of negative effects on return on investment of the Applicant due to recurrence of dumped imports.

37. Likely Effects on Cash Flow

Facts

37.1 Following table shows net cash flow position of the Applicant during last three years:

Table - XVI
Cash Flow from operations

Financial Year	Cash Flow from operations
2007-08	-143.48
2008-09	100.00
2009-10	-1800.00

Source: Applicant

Note: The actual figures have been indexed w.r.t cash flow from operations for Oct 2008 – Sep 2009.

Analysis

37.2 The above table shows that there was a significant cash outflow of Rs. *** million in Oct 2009 – Sep 2010 against an inflow of Rs. *** million in 2008-09. As stated above separate cash flows for product under review is not available and the year 2009-10 shows a significant increase in working capital items, which might be because of introduction of sulphonic acid; a product introduced in 2009-10. Therefore the Commission cannot determine that there was likelihood of injury to domestic industry on account of cash flows due to dumped imports of product under review.

Conclusion

37.3 On the basis of the above, the Commission cannot conclude that the Applicant has suffered injury on account of cash flow during the period of review. However, in case the antidumping duties are removed, there is likelihood of negative effects on cash flow of the Applicant due to recurrence of dumped imports.

38. Likely Effects on Growth

Facts

**Table-XVII
Growth of assets**

Financial Year	%age increase in assets
2007-08	-
2008-09	42%
2009-10	146%

Source: Applicant

Analysis

38.1 The above table shows that the applicant registered significant growth in its assets during the year 2008-09 and 2009-10. The company installed a new plant for the manufacture of sulphonic acid and it was able to raise fund for new project. The company group also installed a new plant for manufacture of formic acid in the name of Raiwind Chemicals. It appears from this that the company did not suffer any injury on account of growth. The applicant company also did not suffer any injury on account of ability to raise capital and investment.

Conclusion

38.2 On the basis of above facts, it is concluded that the Applicant did not suffer injury on account of growth. However, in case the antidumping duties are removed, there is likelihood of negative effects on growth of the Applicant due to recurrence of dumped imports.

39. Other Factors

39.1 In accordance with Section 18(2) of the Ordinance, the Commission has also examined factors, other than imports of the product under review, which could at the same time cause injury to the domestic industry, in order to ensure that possible likely injury caused by other

factors is not attributed to the product under review. The Commission is of the view that the domestic industry suffered some injury due to following factors during POR:

- i. Decline in domestic demand of Formic Acid; and
- ii. Imports of Formic Acid from sources other than Finland and Germany dumped sources.

39.2 Other factors mentioned in Section 18(3) of the Ordinance were also analyzed and it was found that:

- i) Demand of Formic Acid 85% in Pakistan reduced during the POR;
- ii) There was no change in trade restrictive practices and competition between foreign producers and domestic producers; and
- iii) There has been no considerable change in technology.

F CONCLUSIONS

40. The conclusions, after taking into account all considerations for this sunset review, are as follows:

- i. the application was filed by the domestic industry as the Applicant account for 73 percent of the total production of the domestic like product;
- ii. the product under review and the domestic like product are alike products;
- iii. there were no exports of Formic Acid from Kemira and BASF to Pakistan from 2007-08 onwards, after imposition of definitive anti-dumping duty by the Commission;
- iv. the domestic industry is likely to suffer material injury due to recurrence of dumping of the product under review in case antidumping duties are removed;
- v. the domestic industry also suffered and is likely to suffer injury due to factors other than imports of the product under review, however, it is likely that in case the antidumping duties on Kemira and BASF are terminated, it would suffer material injury. Thus there is causal relationship between likely

recurrence of dumping of the product under review and likely continuation of material injury to the domestic industry.

G. CONTINUATION OF DEFINITIVE ANTIDUMPING DUTY

41. In terms of Section 58(3) of the Ordinance, a definitive anti-dumping duty shall not expire if the Commission determines in a review that the expiry of such anti-dumping duty would be likely to lead continuation or recurrence of dumping and injury.

Table-XVIII

Definitive Antidumping Duty Rates

Exporter/producer	Duty rate
Kemira, Finland	13.63%
BASF, Germany	6.25%

42. In view of the analysis and conclusions with regard to likely continuation and recurrence of dumping, material injury and causation, it is necessary to continue imposition of definitive anti-dumping duties on imports of the product under review from Kemira, Finland and BASF, Germany. Thus, the Commission hereby continues imposition of definitive anti-dumping duties imposed on Formic Acid produced and exported by Kemira, Finland and BASF, Germany for a period of five years w.e.f March 09, 2011.

(Zamir Ahmed)
Member
February 14, 2012

(Niamataullah Khan)
Member
February 14, 2012

(Prince Abbas Khan)
Chairman
February 14, 2012

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Annex - I

Comments on sunset review

S.No	Column A	Column B
1.	<p>“The Commission did not undertake a careful scrutiny of the import data submitted by the Applicant. The import data clearly evidence that the product exported by the Exporter is in-fact Formic Acid of other concentration, contrary to the claim of the Applicant that the Exporter continued dumping of the IP post imposition of the anti-dumping measures. The exports of the IP ceased completely, however, the Exporter did indeed export Formic Acid in higher concentrations, which are not produced by the Applicant. The Application is entirely based on distorted data and the alleged dumping and injury have been arrived at by making use of such distorted data.”</p> <p>“The Applicant has relentlessly tried to correlate the exports of other concentrations of Formic Acid to Pakistan with the likelihood of recurrence of dumping and injury. Exports of certain products of an exporter do not dictate nor impact the sale/export of any other products being produced by the same exporter. Thus, the notion presented by the Applicant that the substitution of the IP with other products of the Exporter will lead to recurrence of dumping and injury is misleading, false and a mere attempt to unfairly gain from the protection of anti-dumping duties.”</p>	<p>The Commission has restricted the scope of product under review as defined in original investigation.</p>
	<p>“The Commission must shun the practice of only considering the parameters highlighted by the Applicant and must adopt an ‘out of the box’ approach. The restricted parameters stated by the Applicant would undoubtedly evidence the existence of likelihood of continuation or recurrence of dumping and injury, however, a joint analysis of these factors with other most relevant factors would yield a more realistic conclusion i.e., the continuation of levy of anti-dumping duty is not justified and that there does not exist a likelihood of continuation or recurrence of dumping or injury.”</p>	<p>The Commission has determined likelihood of recurrence of dumping as per parameters defined at Section D (para 26 supra). Interested parties were informed of these parameters vide SEF.</p>

Annex - II

Comments on Statement of Essential Facts (SEF)

S.No	Column A	Column B
1.	<p>“Admitted, that Kemira, ceased exports of Formic Acid 85% to Pakistan after the levy of anti-dumping duties, however, the same was not due to the levy of anti-dumping duties itself. It is a fact, which Kemira has stressed upon in its previous submissions, that Kemira was exporting Formic Acid to Pakistan at non-dumped prices and due to the levy of anti-dumping duties it was proving difficult for Kemira to sell its product at a fair price in the Pakistani market. Thus, in order to avoid a breach of its own policy of fair competition, Kemira, ceased exports to Pakistan. This evidences the significant level of commitment Kemira has towards the pursuit of fair competition.”</p>	<p>The Commission is of the view that Kemira stopped exports of product under review due to imposition of antidumping duty. In case antidumping duties imposed on these exporters are terminated, it is likely that it would lead to recurrence of dumping.</p>
2.	<p>Kemira is an established company and Formic Acid produced by Kemira is known world over for its quality. Kemira has a long list of customers which are committed to make purchases for their requirements from Kemira. Furthermore, Kemira’s sister concerns world over, purchase Formic Acid for their needs from Kemira as well and Kemira as part of an ever expanding group of companies caters to the requirements of its sister concerns and at market price. With the imposition of anti-dumping duties by Pakistan and an established presence in the market, Kemira’s sales continue to cater for its existing and new customers.</p>	<p>As per exports figure provided by Kemira, its total exports decreased during POR. Kemira was requested to provide its major exports destinations. However, Kemira stated that it does not categorize any destination as its major export destination. Keeping in view the total export sales figures, it is concluded that Kemira did not develop other export markets.</p>
3.	<p>Kemira has not enhanced its production capacities after the imposition of the anti-dumping duties. Kemira’s manufacturing facility produces at maximum capacity and apart from the day-to-day inventories Kemira has never had pile-ups of inventories. Despite a substantial production capacity Kemira is ‘hand-to-mouth’ vis-à-vis inventories.</p>	<p>As per information provided by Kemira in response to deficiency letter dated December 13, 2011, Kemira has increased its installed capacity over the years after imposition of antidumping duties. Apart from that, as per Kemira’s press release dated July 24, 2008, “the expansion of Kemira's formic acid plant in Oulu has completed and taken in use. The expansion enables Kemira's total production capacity to be increased by 30 percent to over 100,000 t/a.”</p>
4.	<p>Total export price/data of Kemira to other countries for the POR has been provided to the Commission and as it would be evident from the data provided, that Kemira has sold Formic Acid at a fair/non-dumped price in all its export destinations.</p>	<p>As per comments on SEF, Kemira exports Formic Acid to over 69 destinations world over however, in response to Exporter’s questionnaire Kemira only provided export prices to 4 destinations. The Commission has used data of ITC for this purpose and concluded that Kemira has exported formic acid on variety of prices to different destinations.</p>

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5.	<p>We would like to, once again, felicitate the Commission for its fair determination made in the China and Korea Investigation. The Commission's report on preliminary determination in this investigation clearly concludes that the injury claimed by the domestic industry does not have any causal link with the price of imports. Thus, a claim that the domestic industry had based its arguments upon in its Review Application stand defeated that the Applicant was unable to flourish due to the dumped imports from China and Korea.</p> <p>The Commission must apply its findings upon injury and the causal link between dumping and injury to the Review and arrive at a judicious conclusion.</p>	<p>The Commission has imposed definitive antidumping duties on dumped imports of formic acid originating in/and or exported from China and South Korea w.e.f February 10, 2012. The Commission has applied its findings upon injury and the causal link between dumping and injury to the Review.</p>
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