



**Government of Pakistan
National Tariff Commission**

REPORT

ON

**FINAL DETERMINATION AND LEVY OF DEFINITIVE ANTI-DUMPING DUTY ON
IMPORTS OF FORMIC ACID 85% AND ABOVE ORIGINATING IN AND/OR
EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA AND REPUBLIC OF KOREA**

A.D.C No.24/2011/NTC/FA

February 10, 2012

Final Determination and Levy of Definitive Anti-dumping Duty on Import of Formic Acid 85% and above
into Pakistan Originating in and/or Exported from the People's Republic of China and Republic of Korea

TABLE OF CONTENTS

<u>S.No</u>	<u>Description</u>	<u>Page No.</u>
A. PROCEDURE		
5.	Receipt of Application	4
6.	Evaluation and Examination of the Application	5
7.	Other antidumping investigations of FA	5
8.	The Domestic Industry	5
9.	Standing of the Application	5
10.	Applicant Views	7
11.	Foreign Producers/Exporters of FA Involved in Alleged Dumping	8
12.	Initiation of Investigation	8
13.	Investigated Product, Like Product and Domestic Like Product	9
14.	Period of Investigation	11
15.	Information/Data Gathering	11
16.	Questionnaire(s) Response by the Foreign Producers/ Exporters	12
17.	Submission of importers/industrial users	13
18.	Verification of the information	14
19.	Public File	14
20.	Confidentiality	14
21.	Preliminary Determination	15
22.	Disclosure after Preliminary Determination	16
23.	Hearing	16
24.	Views/Comments of the interested parties on Preliminary Determination	16
25.	Disclosure of Essential Facts	17
B DETERMINATION OF DUMPING		
26.	Dumping	17
27.	Normal Value	17
28.	Export Price	18
29.	Dumping Determination	19
30.	Determination of Normal Value	19
31.	Determination of Export Price	22
32.	Dumping Margin	23
33.	Negligible Volume of Dumped Imports	24
C. INJURY TO DOMESTIC INDUSTRY		
34.	Determination of Injury	25
35.	Domestic Industry	26
36.	Volume of Dumped Imports	27
37.	Price Effects	28
38.	Effects on Market Share	30

Final Determination and Levy of Definitive Anti-dumping Duty on Import of Formic Acid 85% and above
into Pakistan Originating in and/or Exported from the People's Republic of China and Republic of Korea

39.	Effects on Sales	32
40.	Effects on Production and Capacity Utilization	32
41.	Effects on Inventories	33
42.	Effects on Profits/Loss	34
43.	Effects on Cash Flow	34
44.	Effects on Employment, Productivity and Salaries & Wages	35
45.	Effects on Return on Investment	36
46.	Effects on Growth	36
47.	Summing up of Material Injury	37
D	CAUSATION	38
48.	Effect of Dumped Imports	38
49.	Other Factors	40
E.	CONCLUSIONS	41
F.	IMPOSITION OF DEFINITIVE ANTIDUMPING DUTY	42

Final Determination and Levy of Definitive Anti-dumping Duty on Import of Formic Acid 85% and above
into Pakistan Originating in and/or Exported from the People's Republic of China and Republic of Korea

The National Tariff Commission ("Commission") having regard to the Anti-Dumping Duties Ordinance, 2000 (LXV of 2000) (hereinafter referred to as the "Ordinance") and the Anti-Dumping Duties Rules, 2001 (hereinafter referred to as the "Rules") relating to investigation and determination of dumping of goods into the Islamic Republic of Pakistan (hereinafter referred to as "Pakistan"), material injury to the domestic industry caused by such imports, and imposition of anti-dumping duties to offset the impact of such injurious dumping, and to ensure fair competition thereof and to the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (hereinafter referred to as the "Agreement on Antidumping").

2. The Commission has conducted this investigation under the Ordinance and the Rules on imports of Formic Acid, 85% and above, ("FA") originating in and/or exported from the People's Republic of China ("China") and Republic of Korea ("Korea") (Exporting Countries). The Commission has made final determination in this investigation under Section 39 of the Ordinance. This report of final determination has been issued in accordance with Section 39(5) of the Ordinance and Article 12.2 of the Agreement on Antidumping.
3. In terms of Section 39(1) of the Ordinance, the Commission shall make a final determination of dumping and injury within one hundred and eighty days of publication of a notice of preliminary determination in the official Gazette. Notice of preliminary determination was published in official Gazette on August 22, 2011.

A. PROCEDURE

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

5. Receipt of Application

5.1 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 Dec. 31, 2010. The Applicant alleged that FA produced in the Exporting Countries is exported to Pakistan at dumped prices.

5.2 The Embassies of China and Korea in Islamabad were informed through note verbale dated January 13, 2011, of the receipt of application in accordance with the requirements of Section 21 of the Ordinance.

6. Evaluation and Examination of the Application

The examination of the application showed that it met the requirements of Section 20 of the Ordinance as it contained sufficient evidence of dumping of FA and injury to the domestic industry

Final Determination and Levy of Definitive Anti-dumping Duty on Import of Formic Acid 85% and above into Pakistan Originating in and/or Exported from the People's Republic of China and Republic of Korea

caused therefrom. The requirements of Rule 3 of the Rules, which relate to the submission of information prescribed therein were also found to have been met.

7. Other Antidumping Investigation on FA

Earlier, upon request of the Applicant, the Commission conducted an antidumping investigation on dumped imports of FA 85% from the Republic of Finland ("Finland") and Federal Republic of Germany ("Germany"). The Commission concluded that investigation and imposed definitive antidumping duties on dumped imports of FA 85% from the above-mentioned countries ranging from 6.25 percent to 13.63 percent for a period of five years with effect from March 09, 2006. The Commission published notice of impending expiry of definitive antidumping duties imposed on dumped imports of Formic Acid 85%, produced and exported from Kemira Oyj, Porkkalankatu 3, 00101 Helsinki, Finland ("Kemira") and BASF, Zentralabteilung Steuern, ZRS-C 104, 67056 Ludwigshafen, Germany ("BASF"), respectively on December 10, 2010. The Commission received an application on January 24, 2011 under Section 58(3) of Anti-Dumping Duties Ordinance 2000 (the "Ordinance"), for review the anti-dumping duties imposed on Formic Acid, 85% solution (FA 85%). Tufail Chemicals Limited, Karachi; a domestic producer of formic acid filed an application in response to the notice of impending expiry of the anti-dumping duties imposed on FA 85%. Upon examination of a duly substantiated request, the Commission initiated a review pursuant to Section 58(3) of the Ordinance to determine, whether the expiry of the anti-dumping duties imposed on FA 85% from Finland and Germany, would likely or un-likely to lead to continuation or recurrence of dumping and injury or not on February 24, 2011.

8. The Domestic Industry

8.1 Section 2(d) of the Ordinance defines domestic industry as:

" "domestic industry" means the domestic producers as a whole of a 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 was itself an importer of the investigated product nor was related to the exporters involved in alleged dumping of the investigated product into Pakistan. Hence the Applicant or any other producer of FA is not subject 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 major producer of FA 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 the Applicant produced 73 percent of the total domestic production of FA during the year Oct 2009 - Sep2010. Details of the production of FA by the domestic industry are as follows:

Table-I

Name of the Unit	Percentage Share in Domestic Production	Status
Tufail Chemical Industries Limited.	73	Applicant/ Supporting
Farus Combine Marketing (Pvt.) Ltd	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.

Final Determination and Levy of Definitive Anti-dumping Duty on Import of Formic Acid 85% and above into Pakistan Originating in and/or Exported from the People's Republic of China and Republic of Korea

9.5 It may be noted from the above table that the Applicant is the major domestic producer of FA in Pakistan representing 73 percent of total domestic production, whereas, the other units represent 27 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 dumping of FA and material injury to the domestic industry caused therefrom:

- i. FA imported from China and Korea into Pakistan and the FA produced in Pakistan by the domestic industry are like products;
- ii. Exporters from China and Korea are exporting FA to Pakistan at dumped prices; and
- iii. Exports of FA from China and Korea to Pakistan at dumped prices have caused and is causing material injury to the domestic industry producing FA, mainly through:
 - a) Increase in volume of dumped imports
 - b) price undercutting
 - c) price suppression
 - d) price depression
 - e) negative effect on salaries and wages
 - f) negative effect on productivity per worker
 - g) negative effect on capacity utilization
 - h) negative effect on return on investment
 - i) negative effect on profitability
 - j) negative effect on cash flows
 - k) negative effect on ability to raise investment

Final Determination and Levy of Definitive Anti-dumping Duty on Import of Formic Acid 85% and above into Pakistan Originating in and/or Exported from the People's Republic of China and Republic of Korea

- I) decrease in number of employees
- m) negative effect on growth
- n) negative effect on market share
- o) negative effect on inventories

11. Foreign Producers/Exporters of FA involved in Alleged Dumping

The Applicant identified 13 foreign producers and exporters (with complete addresses of 11 producers/exporters) involved in alleged dumping of Formic Acid from Exporting Countries (list of foreign producers/exporters is placed at Annex-I). The Applicant stated that there may be other producers and exporters but it does not have the names and addresses of those foreign producers/exporters. Therefore, the Applicant requested for imposition of antidumping duty on all imports of FA originating in and/or exported from the Exporting Countries instead of the identified foreign producers/exporters. Upon initiation of investigation, copy of the notice of initiation was sent to all known exporters/foreign producers, whose addresses were available to the Commission, on February 23, 2011.

12. Initiation of Investigation

12.1 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. The application has been made by the domestic industry as explained in Para 8. The Commission decided to initiate an investigation on February 23, 2011. In terms of Section 27 of the Ordinance, the Commission issued a Notice of Initiation, which was published in the Official Gazette¹ of Pakistan and in widely circulated national newspapers² on February 23, 2011. Investigation concerning imports into Pakistan of FA classified under PCT³ No. 2915.1100 contained in the First schedule of Customs Act, 1969 (IV of 1969) originating in and/or exported from China and Korea was thus initiated on February 23, 2011 (pursuant to Commission's decision of February 21, 2011).

12.2 The Commission notified the Embassies of Exporting Countries in Pakistan of initiation of investigation (by sending a copy of the notice of initiation) on February 23, 2011 with a request to forward it to all exporters/producers involved in production, sales and export of FA from Exporting Countries. Copies of the notice of initiation were sent to 11 exporters/foreign producers of Exporting Countries whose complete addresses were available with the Commission. For the exporters/producers whose addresses were not available with the Commission, the Embassies of Exporting Countries in

¹ The official Gazette of Pakistan (Extraordinary) dated February 23, 2011.

² The Daily 'Nawa-i-waqt' and "Business Recorder" of February 23, 2011 issue.

³ "PCT" is the abbreviation for Pakistan Customs Tariff. PCT heading in Pakistan is equivalent to Harmonized Commodity Description and Coding System up to six-digit level.

Final Determination and Levy of Definitive Anti-dumping Duty on Import of Formic Acid 85% and above into Pakistan Originating in and/or Exported from the People's Republic of China and Republic of Korea

Islamabad, were requested to forward the same to all exporters/producers involved in export of FA to Pakistan from Exporting Countries. Copies of the notice of initiation were also sent to known Pakistani importers, the Applicant and other domestic producers (paragraph 8.2 supra) on February 23, 2011 in accordance with the requirements of Section 27 of the Ordinance.

12.3 In accordance with Section 28 of the Ordinance, on February 24, 2011, the Commission sent copies of full text of the written application (non-confidential version) to all exporters/foreign producers, whose complete addresses were available with the Commission. A copy of the full text of the written application (non-confidential) was also sent to the Embassies of Exporting Countries in Pakistan on February 24, 2011 with a request to forward it to all exporters/foreign producers involved in export of FA from Exporting Countries.

13. Investigated Product, Like Product and Domestic Like Product

13.1 Section 2 of the Ordinance defines the “investigated product”, the “like product”, and the “domestic like product” as follows:

i. **Investigated Product:**

“a product, which is subject to an antidumping investigation as described in the notice of initiation of the investigation”.

ii. **Domestic Like Product:**

“the domestically produced product, which is a like product to an investigated product”.

iii. **Like Product:**

“a product which is alike in all respects to an investigated product or, in the absence of such a product , another product which , although not alike in all respects, has characteristics closely resembling those of the investigated product”.

13.2 For the purposes of this investigation and given the definitions set out above, the investigated product, domestic like product and the like product were identified as follows:

13.2.1 **Investigated Product:**

The investigated product is FA imported into Pakistan originating in and/or exported from the Exporting Countries. It is classified under PCT Heading No. 2915.1100. The investigated 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).

13.2.2 Domestic Like Product

The domestic like product is FA 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 investigated product.

13.2.3 Like Product:

The like product is FA produced by the industry in exporting countries for domestic consumption or export to countries other than Pakistan. The like product is classified under HS Heading No. 2915.11. The 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 like product are identical to those of the investigated product and domestic like product.

13.3 In order to establish whether the investigated product, domestic like product and like product are alike products, as contended by the Applicant, the Commission reviewed all the relevant information received/obtained from various sources including the Applicant, and the exporters/producers from China (i.e. BASF) in the following terms:

- i. The Applicant uses Sodium Formate and Sulphuric Acid as basic raw materials for the manufacture of the domestic like product (i.e. FA), while the exporters/producers from China (i.e. BASF) uses carbon monoxide and methanol for the manufacture of investigated product (i.e. FA). Although different raw materials are used, the finished product manufactured is the same i.e. FA.
- ii. The Applicant manufactures domestic like product by using Sodium Formate Acidolysis manufacturing process, whereas the cooperating exporter/producer from China manufactures investigated product by using Extraction manufacturing process. However, manufacturing of investigated product from Sodium Formate is also common practice in China. The product manufactured from these manufacturing processes is the same i.e. FA.
- iii. Both the products have same uses. These are mainly used as an input by leather industry (for leather softening, tanning), in textile industry (as neutralizing agent in yarn & fabrics dyeing), by food industry (in antiseptic, disinfectants, preservatives), and in pharmaceutical industry (as synthesis of vitamin B, in alkaloids etc).
- iv. Both the products are classified under the same PCT/HS sub-heading 2915.1100.

Final Determination and Levy of Definitive Anti-dumping Duty on Import of Formic Acid 85% and above into Pakistan Originating in and/or Exported from the People's Republic of China and Republic of Korea

13.4 In light of the above, the Commission has determined that the investigated product, the domestic like product and like product are alike products.

14. Period of Investigation

14.1 In terms of Section 36 of the Ordinance, period of investigation (the POI) is:

- "a) for the purposes of an investigation of dumping, an investigation period shall normally cover twelve months preceding the month of initiation of the investigation for which data is available and in no case the investigation period shall be shorter than six months.
- b) for the purposes of an investigation of injury, the investigation period shall normally cover thirty-six months.

Provided that the Commission may at its sole discretion, select a shorter or longer period if it so deems appropriate in view of the available information regarding domestic industry and an investigated product".

14.2 The POI selected for dumping and injury respectively is as follows:

Investigation of dumping	from October 1, 2009 to September 30, 2010;
Investigation of injury	from October 1, 2007 to September 30, 2010

15. Information/Data Gathering

15.1 The Commission sent questionnaire, on February 24, 2011 directly to the 11-exporters/foreign producers (whose complete addresses were available with the Commission) of Exporting Countries for submission of data and information, and were asked to respond within 37 days of the dispatch of the questionnaire i.e. by April 07, 2011. On February 24, 2011 a copy of the questionnaire was also sent to the Embassies of Exporting Countries in Islamabad with a request to forward it to all exporters/foreign producers of FA from Exporting Countries.

15.2 On February 24, 2011 questionnaires were also sent to 44 Pakistani importers of the investigated product known to the Commission and these importers were asked to respond to the Commission within 37 days of the dispatch of the questionnaires. However, none of Pakistani importers responded to the Commission's questionnaire.

Final Determination and Levy of Definitive Anti-dumping Duty on Import of Formic Acid 85% and above into Pakistan Originating in and/or Exported from the People's Republic of China and Republic of Korea

15.3 On February 24, 2011 questionnaires were sent to three other domestic producers of the domestic like product known to the Commission. Other units that make up the entire domestic industry in Pakistan namely Farus Combine Marketing (Pvt.) Ltd, Akbari Chemicals and Raiwind Chemicals remained indifferent in this investigation. Above mentioned units have not responded in any manner including the notice of initiation or to the questionnaire. The information in case of these three units has been submitted by the Applicant on the basis of reasonably available market information.

15.4 The Commission has an access to the database of 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 investigation, the Commission has used import data obtained from PRAL in addition to the information provided by the Applicant and the foreign producers/exporters.

15.5 Thus the Commission has sought from all available sources the relevant data and information deemed necessary for the purposes of this investigation to determine dumping of the investigated product and injury caused therefrom.

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

16.1.1 In response to the Questionnaire the following exporters/foreign producers of FA provided requisite information:

- i. BASF – YPC Company Ltd. (BASF, China)
- ii. Mianyang Aoster Phosphorus Chemical Industry Co. Ltd., China (Mianyang China)

16.1.2 None of the exporters/foreign producers of the investigated product from the Korea provided requisite information. The Commission, after expiry of the time period given for submission of information on Questionnaire informed the exporters/foreign producers (who did not respond to Questionnaire) from the Exporting Countries through a letter dated April 05, 2011, that in case no information is provided in response to the Questionnaire, the Commission would be constrained to make its determination based on the 'Best Information Available' in terms of Section 32 of the Ordinance and Article 6.8 and Annex II of the Agreement on Anti-dumping.

16.2 Questionnaire Response by BASF, China

16.2.1 The Commission sent questionnaire to BASF, China on February 24, 2011. Its response was received in the Commission on April 4, 2011. According to the information provided in response to the questionnaire, BASF, China is a limited liability company. BASF, China is a Sino-German joint venture having share ratio of 50:50. BASF, China was established in September 2001. The company commenced its commercial operations in June, 2005. BASF, China was incorporated for the manufacture and sale of

Final Determination and Levy of Definitive Anti-dumping Duty on Import of Formic Acid 85% and above
into Pakistan Originating in and/or Exported from the People's Republic of China and Republic of Korea

FA and other chemicals based on naphtha cracker. The Company has its production facility at Luhe District of Nanjing Municipality within the Nanjing Chemical Industry Park (NCIP), China

16.2.2 The information submitted by BASF, China in response to the questionnaire was analyzed at the Commission and certain deficiencies were identified. Accordingly, those data deficiencies were communicated to it vide Commission's letter dated May 13, 2011.

16.2.3 BASF, China was asked to provide the deficient information/data no later than May 23, 2011, so as to enable the Commission to consider and analyze the same for the purposes of this investigation. BASF, China responded to the deficiencies vide its letter dated June 02, 2011.

16.2.4 The Commission has accepted the information supplied by BASF, China as verified during on-the-spot investigation, for the purposes of this final determination and the dumping margin for BASF, China is determined on the basis of that information.

16.3 Questionnaire Response by the Mianyang, China

16.3.1 The Commission sent questionnaire to Mianyang, China on February 24, 2011. Its response was received in the Commission on March 30, 2011. According to the information provided in response to the questionnaire, Mianyang, China is a Limited Corporation, located in Science City – Mianyang City of Sichuan Province.

16.3.2 Mianyang, China has not submitted requisite information on prescribed Antidumping Exporter's Questionnaire. Therefore Mianyang, China was requested on April 04, 2011 to complete the information required in the Antidumping Exporter's Questionnaire and submit not later than April 14, 2010, so as to enable the Commission to consider and analyze the same for the purposes of this investigation. Mianyang, China did not respond thereafter and therefore the Commission could not calculate its dumping margin on the information supplied by it for the purposes of this investigation. Therefore, dumping margin for Mianyang, China has been calculated on the best information available.

17. Submissions by the Importers/Industrial Users

Some of the importers responded to the importer's questionnaire. However, the information did not meet the requirement of the Antidumping Importers Questionnaire. The information received was mainly consisted of comments/views on application filed by the domestic industry.

Final Determination and Levy of Definitive Anti-dumping Duty on Import of Formic Acid 85% and above into Pakistan Originating in and/or Exported from the People's Republic of China and Republic of Korea

18 Verification of the Information

18.1 In terms of Sections 23, 32(4), 35 of the Ordinance and Rule 12 of the Rules, during the course of an investigation, the Commission shall satisfy itself as to the accuracy of the information and verify/examine the accuracy of the information supplied by the Applicant.

18.2 During the course of the investigation the Commission, satisfied itself as to the accuracy of information supplied by the interested parties to the extent possible for the purposes of this investigation. In order to verify the information/data provided by the Applicant and to obtain further information (if any), on-the-spot investigation was conducted at the offices and plants of the Applicant from July 06, 2011 to July 08, 2011. Non-confidential version of the report of on-the-spot investigation was placed on the public file.

18.3 To verify information/data submitted by the cooperating exporter/foreign producer i.e. BASF in response to the questionnaire and to obtain further information (if any), on-the-spot investigation was conducted at the premises of the exporter/foreign producer in China from September 26, 2011 to September 28, 2011. Non-confidential version of the report of on-the-spot investigation was placed on the public file.

19. 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 investigation (except public holidays). This file contains non-confidential version of the application, response to the questionnaires, submissions, notices, correspondence, and other documents for disclosure to the interested parties.

20. Confidentiality

20.1 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 to an investigation, upon good cause shown to be kept confidential.

20.2 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

Final Determination and Levy of Definitive Anti-dumping Duty on Import of Formic Acid 85% and above into Pakistan Originating in and/or Exported from the People's Republic of China and Republic of Korea

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.

20.3 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.

20.4 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.

21. Preliminary Determination

21.1 The Commission made its preliminary determination in this investigation on August 22, 2011. In accordance with Section 37 of the Ordinance, the Commission issued a notice of preliminary determination, which was published in Official Gazette of Pakistan and in two widely circulated national newspapers⁴ (one English and one Urdu Language) on August 22, 2011 notifying the preliminary findings. The Commission did not impose provisional anti-dumping duty on imports because the imports of BASF, China, were not found provisionally dumped which made causal relationship weak between dumped imports and injury to domestic industry.

21.2. The Commission sent notice of preliminary determination to the Embassies of Exporting Countries in Islamabad, the exporters, the importers the Applicant and other domestic producers in accordance with the requirements of Section 37(4) of the Ordinance.

21.3 The findings of the Commission in the preliminary determination were as follows:

- i. the application was filed on behalf of domestic industry as the Applicant represent major proportion of the production of domestic like product;
- ii. the investigated product and the domestic like product are alike products;
- iii. during the POI, the investigated product was exported to Pakistan by the exporters/foreign producers, from China and Korea (except BASF, China), at prices below its normal value;

⁴ The 'Business Recorder' and the 'Daily Express' of August 22, 2010 issue

Final Determination and Levy of Definitive Anti-dumping Duty on Import of Formic Acid 85% and above into Pakistan Originating in and/or Exported from the People's Republic of China and Republic of Korea

- iv. the volume of dumped imports of the investigated product and the dumping margins established (except BASF, China) on the basis of the foregoing analysis, are above the negligible and *de minimis* levels respectively;
- v. the domestic industry suffered material injury during the POI on account of, i) volume of dumped imports, ii) price undercutting, iii) price suppression, iv) loss in market share, v) decline in profit, vi) negative effects on production and capacity utilization, vii) negative effects on productivity and increase in inventories (in terms of Section 15 and 17 of the Ordinance); and
- vi. the cause of injury to domestic industry is contraction in demand in the year 2008-09 and increased imports from BASF, China in the year 2009-10.

22. Disclosure after Preliminary Determination

22.1 In terms of Rule 11 of the Rules, the Commission, upon request made by foreign producers/exporters within fifteen days of the publication of notice of preliminary determination, shall hold disclosure meeting with the producer or the exporter to explain dumping calculation methodology applied for that producer/exporter. The Commission shall also provide an opportunity to producer or exporter or their legal representatives to examine and receive copies of the dumping calculation done by the Commission for their exports.

22.2 No exporter/foreign producer i.e. BASF-YPC, for whom individual dumping margin was determined in preliminary determination requested the Commission for disclosure meetings.

23. Hearing

In terms of Rule 14 of the Rules, the Commission shall, upon request by an interested party made not later than thirty days after publication of a notice of preliminary determination, hold a hearing at which all interested parties may present information and arguments. However, no one requested for hearing.

24. Views/Comments of the Interested Parties on the Preliminary Determination

24.1 The Commission received views/comments on its preliminary determination made in this investigation from the following interested parties:

- i. The Applicant
- ii. BASF-YPC

24.2 The comments received on the preliminary determination and germane to this investigation under the Ordinance and comments thereon are placed at Annex – II.

Final Determination and Levy of Definitive Anti-dumping Duty on Import of Formic Acid 85% and above into Pakistan Originating in and/or Exported from the People's Republic of China and Republic of Korea

25. Disclosure of Essential Facts

25.1 In terms of Rules 14(8) of the Rules, and Article 6.9 of Agreement on Antidumping, the Commission disclosed essential facts, and in this context dispatched Statement of Essential Facts ("SEF") on December 16, 2011 to all interested parties including the known exporters/foreign producers, the Applicant, the known Pakistani importers, and to the embassies of Exporting Countries in Pakistan.

25.2 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 Applicant only.

25.3 The comments received on essential facts and germane to this investigation under the Ordinance are reproduced in Column A below and the Commission's views/determination are placed at Annex – III.

B. DETERMINATION OF DUMPING

26. 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".

27. Normal Value

27.1 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".

27.2 Further, 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 investigated product 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

Final Determination and Levy of Definitive Anti-dumping Duty on Import of Formic Acid 85% and above into Pakistan Originating in and/or Exported from the People's Republic of China and Republic of Korea

- "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:".

27.3 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."

28. 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".

29. Dumping Determination

29.1 As stated earlier (paragraph 11 supra) the Applicant identified 13 exporters/foreign producers from the Exporting Countries involved in alleged dumping of the investigated product. The Commission sent questionnaires to those exporters/foreign producers whose complete addresses were available with the Commission (paragraph 14.1 supra). A copy of the questionnaire was also provided to the Embassies of Exporting Countries in Islamabad with a request to forward it to all exporters/foreign producers of the investigated product based in Exporting Countries to submit information to the Commission.

29.2 In response to the Questionnaire the following exporter/foreign producer of FA provided requisite information:

- i. BASF – YPC Company Ltd. (BASF, China)

29.3 None of the exporters/foreign producers of the investigated product from the Korea provided requisite information. Mianyang, China has not submitted appropriate information on prescribed Antidumping Exporter's Questionnaire. Therefore Mianyang, China was requested to complete the information required in the Antidumping Exporter's Questionnaire on April 04, 2011, not later than April 14, 2010, so as to enable the Commission to consider and analyze the same for the purposes of this investigation. Mianyang, China did not respond thereafter and therefore the Commission could not calculate its dumping margin on the information supplied by it for the purposes of this investigation. Therefore, dumping margin for Mianyang, China has been calculated on the best information available. Individual dumping margin in this investigation is determined for the BASF - YPC on the basis of the information provided by it. However, a residual dumping margin/duty rate has been determined for all other exporters/foreign producers who did not cooperate with the Commission in this investigation.

30. Determination of Normal Value

30.1 The Commission received information on normal value of the investigated product from BASF-YPC in response to the questionnaires sent to various exporters/foreign producers. Normal value of investigated product for BASF-YPC in this final determination has been determined on the basis of the information provided by it. Normal value for other exporters/foreign producers who did not cooperate with the Commission is determined on the basis of best information available.

30.2 Determination of Normal Value for BASF-YPC

30.2.1 Normal value for BASF-YPC, China is determined on the basis of the information provided by it on its domestic sales and cost to make and sell during POI.

30.2.2 According to the information, BASF-YPC, China produced and sold Formic Acid in three concentrations, i.e. 85%, 94% and 99%, in its domestic market during POI. It sold like product in different packing i.e. 35kg, 240kg, 1200kg and bulk in its domestic market during the POI. It exported Formic Acid in two concentrations, i.e. 85% and 94% to Pakistan during POI. It exported like product in 35kg and 240 kg packing. For the purposes of like to like comparison, normal value is determined separately for Formic Acid 85%-35 kg, Formic Acid 85%-240 kg, and Formic Acid 94%-35 kg to be compared with the export price of respective type of the investigated product. BASF-YPC's sales are in sufficient quantities to determine normal value in terms of Section 6(2) of the Ordinance, as these are more than 5 percent of the export sales of the investigated product exported by it to Pakistan during POI.

30.2.3 BASF-YPC sold ***MT of the like product in its domestic market during POI. It sold like product to un-related customers in its domestic market. Investigation has revealed that out of total sales, BASF-YPC sold ***MT of Formic Acid 85% and ***MT of Formic Acid 94%. Out of ***MT of Formic Acid 85%, Formic Acid 85% - 1200 kg was ***MT, Formic Acid 85% - 240 kg was ***MT, Formic Acid 85% - 35 kg was ***MT and Formic Acid 85% - bulk was ***MT. Out of ***MT of Formic Acid 94%, Formic Acid 94% - 1200 kg was ***MT, Formic Acid 94% - 250 kg was ***MT, Formic Acid 94% - 35 kg was ***MT and Formic Acid 94% - bulk was ***MT. Normal value is determined separately for Formic Acid 85%-35 kg, Formic Acid 85%-240 kg, and Formic Acid 94%-35 kg.

30.2.4 Section 7 of the Ordinance requires the Commission to determine ordinary course of trade for domestic sales to determine normal value. Out of total Formic Acid 85% - 35kg sales, ***MT were at loss while ***MT were profitable sales. Out of total Formic Acid 85% - 240 kg sales, ***MT were at loss while ***MT were profitable sales. Out of total Formic Acid 94% - 240 kg sales, ***MT were at loss while ***MT were profitable sales. Below costs sales were in substantial quantities in terms of Section 7(2) of the Ordinance. Furthermore, below costs sales for Formic Acid 85% - 35kg only were in extended period of time. Below cost sales of Formic Acid 94% - 35kg provide for recovery of all costs within a reasonable period of time. Thus, in determination of normal value for the above-mentioned types, the Commission has disregarded sales at loss of Formic Acid 85% -35kg, which were not in the ordinary course of trade in accordance with provisions of Section 7 of the Ordinance. The sales of Formic Acid 85% - 240 kg and Formic Acid 94% - 35kg at loss do not satisfy all the conditions of Section 7(1) and hence were not disregarded and normal value is determined on the basis of total sales of Formic Acid 85% - 240 kg and Formic Acid 94% - 35kg.

30.2.5 According to BASF-YPC, during the POI, it sold like product in its domestic market on credit at delivered basis. To arrive at the ex-factory price, BASF-YPC has claimed adjustments on account of commission, credit cost, insurance and freight. The Commission has accepted these adjustments and the normal value at ex-factory level for the like product is worked out by deducting values of these adjustments. Calculation of normal value has been placed at Annex - IV.

Final Determination and Levy of Definitive Anti-dumping Duty on Import of Formic Acid 85% and above into Pakistan Originating in and/or Exported from the People's Republic of China and Republic of Korea

30.3 Determination of Normal Value for other Chinese non-cooperating Exporters/Producers

30.3.1 The Commission has determined normal value for non-cooperating exporters/producers from China on the basis of best information available in accordance with Section 32 of the Ordinance, as no information on normal value has been provided.

30.3.2 For the purposes of determination of normal value for non-cooperating exporters of the investigated product from China, the information provided by BASF-YPC has been used. The Commission is of the view that it is the best available information for normal value for other non-cooperating exporters from China on the following grounds that:

- i. BASF-YPC is a major producer of Formic Acid in China;
- ii. BASF is the largest exporter of the investigated product from China to Pakistan during POI; and
- iii. This is the only reliable information available with the Commission on cost to make and sell of Formic Acid in China.

30.3.3 Weighted average normal value for sales in ordinary course of trade for grades exported by BASF-YPC to Pakistan has been used as normal value for other exporters.

30.4 Determination of Normal Value for Korean Exporters/Producers

30.4.1 No exporter/producer of the investigated product from Korea cooperated with the Commission to provide requisite information. Thus, the Commission is constrained to rely on best information available in accordance with Section 32 and the Schedule to the Ordinance to determine normal value for Korean exporters/ producers.

30.4.2 For the purposes of determination of normal value for Korean exporters/producers of the investigated product, the information provided by the Applicant in application is used. In application, the Applicant has constructed normal value for South Korea as the domestic prices for South Korea is not reasonably available to the Applicant. For raw material costs the Applicant has used locally purchased raw material prices adjusted to C & F level and for imported raw materials C & F price has been taken. For calculation of labor cost labor hours of domestic industry has been multiplied by labor rate per hour applicable in South Korea. Energy consumption of the Applicant is used to calculate energy cost by multiplying it with fuel rates in the South Korea. Lowest profit of the applicant industry during POI has been used to calculate profit in South Korea. The Commission is of the view that it is the best available information for this purpose, as no other information on Korean domestic prices of like product, Korean export prices of the like product for countries other than Pakistan, or Korean producers'

Final Determination and Levy of Definitive Anti-dumping Duty on Import of Formic Acid 85% and above into Pakistan Originating in and/or Exported from the People's Republic of China and Republic of Korea

cost to make and sell of the like product is available with the Commission. Calculation of normal value for non-cooperating exporters has been placed at Annex - V.

31. Determination of Export Price

31.1 The Commission received information on export sales of the investigated product from BASF-YPC in response to the questionnaires sent to various exporters/foreign producers. Export price of investigated product for BASF-YPC in this final determination has been determined on the basis of the information provided by it. Export price for other exporters/foreign producers who did not cooperate with the Commission is determined on the basis of the information obtained from PRAL.

31.2 Determination of Export Price for BASF-YPC, China.

31.2.1 Export price for BASF-YPC is determined on the basis of the information provided by it on its export sales of the investigated product to Pakistan made during POI.

31.2.2 According to the information, BASF-YPC exported Formic Acid in two concentrations, Formic Acid 85% and Formic Acid 94% to Pakistan during POI. It exported like product in 35kg and 240 kg packing. Its total exports of the investigated product to Pakistan during POI were ***MT. Out of ***MT of Formic Acid 85%, Formic Acid 85% - 35 kg was ***MT and Formic Acid 85% - 240 kg was ***MT. Formic Acid 94% - 35 kg was ***MT. Export price is determined separately for each type mentioned above. All export sales to Pakistan, during POI, were made to un-related customers. BASF-YPC sells the investigated product to BASF South East Asia (BASF-SEA) and export it to Pakistan at behalf of BASF-SEA. BASF Chemicals & Polymers, Pakistan acts as indenter of BASF-SEA for Pakistani customers. BASF Chemicals & Polymers, Pakistan and customer negotiate price considering the prevailing market situation. After agreement on price, a performa invoice is issued. The customers proceed with payment by providing a letter of credit (LC) in favor of BASF-SEA. BASF-YPC produces Formic Acid on continuous basis and sells Formic Acid to its customers out of stock. Once the product is ready, BASF-YPC issues invoice to BASF-SEA. BASF-SEA arranges for shipment to Pakistani customers.

31.2.3 During POI, BASF-YPC exported investigated product on CIF basis. To arrive at the ex-factory level, it has reported adjustments on account of credit cost, commission, inland freight, ocean freight, insurance, handling cost – customs, handling cost – other, handling cost – parcel agent fee and VAT refund adjustment on export. The investigating team during on-the-spot investigation noted that there are some other miscellaneous charges against some of the transactions, which were not reported. Export price at ex-factory level for the like product is worked out by deducting values of these adjustments. Calculation of export price of BASF-YPC has been placed at Annex – VI.

31.3 Determination of Export Price for Other Non-cooperating Chinese Exporters.

31.3.1 Export price for exporters from China other than BASF who did not cooperate with the Commission in providing information has been determined on the basis of best information available in accordance with Section 32 of the Ordinance. Information obtained from PRAL is used for the purposes of determination of export price for non-cooperating exporters from China. This is the only information available with the Commission on export sales of the investigated product by the non-cooperating exporters from China.

31.3.2 Values in PRAL's information are reported at C&F level. The C&F export price has been adjusted to the ex-factory level. For this purpose, adjustments on account of credit cost, commission, inland freight, ocean freight, insurance, handling cost – customs, handling cost – other, handling cost – parcel agent fee, VAT adjustment and other miscellaneous charges has been made the on the basis of adjustments used for calculation of export price of BASF. Calculation of export price of Chinese non-cooperating exporters has been placed at Annex – VII.

31.4 Determination of Export Price for Korean Exporters/Producers

31.4.1 No Korean exporter/producer of the investigated product cooperated with the Commission in providing information. Thus, the Commission has relied on best information available and export price for imports of the investigated product from Korea has been determined in accordance with Section 32 and Schedule to the Ordinance. Information obtained from PRAL is used for the purposes of determination of export price for imports of the investigated product from Korea. This is the only information available with the Commission on export sales of the investigated product imported from Korea.

31.4.2 Values in PRAL's information are reported at C&F level. The C&F export price has been adjusted to the ex-factory level. For this purpose, adjustments on account of ocean freight, terminal handling charges, B/L charges and insurance have been made in C&F price. Information submitted by the Applicant on these adjustments has been used for this purpose. Calculation of export price of Korean exporters has been placed at Annex – VIII.

32. Dumping Margin

32.1 The Ordinance defines "dumping margin" in relation to a product as "the amount by which its normal value exceeds its export price". In terms of Section 14(1) of the Ordinance the Commission shall determine an individual dumping margin for each known exporter or producer of an investigated product. However, Section 14(2) provides that if the Commission is satisfied that the number of exporters, producers or importers, or types of products involved is so large as to make it impracticable to determine an individual dumping margin for each known exporter or producer concerned of an

Final Determination and Levy of Definitive Anti-dumping Duty on Import of Formic Acid 85% and above
into Pakistan Originating in and/or Exported from the People's Republic of China and Republic of Korea

investigated product, the Commission may limit its examination to a reasonable number of interested parties or investigated products by using samples which are statistically valid on the basis of information available to the Commission at the time of selection, or to the largest percentage of volume of exports from the country in question which can reasonably be investigated.

32.2 The Commission has investigated all the exporters who cooperated and provided adequate data. Individual dumping margin has been determined for one foreign producer i.e. BASF-YPC and its exporter. However, residual dumping margin for all other exporters, who did not cooperate is determined on the basis of best information available.

32.3 Section 12 of the Ordinance provides three methods for fair comparison of normal value and export price in order to establish dumping margin. The Commission has established dumping margin by comparing weighted average normal value with weighted average export price at ex-factory level.

32.4 The Commission has also complied with the requirements of Section 11 of the Ordinance which states that "the Commission shall, where possible, compare export price and normal value with the same characteristics in terms of level of trade, time of sale, quantities, taxes, physical characteristics, conditions and terms of sale and delivery at the same place".

32.5 Taking into account all requirements set out above, the dumping margins have been determined as follows. Calculations of dumping margin are placed at Annexure - IX:

Table-II
Dumping Margin

Country	Exporter Name	Dumping margin as % of	
		Export price	C & F price
China	BASF-YPC	4.42%	3.48%
	All others	17.13%	13.84%
Korea	All exporters	48.19%	44.10%

33. Negligible Volume of Dumped Imports

33.1 In terms of Section 41(3) (b) of the Ordinance, volume of dumped imports shall normally be regarded as negligible if the volume of dumped imports of an investigated product is found to account for less than 3 percent of total imports of the like product unless imports of the investigated product from all countries under investigation which individually account for less than three percent of the total imports of a like product collectively account for more than seven percent of imports of a like product.

33.2 In this regard, data and information available with the Commission on volume of dumped imports of the investigated product during POI (from October 01, 2009 to September 30, 2010) is given in the table below:

Final Determination and Levy of Definitive Anti-dumping Duty on Import of Formic Acid 85% and above into Pakistan Originating in and/or Exported from the People's Republic of China and Republic of Korea

Table-III
Volume of Imports during POI

Imports from:	Imports in:	
	% of total imports	
Dumped Imports	China	75
	Korea	11
Other sources		14
Grand Total		100

Source: Cooperating exporter & PRAL

33.3 The above table shows that the volume of dumped imports of the investigated product from the Exporting Countries was well above the negligible threshold (less than three percent) for volume of imports of the like product during POI.

C. INJURY TO DOMESTIC INDUSTRY

34. Determination of Injury

34.1 Section 15 of the Ordinance sets out the principles for determination of material injury to the domestic industry in the following words:

“A determination of injury shall be based on an objective examination of all relevant factors by the Commission which may include but shall not be limited to:

- “a. volume of dumped imports;
- “b. effect of dumped imports on prices in domestic market for like products; and
- “c. consequent impact of dumped imports on domestic producers of such products...”

34.2 Section 15 of the Ordinance further provides that:

“ No one or several of the factors identified shall be deemed to necessarily give decisive guidance and the Commission may take into account such other factors as it considers relevant for the determination of injury”.

34.3 The Commission has taken into account all factors in order to determine whether the domestic industry suffered material injury during POI. Material injury to the domestic industry has been analyzed in the following paragraphs in accordance with Part VI of the Ordinance.

Final Determination and Levy of Definitive Anti-dumping Duty on Import of Formic Acid 85% and above
into Pakistan Originating in and/or Exported from the People's Republic of China and Republic of Korea

35. Domestic Industry

35.1 As stated earlier, the domestic industry manufacturing domestic like product consists of the following four units with production of *** MT per annum:

Table-IV
Production of the Domestic Industry

S.No.	Unit Name	Percentage Share in Domestic Production	Status
i.	Tufail Chemical Industries Limited.	73	Applicant/ Supporting
ii.	Farus Combine Marketing (Pvt.) Ltd.	20	Indifferent
iii.	Akbari Chemicals	4	Indifferent
iv.	Raiwind Chemicals	3	Indifferent
v.	Total	100	

* Year/period is from 1st October 2009 to 30th September 2010.

35.3 One of the above-mentioned four units (mentioned at S. No. i) constitutes the "Applicant". Other units that make up the entire domestic industry in Pakistan namely Farus Combine Marketing (Pvt.) Ltd, Akbari Chemicals and Raiwind Chemicals remained indifferent in this investigation. These three units have not responded in any manner including the notice of initiation or to the questionnaires sent subsequently. The information about these three units has been submitted by the Applicant on the basis of reasonably available market information.

35.4 According to the above information, the Applicant produced 73 percent of total domestic production of the domestic like product during the POI for dumping. The Commission's investigation also revealed that neither the Applicant were themselves importers of the investigated product nor were related to the exporters involved in dumping of the investigated product into Pakistan.

35.5 On the basis of the above information and analysis, the Applicant is considered as the "domestic industry" in terms of Section 2(d) of the Ordinance for the purposes of this investigation, as they constitute a major proportion of the total domestic production of the domestic like product.

35.6 The data of units other than Applicant on various injury factors was not available. The analysis of injury factors other than production, sales and market share carried out in this final determination in the following paragraphs is, therefore, based on the Applicant's information. Any inference derived in this regard from the data of the Applicant would apply to the entire domestic industry.

36. Volume of Dumped Imports**Facts**

36.1 With regard to the volume of dumped imports, in terms of Section 15(2) of the Ordinance, the Commission considered whether there has been a significant increase in dumped imports, either in absolute terms or relative to the production of the domestic like product by the domestic industry during POI.

36.2 In order to ascertain the volume of dumped imports of the investigated product and production of the domestic like product, information submitted by the Applicant, exporters/ foreign producers and obtained from PRAL has been used. The following table shows imports of the like product during the years 2007-08, 2008-09, and 2009-10 (POI for injury) for the aforementioned years:

Table-V
Volume of dumped imports

Year	Imports from dumped sources	Imports from other Countries	Total Imports
Oct 2007 - Sep 2008	73	27	100
Oct 2008 - Sep 2009	53	8	61
Oct 2009 - Sep 2010	73	12	85

Source: Cooperating exporter and PRAL

Note: The actual figures have been indexed w.r.t. total imports of investigated product for Oct 2007 – Sep 2008.

Analysis

36.3 The above data shows that the total imports reduced by 36% in the year 2008-09 as compared to 2007-08 but again increased by 39% in the year 2009-10 as compared to previous year 2008-09. Dumped imports followed the same pattern and reduced by 27% in 2008-09 as compared to 2007-08 but increased by 36% in 2009-10 as compared to 2008-09. There is significant increase in dumped imports as compared to 2008-09. The volume of dumped imports in 2009-10 has decreased as compared to 2007-08.

36.4 The changes in dumped imports relative to domestic production and relative to domestic consumption are given in the table below:

Table-VI
Increase in volume of dumped imports

Year	Dumped Imports	Other Imports	Total Imports	Domestic Production	Domestic Consumption	Dumped imports as % of Domestic Production	Dumped imports as % of Domestic Consumption
Oct 2007 - Sep 2008	100.00	36.55	136.55	148.88	263.91	67	38
Oct 2008 - Sep 2009	72.82	10.45	83.27	113.80	176.90	64	41
Oct 2009 - Sep 2010	99.29	16.49	115.78	95.82	200.18	104	50

Source: Applicant, PRAL and Cooperating exporters. Note: The actual figures have been indexed w.r.t. dumped imports of investigated product for Oct 2007 – Sep 2008.

36.5 The above table shows that dumped imports as percent of domestic consumption remained between 38% to 50% during POI. Dumped imports relative to domestic production decreased from 67% in 2007-08 to 64% in 2008-09 but increased from 64% to 104% in 2009-10. It follows from this that the dumped imports followed the pattern of changes in demand; however, the intensity was significantly lower than the sales volume of domestic industry and other imports. Contrary to this domestic production could not follow the pattern of changes in demand. Consequently volume of dumped imports increased significantly relative to domestic production and domestic consumption thereby causing material injury to domestic industry.

Conclusion

36.6 On the basis of the above analysis, the Commission has concluded that the dumped imports increased relative to domestic production and domestic consumption during POI.

37. Price Effects

37.1 The effect of dumped imports on the sales price of domestic like product in the domestic market has been examined to establish whether there has been significant price undercutting (the extent to which the price of the imported product is lower than the price of the Applicant industry), price depression (the extent to which the Applicant industry experiences a decrease in its selling prices over time), and price suppression (the extent to which increases in the cost of production cannot be recovered in selling price).

37.2 Price undercutting

37.2.1 Facts

Weighted average ex-factory price of the domestic like product has been calculated from the information submitted by the Applicant on quantity and value of sales during POI. Landed cost of the

Final Determination and Levy of Definitive Anti-dumping Duty on Import of Formic Acid 85% and above into Pakistan Originating in and/or Exported from the People's Republic of China and Republic of Korea

dumped source/dumped investigated product has been calculated from the information obtained from PRAL and cooperating exporter/foreign producer. Calculations of landed cost of the investigated product are placed at Annexure X. Comparison of weighted average ex-factory price of the domestic like product with the weighted average landed cost of the investigated product during POI is given in following table:

Table-VII
Price Undercutting

Period	Weighted Average ex-factory price of domestic like Product	Weighted Average landed cost of investigated product	Price under-cutting	
			Absolute terms	Percentage
Oct 2007 – Sep 2008	100.00	106.56	-	-
Oct 2008 – Sep 2009	112.68	134.41	-	-
Oct 2009 – Sep 2010	124.71	117.99	6.72	5.39%

Source: Applicant and PRAL Note: The actual figures have been indexed w.r.t weighted average ex-factory price of domestic like product for Oct 2007 – Sep 2008.

Analysis

37.2.2 It appears from the above table that the landed cost of the investigated product was higher than the average ex-factory price of the domestic like product by Rs.***/MT in Oct 2007 – Sep 2008 and by Rs. ***/MT in the period Oct 2008 – Sep 2009. However, landed cost of the investigated product was lower than the average ex-factory price of domestic like product by Rs. ***/MT in the period Oct 2009 – Sep 2010. Thus there was price undercutting @ 5.39% of average ex-factory price of domestic like product during the POI.

Conclusion

37.2.3 On the basis of the above, the Commission has concluded that the domestic industry suffered injury on account of price undercutting during the POI.

37.3 Price Depression

Facts

37.3.1 The weighted average ex-factory price of the domestic like product during POI is given in the table below:

Final Determination and Levy of Definitive Anti-dumping Duty on Import of Formic Acid 85% and above into Pakistan Originating in and/or Exported from the People's Republic of China and Republic of Korea

Table-VIII
Price Depression

Year/Period	Domestic price	Price depression
Oct 2007 – Sep 2008	100.00	-
Oct 2008 – Sep 2009	112.68	-
Oct 2009 – Sep 2010	124.71	-

Source: Applicant Note: The actual figures have been indexed w.r.t. domestic price of domestic like product for Oct 2007 – Sep 2008.

Analysis

37.3.2 The weighted average ex-factory price of domestic like product increased from Rs. ***/MT to Rs. ***/MT and to Rs. ***/MT in Oct 2007 – Sep 2008, Oct 2008 – Sep 2009 and Oct 2009 – Sep 2010 respectively.

Conclusion

37.3.3 The Commission has concluded on the basis of the above analysis that the domestic industry did not experience any price depression throughout the POI.

37.4 Price Suppression

Facts

37.4.1 The following table shows the weighted average cost of production ("COP") and the weighted average ex-factory sales price of the domestic like product during the POI:

Table-IX
Price Suppression

Period	Cost to make & sell	Ex-factory price	Increase/(decrease) in:		Price Suppression %
			Cost to make & sell	Price	
Oct 2007– Sep 2008	100.00	105.59			
Oct 2008 – Sep 2009	105.54	118.98	5.54	13.39	
Oct 2009 – Sep 2010	127.16	131.69	21.62	12.71	8.92

Source: Applicant Note: The actual figures have been indexed w.r.t cost to make & sell of domestic like product for Oct 2007 – Sep 2008.

Analysis

37.4.2 The above table shows that the weighted average COP of domestic like product increased by Rs. ***/ MT, an increase of 5.54 percent in Oct 2008 – Sep 2009 vis-à-vis previous year's COP. It further increased by ***/MT, an increase of 20.50 percent in Oct 2009 – Sep 2010 over Oct 2008 – Sep 2009.

Final Determination and Levy of Definitive Anti-dumping Duty on Import of Formic Acid 85% and above into Pakistan Originating in and/or Exported from the People's Republic of China and Republic of Korea

37.4.3 The weighted average ex-factory price of the domestic like product also increased by Rs.***/MT, an increase of 12.68 percent during Oct 2008 – Sep 2009 and in Oct 2009 – Sep 2010 the price then further increased by Rs.***/MT an increase of 10.68 percent over the last year.

Conclusion

37.4.4 On the basis of the above analysis, the Commission has concluded that the domestic industry suffered injury on account of price suppression during the POI due to dumped imports.

38. Effects on Market Share

Facts

38.1 During the POI, domestic demand for FA in Pakistan was met through sales by the domestic industry and by imports. The domestic consumption of FA is ascertained by combining the domestic industry's sales and total imports, and this is referred to here as the total domestic market. The Applicant supplied information on total sales of the domestic like product in domestic market. Information on imports of FA was obtained from PRAL. The total domestic market of FA during POI is given in following table:

Table -X
Market Share

Year	Quantity sold by Applicant	Quantity sold by other units	Total sales of Domestic Industry	Imports from Dumped Sources	Imports from other countries	Total Imports	Total domestic market
Oct 2007 – Sep 2008	35	13	48	38	14	52	100
Oct 2008 – Sep 2009	26	10	36	28	4	32	67
Oct 2009 – Sep 2010	22	10	32	38	6	44	76

Source: Applicant, PRAL and cooperating exporter Note: The actual figures have been indexed w.r.t total domestic market for Oct 2007 – Sep 2008.

Analysis

38.2 The above table shows that the total domestic market of FA decreased by 33% during Oct 2008 – Sep 2009 over Oct 2007 – Sep 2008 and increased by 13% during Oct 2009 – Sep 2010 over Oct 2008 – Sep 2009. Market share of dumped imports of the investigated product increased from 38 percent to 41 percent in year 2008-09 and to 50 percent in year 2009-10.

38.3 The above table also shows that the market share of domestic industry increased from 48% in Oct 2007 – Sep 2008 to 53% in Oct 2008 – Sep 2009 and then decreased to 42% during Oct 2009 – Sep 2010. Market share of dumped imports increased from 38% in Oct 2007 – Sep 2008 to 41% in Oct 2008 – Sep 2009 and to 50% in Oct 2009 – Sep 2010.

Final Determination and Levy of Definitive Anti-dumping Duty on Import of Formic Acid 85% and above into Pakistan Originating in and/or Exported from the People's Republic of China and Republic of Korea

Conclusion

38.4 On the basis of the above analysis, the Commission has concluded that the domestic industry suffered a significant loss of 11% of market share in Oct 2009 – Sep 2010 over Oct 2008 – Sep 2009. It is therefore, concluded that the domestic industry suffered loss in market share mainly due to imports from BASF, China.

39. Effects on Sales

Facts

39.1 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:

Table -XI
Sales of the Domestic Like Product

Period	Sales by domestic industry	Increase/(decrease) in sales
Oct 2007 – Sep 2008	100.00	-
Oct 2008 – Sep 2009	73.50	(26.50)
Oct 2009 – Sep 2010	66.27	(7.23)

Source: Applicant Note: The actual figures have been indexed w.r.t
Sales by domestic industry for Oct 2007 – Sep 2008.

Analysis

39.2 The above table shows that the sales of the domestic like product by the domestic industry decreased by 36.05 percent in the year 2008-09 over the sales during the year 2007-08 and further decreased by 9.83 percent in the year 2009-10 over the sales during the year 2008-09.

Conclusion

39.3 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 during POI, and suffered material injury on this account.

40. Effects on Production and Capacity Utilization

Facts

40.1 The installed production capacity of the Applicant to produce domestic like product is ***MT per annum. The quantity produced and the capacity utilized during the POI is given in the table below:

Final Determination and Levy of Definitive Anti-dumping Duty on Import of Formic Acid 85% and above into Pakistan Originating in and/or Exported from the People's Republic of China and Republic of Korea

Table-XII
Production and Capacity Utilization

	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

40.2 The above table shows that the production of domestic like product decreased throughout the POI and the capacity utilization level decreased from 93.20% in Oct 2007 – Sep 2008 to 69.30% in Oct 2008 – Sep 2009. Capacity utilization further decreased to 55.37% during the POI for dumping.

Conclusion

40.3 On the basis of the above analysis, the Commission has concluded that the domestic industry has suffered injury on account of capacity utilization.

41. Effects on Inventories

Facts

41.1 The Applicant provided data relating to accumulation of inventories during the POI. The data for opening and closing inventories for the domestic like product is given in the table below:

Table-XIII
Inventories of Domestic Like Product

Year	Opening Inventory	Production	Sales + Internal Consumption	Closing inventory
Oct 2007 – Sep 2008	1.38	100.00	99.46	1.92
Oct 2008 – Sep 2009	1.92	76.50	74.79	3.63
Oct 2009 – Sep 2010	3.63	61.13	60.87	3.89

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

Analysis

41.2 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

41.3 The Commission has concluded that the domestic industry suffered material injury on account of increase in inventories during the POI.

Final Determination and Levy of Definitive Anti-dumping Duty on Import of Formic Acid 85% and above into Pakistan Originating in and/or Exported from the People's Republic of China and Republic of Korea

42. Effects on Profits/Loss

Facts

42.1 The table below shows the profit and loss figures on the manufacture of FA by the Applicant for the POI:

**Table -XIV
Profit/(Loss)**

Year	Profit/(Loss)
Oct 2007 – Sep 2008	100.00
Oct 2008 – Sep 2009	62.01
Oct 2009 – Sep 2010	50.77

Source: Applicant Note: The actual figures have been indexed w.r.t Profit/(loss) for Oct 2007 – Sep 2008.

Analysis

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

Conclusion

42.3 On the basis of available facts, the Commission has concluded that the Applicant suffered material injury on account of decline in profit in Oct 2008 – Sep 2009 and Oct 2009 – Sep 2010.

43. Effects on Cash Flow

Facts

43.1 The system of applicant does not permit separation of cash flows for investigated product and other products. Besides there was no data adjusted for the POI. Therefore, the cash flows have been prepared from the audited accounts for last three years in the table below:

**Table -XV
Cash Flow Position**

Year	Cash Flow from operations
Oct 2007 – Sep 2008	-143.48
Oct 2008 – Sep 2009	100.00
Oct 2009 – Sep 2010	-1800.00

Source: Applicant Note: The actual figures have been indexed w.r.t cash flow from operations for Oct 2007 – Sep 2008.

Analysis

43.2 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 investigated product 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 injury to domestic industry on account of cash flows due to dumped imports of investigated product during POI.

Conclusion

43.3 On the basis of the above, the Commission cannot conclude that the Applicant has suffered material injury on account of cash flow during the POI.

44. Effects on Employment, Productivity and Salaries & Wages**Facts**

44.1 Following is the information regarding employment, productivity and wages as given below in the table:

Table -XVI
Employment, Productivity and Salaries & Wages

	Number of Employees	Wages	Production	Productivity per worker	Salaries & Wages Per MT
Oct 2007 – Sep 2008	100	100	100	100	100
Oct 2008 – Sep 2009	108	118	77	72	154
Oct 2009 – Sep 2010	96	111	61	64	181

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 Oct 2007 – Sep 2008.

Analysis

44.2 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.*** to Rs.*** and then reduced to Rs.***/MT. Productivity of the employees declined during the POI.

Conclusion

44.4 The domestic industry suffered on account of productivity, number of employees and salaries and wages per MT during Oct 2009 – Sep 2010 as compared to Oct 2008 – Sep 2009.

Final Determination and Levy of Definitive Anti-dumping Duty on Import of Formic Acid 85% and above into Pakistan Originating in and/or Exported from the People's Republic of China and Republic of Korea

45. Effects on Return on Investment

Facts

Table -XVII
Investment and Return on Investment

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

Source: Applicant

Analysis

45.2 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

45.3 On the basis of the above, the Commission cannot conclude that the Applicant suffered material injury on account of return on investment during the POI.

46. Effects on Growth in assets

Facts

Table-XVIII
Growth in assets

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

Source: Applicant

Analysis

46.1 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 manufacturing of sulphonic acid and it was able to raise funds for new project. The company group also installed a new plant for

Final Determination and Levy of Definitive Anti-dumping Duty on Import of Formic Acid 85% and above into Pakistan Originating in and/or Exported from the People's Republic of China and Republic of Korea

manufacturing 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

46.2 On the basis of above facts, it is concluded that the Applicant may not have suffered material injury on account of growth.

47. Summing up of Material Injury

47.1 The analysis in the preceding paragraphs shows that:

- i) there was a significant increase in volume of dumped imports and relative to domestic production and consumption in the year 2009-10.
- ii) there was a significant price undercutting and price suppression in the last year of POI for injury.

47.2 The domestic industry suffered material injury on account of:-

- i. Increase in volume of dumped imports;
- ii. price undercutting;
- iii. price suppression;
- iv. loss in market share;
- v. negative effect on sales;
- vi. negative effect on production & capacity utilization;
- vii. negative effect on inventories;
- viii. decline in profit; and
- ix. negative effect on productivity, no. of employees and salaries & wages/MT

47.3 During POI, dumped imports of the investigated product increased while production of the domestic like product decreased.

47.4 The Domestic industry was not able to increase its prices of the domestic like product to a level where it could accommodate the rising cost to make and sell during POI. Therefore, it suffered on account of price undercutting, price suppression and resultantly profit declined.

47.5 The domestic industry lost its sales and market share during POI. Although there was an expansion in demand and market size of FA during 2009-10. However, the domestic industry was not

Final Determination and Levy of Definitive Anti-dumping Duty on Import of Formic Acid 85% and above into Pakistan Originating in and/or Exported from the People's Republic of China and Republic of Korea

able to increase its sales and maintain its market share. Imports of the investigated product increased sharply while sales by the domestic industry declined.

47.6 Production of the domestic like product decreased during POI, consequently, employment in the domestic industry also declined.

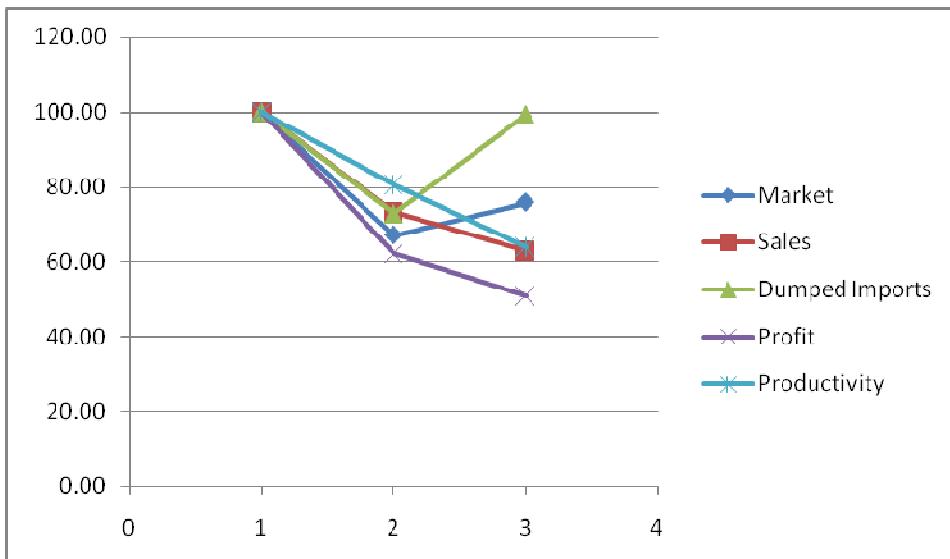
47.7 It is, therefore, concluded that the domestic industry suffered material injury due to dumped imports of the investigated product as evident, *inter alia*, from reduced market share and sales, price undercutting, price suppression, decline in capacity utilization, falling employment, and increased losses/reduced profits etc during the POI.

D. CAUSATION

48. Effects of Dumped Imports

48.1 The market of FA decreased by 33% in 2008-09 as compared to 2007-08. The domestic industry and dumped imports were sharing the loss in market in equal proportion by 27%. Therefore, any loss sustained by the domestic industry during 2008-09 was compared to 2007-08 was because of the reduced market share. However, in 2009-10 a recovery in market of FA was seen in which the market increased by 13%. In this period the increase in dumped imports was 36% while domestic industry's sales were further reduced by 10% in 2009-10 as compared to 2008-09. This reduction in volume of sales by the applicant was by 14%. Thus the domestic industry's sales volume was affected by the dumped imports. The following graph reflects the causal link between dumped imports and injury to domestic industry.

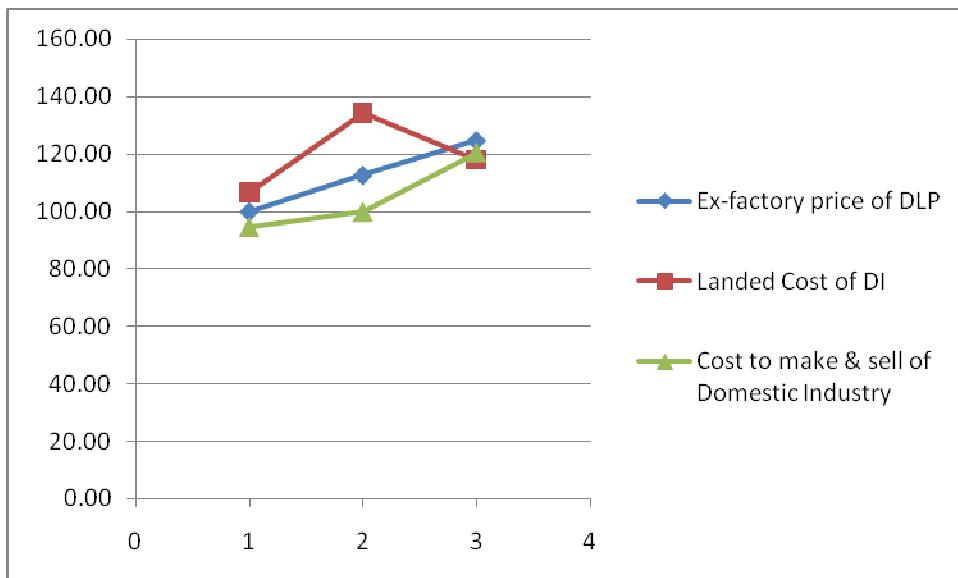
Figure – I
Impact on volume of dumped imports



Final Determination and Levy of Definitive Anti-dumping Duty on Import of Formic Acid 85% and above into Pakistan Originating in and/or Exported from the People's Republic of China and Republic of Korea

48.2 From paragraph 37 above, it may also be observed that the prices of domestic industry were undercut as well as suppressed during 2009-10 as a result of dumping. The following graph reflects the prices of domestic industry, prices of dumped imports and the cost of domestic industry to reflect the price effect.

Figure – II
Impact of dumped imports on prices



48.3 On the basis of the analysis and conclusions, the Commission has concluded that there was a causal link between dumped imports of the investigated product and material injury suffered by the domestic industry. The investigation revealed that the following happened simultaneously during POI:

- i. volume of dumped imports of the investigated product increased significantly while production and sales of the domestic like product decreased;
- ii. The domestic industry experienced price undercutting and price suppression because of lower landed cost of the dumped investigated product;
- iii. domestic industry lost significant market share while market share of investigated product increased significantly;
- iv. profits of the domestic industry declined during POI; and
- v. domestic industry faced decrease in employment during POI.

Final Determination and Levy of Definitive Anti-dumping Duty on Import of Formic Acid 85% and above
into Pakistan Originating in and/or Exported from the People's Republic of China and Republic of Korea

49. Other Factors

49.1 In accordance with Section 18(2) of the Ordinance, the Commission also examined factors, other than dumped imports of the investigated product, which could at the same time cause injury to the domestic industry, in order to ensure that possible injury caused by other factors is not attributed to the dumped imports.

49.2 As noted earlier, the demand of the investigated product shrunk during 2008-09 however in 2009-10 it recovered by 13% but demand was still lower than 2007-08 level. Imports from dumped sources as percentage of total domestic market increased when total domestic market was on decline. This shows that during 2008-09, dumped imports were major cause of injury to domestic industry.

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

- i) The volume of imports from sources other than Exporting Countries was 27%, 12.5% and 14% of total imports during 2007-08, 2008-09 and 2009-10 respectively. The Commission holds that volume of imports other than Exporting Countries did not cause material injury to domestic industry due to low volume of imports.
- ii) Following table shows prices of domestic like product, landed cost of investigated product and landed cost of imports from other countries of the investigated product and other imports (like product) during POI of injury :

Table -XIX
Volume and C&F Prices of Imported FA

	Price of domestic like product	Landed cost of investigated product	Landed cost of imports from other countries
Oct 2007 – Sep 2008	100.00	106.56	106.43
Oct 2008 – Sep 2009	112.68	134.41	139.87
Oct 2009 – Sep 2010	124.72	117.99	109.22

Source: PRAL and Cooperating Exporter. Note: The actual figures have been indexed w.r.t price of domestic like product for Oct 2007 – Sep 2008.

- iii) It may be noted from the table above that lower price of imports from other countries may have caused injury to domestic industry but its impact is negligible due to low volume of imports;
- iv) Change in demand for FA is reflected in the Table-X;

Final Determination and Levy of Definitive Anti-dumping Duty on Import of Formic Acid 85% and above into Pakistan Originating in and/or Exported from the People's Republic of China and Republic of Korea

- v) There was no change in trade restrictive practices and competition between foreign producers and domestic producers; and
- vi) There has been no considerable change in technology.
- vii) There was no change in export performance of domestic industry

E. CONCLUSIONS

50. The conclusions, after taking into account all considerations for this final determination, are as follows:

- i. the application was filed on behalf of domestic industry as the Applicant represent major proportion of the production of domestic like product;
- ii. the investigated product and the domestic like product are alike products;
- iii. during POI, the investigated product was exported to Pakistan by the exporters/foreign producers from China and Korea at prices below their normal value;
- iv. the volume of dumped imports of the investigated product and the dumping margins established for the Chinese and Korean exporters/producers of the investigated product were above the negligible and *de minimis* levels;
- v. the dumping margins expressed as a percentage of weighted average adjusted export price at ex-factory level is ranging between 3.48 percent to 44.10 percent for exporters/foreign producers from China and Korea;
- vi. the domestic industry suffered material injury during POI on account of volume of dumped imports; price undercutting; price suppression; decline in market share; sales; production & capacity utilization; inventories; profit; productivity, no. of employees and salaries & wages/MT in terms of Section 15 and 17 of the Ordinance; and
- vii. there was a causal relationship between dumped imports of the investigated product and the material injury suffered by the domestic industry therefrom.

Final Determination and Levy of Definitive Anti-dumping Duty on Import of Formic Acid 85% and above into Pakistan Originating in and/or Exported from the People's Republic of China and Republic of Korea

F. IMPOSITION OF DEFINITIVE ANTIDUMPING DUTY

51. In view of the analysis and conclusions with regard to dumping, material injury, and causation, the Commission is required to impose antidumping duty on dumped imports of the investigated product equal to dumping margin under Section 50 of the Ordinance.

52. Individual dumping margin has been determined for the BASF-YPG, China who supplied information necessary for the purposes of this investigation and rate of definitive antidumping duty for the above said exporter is determined on the basis of its individual dumping margin.

53. A residual dumping margin and antidumping duty rate for all other exporters from China and Korea, who did not cooperate, is determined on the basis of best available information in terms of Section 32 of the Ordinance.

54. In terms of Section 50 of the Ordinance, definitive antidumping duty at the rate of 3.48 percent to 44.10 percent *ad valorem* is hereby imposed on dumped imports of the investigated product importable from China and Korea for a period of five years effective from February 10, 2012. The definitive antidumping duty rate is determined on C&F value in *ad val.* terms. The definitive antidumping duty at C&F value is equivalent to the dumping margins determined. The dumped investigated product is classified under PCT heading No. 2915.1100:

Exporting Countries	Anti-dumping Duty Rate
China	
i) BASF-YPG	3.48%
ii) All Others Rate	13.84%
South Korea	44.10%

55. FA imported from sources, other than China and Korea shall not be subject to these definitive antidumping duties. However, the Commission has imposed antidumping duties on dumped imports of FA 85% imported from Finland and Germany with effect from March 09, 2006. Those antidumping duties would remain in force as per the rates announced by the Commission in its notice ADC No. 09/2005/NTC/FA, published in the Official Gazette and national press on July 07, 2006.

56. In accordance with Section 51 of the Ordinance, the definitive antidumping duty shall take the form of *ad valorem* duty and be held in a non-lapsable personal ledger account established and maintained by the Commission for the purpose.

57. Definitive antidumping duty levied would be in addition to other taxes and duties leviable on import of the investigated product under any other law.

Final Determination and Levy of Definitive Anti-dumping Duty on Import of Formic Acid 85% and above
into Pakistan Originating in and/or Exported from the People's Republic of China and Republic of Korea

58. The definitive antidumping duties would be collected in the same manner as customs duty is collected under the Customs Act, 1969 (IV of 1969) and would be deposited in Commission's Non-lapsable PLD account No. 187 with Federal Treasury Office, Islamabad.

(Mr. Niamatullah Khan)
Member
February 08, 2012

(Zamir Ahmed)
Member
February 08, 2012

(Prince Abbas Khan)
Chairman
February 08, 2012

Final Determination and Levy of Definitive Anti-dumping Duty on Import of Formic Acid 85% and above
into Pakistan Originating in and/or Exported from the People's Republic of China and Republic of Korea

Annex - I

List of exporters/foreign producers

1.	BASF-YPC Co. Ltd.
2.	HEBEI HEISHI CHEMICALS CO.,LTD.
3.	M/S HENAN SINCHEMS IMP AND EXP CO LTD
4.	M/S.QINHUANGDAO KAIMEI CHEMICAL CO LTD
5.	MIANYANG AOSTAR PHOSPHORUS CHEMICAL
6.	MUDANJIANG FENGDA CHEMICALS IMP & EXP CORP.
7.	OCI CORPORATION
8.	SHIJIAZHUANG YIJINHANG CHEMICALS CO.,LTD
9.	ZHENG ZHOU P AND B CHEMICAL CO.,LTD.
10.	INTERM CORPORATION.
11.	ENTRO CORPORATION
12.	SHANDONG ACID IMPORT AND EXPORT CO LTD
13.	INTERM CORPORATION.

Annex - II**Comments and response on preliminary determination****Column A (Views/Comments of interested Parties)****Column B (Commission's Response)**

In accordance with sub-para 18.2.4, to arrive at ex-factory domestic sales price, BASF has claimed adjustments for preliminary determination on account of commission, ocean freight, credit cost and insurance. The Commission has accepted these adjustments and the normal value at ex-factory level for the like product is worked out by deducting values of these adjustments.

Usually, adjustments for ocean freight and insurance relate to export sales and not to domestic sales. If really this has been done by the Commission, then determination of negative dumping margin for BASF, China is obvious, as ocean freight in most of the cases works out many fold higher than the inland freight, which actually should have been deducted from the domestic sales price. Similarly insurance expenses are not usually involved in domestic sales.

In addition to above, the major omission appears to be non-existence of any adjustment on account of difference in packing cost. As given in its questionnaire response BASF, China also sells Formic Acid 85% and above (FA) in bulk and large packaging (240 Kg, 250 Kg, 1200 Kg) in addition to 35 Kg which is usually used for export purposes. In case of sale of FA, cost of packaging in bulk sales and large packing on the average (on per Metric Ton basis) is much lesser than the cost of packaging in 35 Kg pack. The Commission should not have ignored adjustment on this account. Since adjustment on this account is not mentioned by the Commission, ignoring this fact may be another major reason for arriving at negative dumping margin for BASF, China in the preliminary determination. The Commission should have accounted for this adjustment and also disclosed this fact which is not apparent from adjustment details given in the preliminary determination report.

While determining below cost sales, upward adjustment of cost of sales on account of difference in packaging cost also does not appear to have been made in this case.

The Commission has taken into account the adjustments claimed by BASF-YPG after verifying the same during on-the-spot investigation conducted at the premises of exporter/foreign producer. The adjustment on account of ocean freight and insurance relates to mode of transportation and terms & condition of sales of goods instead of destination of goods.

The adjustment on account of difference in packing cost has been taken into account. Like to like comparison, which takes into account the difference in packing cost, has been made in this final determination.

Final Determination and Levy of Definitive Anti-dumping Duty on Import of Formic Acid 85% and above
into Pakistan Originating in and/or Exported from the People's Republic of China and Republic of Korea

Comments of BASF-YPC, China

"According to the Table-IX the weighted average cost to make and sell, which are regularly the cost of production plus administrative, selling and general costs amounted to 127 whilst the ex-works price was of 132. This means that the petitioner achieved a margin of 5% in the period of investigation (hereinafter POI) which is comparable with the two years before (accordingly 6% in 2007/2008 and 4% in 2008/2009). The conclusion would have been that the petitioner increased its margin from 4 percent points to 5 percent points. Therefore, we cannot comprehend the statement that the petitioner suffered an injury due to the price suppression."

The Commission calculates price suppression by deducting increase in cost to make and sell from increase in price as compared to previous year.

Annex - III**Comments and response on Statement of Essential Facts (SEF)****Column A (Views/comments of interested parties)****Column B (Commission's response)****Comments from the Applicant**

"... it has been mentioned that BASF-YPC claimed adjustments on account of commission, credit, insurance, and ocean freight and the Commission has accepted these adjustments to arrive at normal value at ex-factory level. Usually for domestic sales or for determining normal value expenses on account of insurance and ocean freight are not involved. Before allowing adjustments on this account the Commission is requested to ensure that whether transit through ocean was involved in domestic sales."

"... At the time of preliminary determination, we considered that, probably due to exclusion of imports of BASF, China landed cost of dumped imports was increased resulting in negative price undercutting (since there was no change in ex-factory price of domestic industry after on-the-spot investigation). Analysis of volume of dumped imports (given in table I and table II of SEF) shows that now it includes volume of import of BASF China. Therefore, average landed cost of dumped imports should also have included the impact of landed cost of imports from BASF China but the average landed cost appearing in the SEF is same as was appearing in the preliminary determination report. After inclusion of imports from BASF China, landed cost of dumped imports should have decreased resulting in positive price undercutting (as was appearing in domestic industry application). Therefore, we request the Commission to kindly consider the impact of BASF China imports on the average landed cost of dumped imports."

The Commission has accepted the adjustments claimed by BASF-YPC after verification.

The Commission has determined the landed cost on the basis of imports determined as dumped in this final determination.

Final Determination and Levy of Definitive Anti-dumping Duty on Import of Formic Acid 85% and above
into Pakistan Originating in and/or Exported from the People's Republic of China and Republic of Korea

Annex-IV
Summary Calculations of Normal Value for BASF-YPC
(Omitted as it contained confidential information)

Annex-V
Summary Calculations of Normal Value for Korean exporters
(Omitted as it contained confidential information)

Annex-VI
Summary Calculations of Export Price for BASF-YPC
(Omitted as it contained confidential information)

Annex-VII
Summary Calculations of Export Price for Chinese Exporters
(Omitted as it contained confidential information)

Annex-VIII
Summary Calculations of Export Price for Korean Exporters
(Omitted as it contained confidential information)

Annex-IX
Summary Calculations of Dumping Margin of Exporters/Foreign Producers
(Omitted as it contained confidential information)

Annex-IX
Summary Calculations of Landed Cost of Investigated Product
(Omitted as it contained confidential information)