



**Government of Pakistan
National Tariff Commission**

REPORT

ON

**PRELIMINARY DETERMINATION ON IMPORT OF FORMIC ACID 85% AND
ABOVE ORIGINATING IN AND/OR EXPORTED FROM PEOPLE'S REPUBLIC OF
CHINA AND REPUBLIC OF KOREA**

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

August 20, 2011

The National Tariff Commission (the Commission) having regard to the Anti-Dumping Duties Ordinance, 2000 (LXV of 2000) (the Ordinance) and the Anti-Dumping Duties Rules, 2001 (the Rules) relating to investigation and determination of dumping of goods into the Islamic Republic of Pakistan (Pakistan), material injury to the domestic industry caused by such imports, and imposition of antidumping 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 (Agreement on Antidumping) has conducted an investigation and made a preliminary determination under the above mentioned Ordinance and Rules.

A. PROCEDURE

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

1. Receipt of Application

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 85% and above produced in the People's Republic of China (China) and the Republic of Korea (Korea) (Exporting Countries) is exported to Pakistan at dumped prices. 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.

2. Evaluation and Examination of the Application

2.1 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 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.

2.2 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.

2.3 The Domestic industry manufacturing FA consists of four units. Following are the details of domestic industry's capacity and production during the Period of Investigation (POI) Oct 2009 – Sep 2010 with regard to standing of this antidumping application:

(MT)

Name of the Unit	Percentage Share in Domestic Production	Status
Tufail Chemical Industries Limited.	69	Applicant/ Supporting
Farus Combine Marketing (Pvt.) Ltd	22	Indifferent
Akbari Chemicals	5	Indifferent
Raiwind Chemicals	4	Indifferent
Total	100	

2.4 It may be noted from the above table that the Applicant is the major domestic producer of FA in Pakistan representing 69 percent of total domestic production, whereas, the other unit represents 30.64 percent (estimated) of domestic production. The application has been filed by the Applicant, 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.

2.5 The application also fulfilled the requirements of Section 24 (2) of the Ordinance, as the domestic producers expressly supporting this application account for 69 percent of total production of the domestic product produced by domestic industry.

3. Foreign Exporters of the FA

The Applicant identified below listed exporters/producers involved in alleged dumping of FA. Upon initiation of investigation, copy of the notice of initiation was sent to all the exporters/foreign producers on February 23, 2011.

- i. BASF South East Asia PTE Ltd., China
- ii. Hebei Heishi Chemicals Co. Ltd., China
- iii. Henan Sinchems Import and Export Co. Ltd., China
- iv. Qinhuangda O Kaimei Chemical Co. Ltd., China
- v. Mianyang Aoster Phosphorus Chemical, China
- vi. Mudanjiang Fengda Chemicals Import and Export Corp., China
- vii. OCI Corporation, China
- viii. Shandong Acid Import and Export Co. Ltd., China
- ix. Shijiazhuang Yijinhang Chemicals Co. Ltd., China
- x. Zheng Zhou P and B Chemical Co. Ltd., China
- xi. Interm Corporation, China
- xii. Interm Corporation, Korea
- xiii. Entro Corporation, Korea

4. 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 there from:

- 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) price undercutting
 - b) price suppression
 - c) price depression
 - d) negative effect on salaries and wages
 - e) negative effect on productivity per worker
 - f) negative effect on capacity utilization
 - g) negative effect on return on investment
 - h) negative effect on profitability
 - i) negative effect on cash flows
 - j) ability to raise investment
 - k) number of employees
 - l) negative effect on growth
 - m) negative effect on market share
 - n) negative effect on inventories

5. Initiation of Investigation

5.1 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. Consequently, 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 newspaper² 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).

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

² The 'Nawai waqt' 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.

5.2 The Commission notified the Embassies of Exporting Countries in Pakistan by sending a copy of the Notice of Initiation on February 23, 2011. Copies of Notice of Initiation were also sent to exporters/ foreign producers, the known Pakistani importers, and the Applicant on February 23, 2011, in accordance with the requirements of Section 27 of the Ordinance.

5.3 In accordance with Section 28 of the Ordinance, on February 24, 2011, the Commission also sent copies of full text of the written application (non-confidential version) to the Embassies of Exporting Countries in Pakistan.

6 **Information/Data Gathering**

6.1 The Commission sent questionnaires on February 24, 2011 to eleven exporters/foreign producers from the Exporting Countries (paragraph 3) whose complete addresses were available, and asked to respond within 37 days of the dispatch of the questionnaires i.e. by April 07, 2011. Questionnaire was also provided to the Embassies of the Exporting Countries in Islamabad with a request to forward it to all exporters/foreign producers of the investigated product based in their respective countries in order to submit information to the Commission.

6.2 The Commission has an access to the import statistics of Pakistan Revenue Automation Limited (PRAL), the data processing arm of the Federal Board of Revenue, Government of Pakistan. For the purpose of this preliminary determination the Commission has also used import data obtained from PRAL's database in addition to the information provided by the Applicants, importers and exporters/foreign producers from the Exporting Countries.

6.3 Thus the Commission has sought, from all available sources, relevant data and information deemed necessary for the purposes of this preliminary determination. In terms of Rule 12 of the Rules, during the course of this investigation, the Commission is required to satisfy itself as to the accuracy of information supplied by the interested parties to the extent possible. Accordingly the Commission conducted an on the spot investigation on the premises of the applicant from 06-08 July, 2011. The report has been sent to the applicant for comments. The data supplied by the exporter has been accepted. The verification visit would be made after this preliminary determination.

7. **Public File**

The Commission, in accordance with Rule 7 of the Rules, has established and maintained a public file at its offices. This file remains available to the interested parties for review and copying from Monday to Thursday between 11:00 hours to 13:00 hours throughout the investigation. This file contains non-confidential versions of the application, submissions, notices, correspondence, and other documents for disclosure to the interested parties.

8. **Confidentiality**

In terms of Section 31 of the Ordinance, any information, which is marked confidential by the interested parties in their submissions and considered confidential by the Commission, shall, during and after the investigation, be kept confidential.

9. **Period of Investigation**

9.1 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”.

9.2 The POI selected for dumping and injury are, therefore, respectively, as follows:

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

10. **Investigated Product and Domestic Like Product**

10.1 Section 2 of the Ordinance defines the “investigated 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”.

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

i. Investigated Product

The investigated product is FA originating in and/or exported from China and Korea into Pakistan. 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).

ii. 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.

iii. Like Product

The 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 like product are identical to those of the investigated product and domestic like product.

10.3 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. F.A.
- ii. The Applicant manufactures domestic like product by using Sodium Formate Acidolysis manufacturing process, whereas the exporter/producer from China manufactures investigated product by using Extraction manufacturing process. The product manufactured from these manufacturing processes is the same i.e. F.A.

- 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 sub-heading 2915.1100.

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

11. **Negligible Volume of Imports**

In terms of Section 41(3) of the Ordinance, the volume of imports shall normally be regarded as negligible if the volume of imports of an investigated product is found to account for less than 3 percent of total imports of the like product. In this regard, data and information provided by the Applicant (which is based on PRAL data) and provided by the exporters/producers from China has been analyzed. The data reveals that imports of FA from China were 4192 MT, and from Korea were 634 during the POI, which were 74% and 11.19% of total imports of the investigated product into Pakistan respectively. Thus this percentage is well above the percentage for “negligible” volume (less than three percent) of imports of the like product.

12 **Questionnaire(s) Response by the Exporters/Foreign Producers from Exporting Countries**

12.1.1 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)

12.1.2 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.

12.2 **Questionnaire Response by the BASF, China**

12.2.1 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 Chinese liability limited 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 in China for the manufacture and sale of FA. The Company has its production facility at Luhe District of Nanjing Municipality within the Nanjing Chemical Industry Park (NCIP), China

12.2.2 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.

12.2.3 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.

12.2.4 The Commission has provisionally accepted the information supplied by BASF, China for the purposes of this preliminary determination and the dumping margin for BASF, China is determined on the basis of that information.

12.3 **Questionnaire Response by the Mianyang China**

12.3.1 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.

12.3.2 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 there after 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.

13. **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 from below listed importers and industrial users.

- i. Al-Riaz Chemicals
- ii. Jamil Associates
- iii. Artistic Denim Mills Ltd.
- iv. SOORTY
- v. EPCT (Pvt.) Ltd.
- vi. Noor Leather Garments (Pvt.) Ltd.
- vii. Nazeer Dyeing & Bleaching

- viii. Hafeez Trading Company
- ix. Souvenir Trading Company
- x. Muhammad Shafi Tanneries

The views are attached at Annex – I.

B. DETERMINATION OF DUMPING

14. 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”.

15. Normal Value

15.1 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”.

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
- “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.”.

15.2 Section 7 of the Ordinance provides circumstances in which certain sales may be disregarded in determining normal value, 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.”

16. **Export Price**

The “export price” is defined in Section 10 of the Ordinance as follows:

“a price actually paid or payable for an investigated product when sold for export from an exporting country to Pakistan”.

17. **Dumping Determination**

17.1 As stated earlier (paragraph 6.1 supra) the Applicant identified thirteen exporters/foreign producers from Exporting Countries involved in alleged dumping of the investigated product. The Commission sent questionnaires directly to eleven exporters/foreign producers whose complete addresses were available with the Commission to gather information necessary for this investigation. Questionnaires were also provided to the Embassies of the 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.

17.2 Two exporters/foreign producers, BASF China, and Mianyang Aostar Phosphorus Industry Co. Ltd., China provided information in response to the questionnaires. Information provided by Mianyang Aostar Phosphorus Industry Co. Ltd., China was not complete

therefore individual dumping margin cannot be determined for the above said exporter/foreign producer. Individual dumping margins in this preliminary determination is determined for only one exporter namely BASF China on the basis of the information provided by it. A residual dumping margin/duty rate has been determined for all other exporters/foreign producers of the Exporting Countries who did not cooperate with the Commission in this investigation.

18. **Determination of Normal Value**

18.1 The Commission received information on domestic sales and cost of production etc. of the like product from one exporter/foreign producer, BASF China in response to the questionnaires. Normal value for above said exporter/producer in this preliminary determination has been determined on the basis of that information. Normal value for the other Chinese and Korean exporters/producers has been determined on the basis of best information available in accordance with Section 32 and Schedule to the Ordinance.

18.2 **Determination of Normal Value for BASF China**

18.2.1 Normal value for BASF has been determined on the basis of the information provided by it on its domestic sales and cost to make and sell during POI.

18.2.2 According to the information, BASF sold Formic Acid in three concentrations, i.e. 85%, 94% and 99%, in its domestic market during POI. It exported Formic Acid in two concentrations, i.e. 85% and 94% to Pakistan during POI. For the purposes of like to like comparison, normal value is determined separately for Formic Acid 85% and Formic Acid 94% to be compared with the export price of respective type of the investigated product.

18.2.3 BASF sold (100%)* 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 sold (56%)* of Formic Acid 85% and (44%)* of Formic Acid 94%. 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% sales, (90%)* sales were at loss while (10%)* were profitable sales. The Formic Acid 94% sold at loss was (19%)* while (81%)* were profitable sales. Below costs sales were in substantial quantities in terms of Section 7(2) of the Ordinance. Furthermore, below costs sales were in extended period of time. However, below cost sales of Formic Acid 94% 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%, which were not in the ordinary course of trade in accordance with provisions of Section 7 of the Ordinance. The sales of FA 94% 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 94%.

* Actual figures have been indexed w.r.t. domestic sales.

18.2.4 To arrive at the ex-factory price, BASF has claimed adjustments for preliminary determination on account of commission, ocean freight, credit cost and insurance. The Commission has accepted these adjustments for preliminary determination and the normal value at ex-factory level for the like product is worked out by deducting values of these adjustments. Summary calculation of normal value for these types is placed at Annexure-II.

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

18.3.1 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.

18.3.2 For the purposes of determination of normal value for non-cooperating exporters of the investigated product from China, the information provided by BASF in response to the questionnaire, on its cost of production plus admin, selling and general costs, and financial expenses is 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 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.

18.3.3 Calculation of normal value for other non-cooperating exporters from China is placed at Annexure-III.

18.4 Determination of Normal Value for Korean Exporters/Producers

18.4.1 No exporter/producer of the investigated product from Korea cooperated with the Commission to provide requisite information (paragraph 14 supra). 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.

18.4.2 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 /petrol 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' cost to make and sell of the like product is available with the Commission. Calculation of constructed normal value for Korean exporters/producers is placed at Annexure-IV.

19. Determination of Export Price

19.1 The Commission received information on export sales of the investigated product from one exporter/foreign producer namely BASF China in response to the questionnaires sent to various exporters/foreign producers of the Exporting Countries. Export price of investigated product for the above said exporter/foreign producer in this preliminary determination has been determined on the basis of the information provided by it. Export price for other exporters/foreign producers of the Exporting Countries who did not cooperate with the Commission is determined on the basis of the information obtained from PRAL.

19.2 Determination of Export Price for BASF China

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

19.2.2 According to the information, BASF exported Formic Acid in two concentrations, Formic Acid 85% and Formic Acid 94% to Pakistan during POI. Its total exports of the investigated product to Pakistan during POI were (3034)*. All export sales to Pakistan, during POI, were made to un-related customers. Export price is determined separately for each type mentioned above.

19.2.3 During POI, BASF 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 customs duty. The Commission has accepted adjustments for credit cost, inland freight and ocean freight. Export price at ex-factory level for the like product is worked out by deducting values of these adjustments. Summary calculations of export price are placed at Annexure-V.

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

19.3.1 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.

* Actual figures have been changed in the range of $\pm 10\%$.

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.

19.3.2 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 and customs duty has been made the on the basis of information submitted by BASF. Calculations of export price for non-cooperating exporters/producers from China are placed at Annexure-VI.

19.4 **Determination of Export Price for Korean Exporters/Producers**

19.4.1 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.

19.4.2 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 for imports of the investigated product from Korea is placed at Annexure-VII.

20. **Dumping Margin**

20.1 The Ordinance defines "dumping margin" in relation to a product to mean "*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. In this preliminary determination, the Commission has determined individual dumping margin for the one exporter who cooperated with the Commission and supplied necessary information. The provisional antidumping duty rate for above said exporter is established on the basis of individual dumping margin determined for the exporter. However, residual dumping margins/antidumping duty rates have been determined for non-cooperating exporters/foreign producers of the Exporting Countries.

20.2 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*".

20.3 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.

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

**Table-II
Dumping Margin**

Country	Exporter Name	Dumping margin as % of	
		Export price	C & F price
China	BASF	-9.06%	-7.23%
	All others	4.91%	3.91%
Korea	All exporters	48.19%	44.10%

C. INJURY TO DOMESTIC INDUSTRY

21 **Determination of Injury**

21.1 Section 15 of the Ordinance sets out the principles for determination of material injury to the domestic industry and provides as follows:

“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...”

21.2 Material injury to the domestic industry is summarized in the following paragraphs.

22 **Domestic Industry**

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

“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.”

22.2 The domestic industry manufacturing domestic like product consists of four units. The Applicant set up its plant to manufacture domestic like product in 1995 with an installed capacity of 4200MT per annum. At present, the Applicant’s installed capacity is 6,384 MT per annum. The Applicant is engaged in manufacture sell domestic like product and its by products sodium sulphate etc. The Applicant represents 69 percent of total domestic production of the domestic like product in the year 2010-11.

22.3 Farus Combine, Akbari Chemicals and Raiwind Chemicals (the other domestic producers of domestic like product) are indifferent with regard to this application and collectively represent 31% of total domestic production.

23. **Cumulation of Dumped Imports**

23.1 Section 16 of the Ordinance states that:

“where imports of a like product from more than one country are the subject of simultaneous investigation under this Ordinance, the Commission may cumulatively assess the effects of such imports on the domestic industry only if it determines that

- “(a) dumping margin in relation to an investigated product from each country is more than the negligible amount as specified in clause (a) of sub-section (3) of section 41, and volume of dumped imports from each investigated country is not less than the negligible quantity as specified in clause (b) of sub-section (3) of section 41; and
- “(b) a cumulative assessment of the effects of the imports is appropriate in the light of
 - i. the conditions of competition between the imports; and
 - ii. the conditions of competition between the imports and a domestic like product”.

23.2 The preliminary determination revealed that imports from BASF are not dumped. The volume of imports of the investigated product from Other Chinese and Korean exporters during the POI was well above the negligible quantity (i.e. less than 3 percent of total imports of investigated product). Volume of imports from alleged dumped sources is as under:

Table-III

		2009-10
		Share %
Dumped Imports	China - Others	16
	Korea	11
Non- Dumped Imports	China - BASF	60
	Other Countries	13
Total		100

Source: Cooperating exporters and PRAL

23.3 It is evident from the above that volume of dumped imports from China and Korea are above negligible quantity.

Table-IV
Export Price
(US\$/MT)

Country		Weighted Average C&F Price
China	BASF	899*
	Others	880*
Korea		850*

23.4 It is evident from the weighted average export price charged by the exporters during the POI that there was a price competition between the imports of the investigated product exported from China and Korea.

23.5 The investigation revealed that there was a competition between the investigated product imported from both the sources. There was change in the conditions of competition between imports and domestic like product.

23.6 For the reasons given above, the Commission has cumulatively assessed the effects of dumped imports from China and Korea on the domestic industry in the following paragraphs.

24 Volume of Alleged Dumped Imports

Facts

24.1 In order to ascertain the volume of dumped imports of the investigated product, the Commission used import data of PRAL & exports of cooperating exporters.

24.2 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. The following table shows imports of the investigated product during the POI:

Table-V
(%)

Year	Imports from dumped sources	Imports from BASF	Imports from other Countries	Total Imports
Oct 2007 - Sep 2008	26	47	27	100
Oct 2008 - Sep 2009	34	54	13	100
Oct 2009 - Sep 2010	27	59	14	100

Cooperating exporter and PRAL data

* Actual figures have been changed in the range of $\pm 10\%$.

Analysis

24.3 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 27% in the year 2009-10 as compared to previous year 2008-09. Dumped imports followed the same pattern and reduced by 28% in 2008-09 as compared to 2007-08 but increased by 15% in 2009-10 as compared to 2008-09. There is significant increase in dumped imports as compared to 2008-09.

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

Table-VI

Year	Dumped Imports	Other Imports	Total Imports	Domestic Production	Domestic Consumption	Dumped imports as % of Domestic Production	Dumped imports as % of Domestic Consumption
2007-08	14	38	52	56	100	24	14
2008-09	16	31	47	64	100	25	16
2009-10	15	42	57	48	100	32	15

Note: The actual figures have been indexed w.r.t. the Domestic Consumption of each year.

24.5 The above table shows that dumped imports as percent of domestic consumption remained between 14% to 16% during POI. There was no significant change in dumped imports relative to domestic consumption. However, dumped imports relative to domestic production increased from 24% in 2007-08 to 25% in 2008-09 and again increased from 25% to 32% in 2009-10. It follows from this that the dumped imports followed by the pattern of changes in demand, however, domestic production could not follow the pattern of changes in demand. Consequently the domestic industry suffered an injury on account of volume of dumped imports.

Conclusion

24.6 On the basis of the above analysis, the Commission has concluded that the dumped imports increased in absolute terms and relative to domestic production during POI.

25. Price Effects

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).

Preliminary Determination on import of Formic Acid 85% and above into Pakistan Originating in and/or Exported from the People's Republic of China and the Republic of Korea

25.1 Price undercutting

Facts

25.1.1 Following table shows the weighted average ex-factory price of the domestic like product and weighted average landed cost of investigated during the POI.

Table-VII

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	106	-	-
Oct 2008 – Sep 2009	113	132	-	-
Oct 2009 – Sep 2010	134	126	-	-

Note: The actual figures have been indexed w.r.t. the Weighted Average ex-factory price of domestic like product of Oct 2007 – Sep 2008.

Analysis

25.1.2 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 and Rs. ****/MT in the period Oct 2009 – Sep 2010. Thus there was no price undercutting during the POI.

Conclusion

25.1.3 On the basis of the above, the Commission has concluded that the domestic industry did not suffer injury on account of price undercutting during the POI.

25.2 Price Depression

Facts

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

Table-VIII

Period	Weighted Average ex-factory price of domestic like product	Price depression
Oct 2007 – Sep 2008	100	-
Oct 2008 – Sep 2009	113	-
Oct 2009 – Sep 2010	134	-

Note: The actual figures have been indexed w.r.t. Weighted Average ex-factory price of domestic like product of Oct 2007 – Sep 2008.

Preliminary Determination on import of Formic Acid 85% and above into Pakistan Originating in and/or Exported from the People's Republic of China and the Republic of Korea

Analysis

25.2.2 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

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

25.3 Price Suppression**Facts**

25.3.1 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

Period	Weighted Average Cost to make and sell	Weighted Average ex-factory price	Increase/ (decrease) in:		Price Suppression
			Cost to make and sell	Ex-factory price	
Oct 2007– Sep 2008	100	106	-	-	-
Oct 2008 – Sep 2009	115	119	15	14	0.85
Oct 2009 – Sep 2010	127	132	13	12	0.22

Note: The actual figures have been indexed w.r.t. Weighted Average cost to make and sell of Oct 2007 – Sep 2008.

Analysis

25.3.2 The above table shows that the weighted average COP of domestic like product increased by Rs. 5.25 percent in Oct 2008 – Sep 2009 vis-à-vis previous year’s COP. It further increased by 20.50 percent in Oct 2009 – Sep 2010 over Oct 2008 – Sep 2009.

25.3.3 The weighted average ex-factory price of the domestic like product also increased by 13.39 percent during Oct 2008 – Sep 2009 and in Oct 2009 – Sep 2010 the price then further increased by 10.67 percent over the last year.

Conclusion

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

26. Market Share**Facts**

26.1 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

Preliminary Determination on import of Formic Acid 85% and above into Pakistan Originating in and/or Exported from the People's Republic of China and the Republic of Korea

combining the domestic industry's sales and total imports, and this is referred to here as the total domestic market. The total domestic market for FA during the POI is given in following table:

Table-X

(%)

Year	Quantity sold by Applicant	Quantity sold by other units	Total of Domestic Industry	Imports from Dumped Sources	Imports from non-dumped sources		Total Imports	Total domestic market
					BASF	Imports from other countries		
Oct 2007 – Sep 2008	35	13	48	14	24	14	52	100
Oct 2008 – Sep 2009	38	15	53	16	25	6	47	100
Oct 2009 – Sep 2010	30	13	43	17	34	7	57	100

Source: PRAL and cooperating exporter

Analysis

26.2 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 12% during Oct 2009 – Sep 2010 over Oct 2008 – Sep 2009.

26.3 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 43% during Oct 2009 – Sep 2010. Market share of dumped imports increased from 14% in Oct 2007 – Sep 2008 to 16% in Oct 2008 – Sep 2009 and to 17% in Oct 2009 – Sep 2010. The domestic industry suffered injury on account of loss of market share in 2009-10. The major contributor to this injury was imports from BASF, China which have been determined to be non-dumped in this preliminary determination.

Conclusion

26.4 On the basis of the above analysis, the Commission has concluded that the domestic industry suffered a significant loss of 10% 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.

27. Production and Capacity Utilization**Facts**

27.1 The installed production capacity of the Applicant to produce domestic like product is 6,384 MT per annum. The quantity produced and the capacity utilized during the POI is given in the table below:

Table-XI

	Capacity Utilization (%)
Oct 2007 – Sep 2008	93
Oct 2008 – Sep 2009	69
Oct 2009 – Sep 2010	55

Analysis

27.2 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

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

28. Effects on Inventories**Facts**

28.1 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-XII

Year	Opening Inventory	Production	Sales + Internal Consumption	Closing inventory
Oct 2007 – Sep 2008	100	7229	7190	139
Oct 2008 – Sep 2009	139	5530	5355	314
Oct 2009 – Sep 2010	314	4419	4400	333

Note: The actual figures have been indexed w.r.t. opening inventory of Oct 2007 – Sep 2008.

Analysis

28.2 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

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

29. **Profit and Loss**

Facts

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

Table-XIII

	Profit/(Loss)
Oct 2007 – Sep 2008	100
Oct 2008 – Sep 2009	62
Oct 2009 – Sep 2010	51

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

Analysis

29.2 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 Rs.**** 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.

Conclusions

29.3 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 due to price undercutting, price suppression and volume of dumped imports.

30. **Cash Flow**

Facts

30.1 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-XIV

(Rs. In Million)

Year	Cash Flow from operations
Oct 2007 – Sep 2008	(100)
Oct 2008 – Sep 2009	70
Oct 2009 – Sep 2010	(1254)

Note: The actual figures have been indexed w.r.t. Cash flow of Oct 2007 – Sep 2008.

30.2 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 NTC cannot determine that there

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

Conclusions

30.3 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.

31. **Employment, Productivity and Wages**

Facts

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

Table-XV

	Number of Employees	Wages (Rs. 000)	Production (MT)	Productivity (%)	Salaries & Wages Per MT
Oct 2007 – Sep 2008	100	100	100	36	100
Oct 2008 – Sep 2009	108	118	77	29	154
Oct 2009 – Sep 2010	96	111	61	23	181

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

Analysis

31.2 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

31.3 The domestic industry did suffer on account of productivity, no. of employees and salaries and wages per MT during Oct 2009 – Sep 2010 as compared to Oct 2008 – Sep 2009.

32. **Return on Investment**

Facts

Table-XVI

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

Analysis

32.1 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 there by 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.

Conclusions

32.2 On the basis of the above, the Commission cannot conclude that the Applicant did not suffered material injury on account of return on investment.

33. **Growth**

Facts

Table-XVII

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

Analysis

33.1 The above table shows that the applicant registered significant growth in its assets during the year 2008-09 and 2009-10. The company installed a new plant for the manufacture of sulfonic acid and it was able to raise fund for new project. The company group also installed a new plant for manufacture of formic acid in the name of Riawind 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

33.2 On the basis of above facts, it is concluded that the Applicant did not suffer material injury on account of growth.

34. **Summing up of Material Injury**

34.1 The analysis in the preceding paragraphs shows that:

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

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

- i. loss in market share;
- ii. negative effects on capacity utilization;
- iii. negative effects on production;
- iv. negative effect on sales;
- v. negative effects on productivity
- vi. decline in profits; and
- vii. increase in inventories

35. **Other Factors**

35.1 In accordance with Section 18(2) of the Ordinance, the Commission also examined factors, other than dumped imports, 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 injury caused by dumped imports, other factors have also been examined as under.

35.2 The investigation of the Commission revealed that the domestic industry suffered some injury due to imports of FA from sources other than dumped sources during the POI.

35.3 The investigation has revealed that imports from BASF, China were also alleged to be dumped. On the basis of data furnished by the exporter, the imports from BASF, China are not dumped. The data still needs to be verified in an on-the-spot investigation. Till such time dumping from BASF, China is not established, the major cause of injury source seems to be imports from BASF China as the volume of dumped imports is lower than volume of imports from BASF, China and prices from BASF, China and other alleged dumped sources is approximately same as shown in the table below.

Table-XVIII

		2007-08	2008-09	2009-10
Imports from alleged dumped source	Quantity	26	20	22
	C&F price	99	120	107
Imports from BASF China	Quantity	47	33	49
	C&F price	101	125	98
Other Imports	Quantity	27	8	12
	C&F price	100	128	93
Total Imports	Quantity	100	61	83
	C&F price	100	124	99

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

35.4 The domestic market of FA observed contraction in demand from **** MT in 2007-08 to **** MT in 2008-09 registering a decrease of 33% in demand. The demand in 2009-10 was increase by 12% from **** MT in 2008-09 to **** MT in 2009-10. The domestic industry suffered on account of contraction in demand in 2008-09 but it could not take advantage of increased demand in 2009-10 mainly because of increased imports of BASF, China.

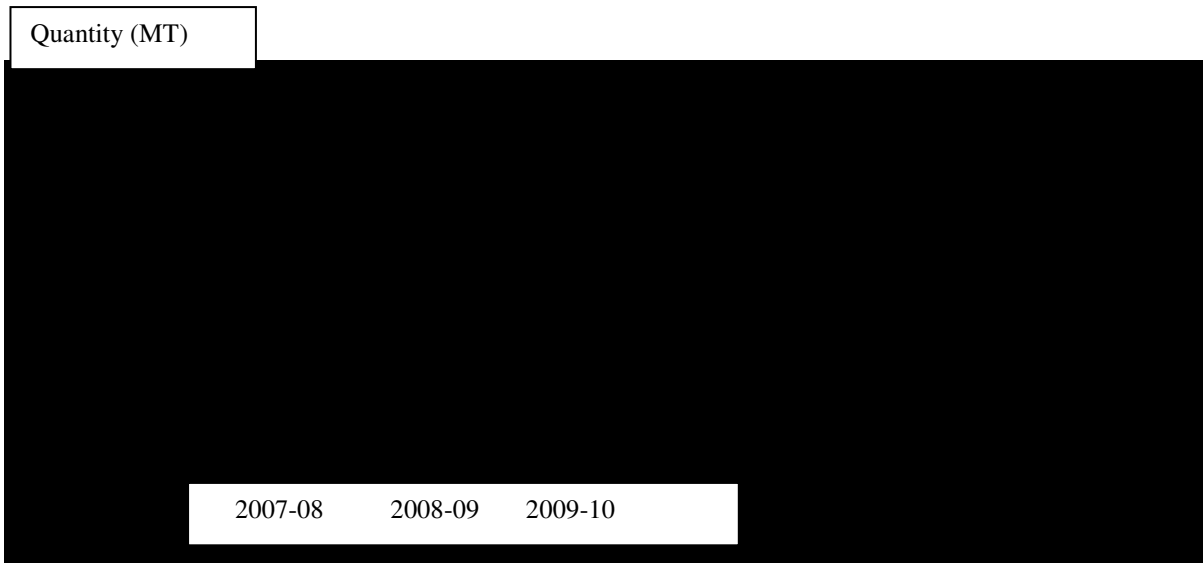
35.5 There was no change in trade restriction practices and competition between foreign producers and domestic producers.

35.6 One of the importers, Artistic Denim Mills Ltd. and the only cooperating exporter, BASF, China, have claimed that technology used by the applicant is comparatively older and costly. BASF, China has also claimed that NaFo Acidolysis manufacturing process gives an inferior quality product as compared to methyl formate route. The applicant has however, refuted these claims.

36 **Causation**

36.1 As stated above in other factors, imports from BASF, China appear to be a leading factor in causing injury to domestic industry. The alleged dumped imports from China – Others and Korea have also increased in market share by one percentage point in 2009-10 over 2008-09 as compared to 9 percentage points increase registered by BASF, China. Until the time BASF, China imports are established as dumped, the causal relationship between dumped imports and injury to domestic industry becomes weak.

36.2 The cause of injury to domestic industry in the year 2008-09 was the contraction in demand while in the year 2009-10 the cause of injury to domestic industry is the increased imports at provisionally established non-dumped imports from BASF as reflected in the graph below.



D. CONCLUSIONS

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

- i. the application was filed on behalf of domestic industry as the Applicant Unit represent major proportion of the production of domestic like product;
- ii. the investigated product and the domestic like product are like products;
- iii. during the POI, the investigated product was exported to Pakistan by the exporters/foreign producers, from China and Korea, at prices below its normal value;
- iv. the volume of dumped imports of the investigated product and the dumping margins established 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, volume of dumped imports, price undercutting, price suppression, loss in market share, decline in profit, negative effects on production and capacity utilization, 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.

E. IMPOSITION OF PROVISIONAL ANTIDUMPING DUTY

37.1 In view of the analysis and conclusions given above, there is a weak causal relationship between dumped imports and injury to domestic industry. Whereas, the imports from BASF, China, which are causing injury to domestic industry, are non-dumped up-till the point of this preliminary determination. Therefore, the Commission is not making an order for imposition of provisional antidumping duty. The investigation would continue in terms of Section 43(2) of the Ordinance.

(Niamatullah Khan)
Member
August 20, 2011

(Zamir Ahmed)
Member
August 20, 2011

(Prince Abbas Khan)
Chairman
August 20, 2011

Annexure - I

1. **Views/Comments of Al-Riaz Chemicals**

Following are the comments received from Al-Riaz Chemical:

- (i) “We cannot understand that why M/s. Tufail Chemical Industries want to impose Antidumping on Korea as not a big quantity coming from Korea (You can see custom record of last 2-3 years) It is a proof that this is not a dumping price otherwise quantity would have been larger.
- (ii) We are afraid after impose of Antidumping M/s. Tufail will increase there price and heartily local industries badly, generally after impose of Antidumping local Manufacturer increase their prices because they know the customer cannot import and they can buy only from them. Their main intention to earn huge (injustice) profit.
- (iii) As they saying they supply 69% of the total production of Formic Acid in Pakistan, so remaining 31% who will supply? After impose Antidumping remaining 31% cannot import from China & Korea so customer will suffer and face shortage automatically.....
- (iv) We would like to bring in your notice after Antidumping they will alone and may be create un-naturally shortage like sugar, flour etc. and then increase price to earn huge profit.”

2. **Views/Comments of Jamil Associates**

Following are the comments received from Jamil Associates:

- (i) “That the contention, adopted by M/s Tufail Chemical Industries Limited, Formic Acid is being dumped in Pakistan from People's Republic of China and Republic of Korea is based on false grounds. The Applicant that is M/s Tufail Chemical Industries Limited has intentionally furnished a distorted version of facts about alleged dumped imports, price undercutting, decline in production, sales, capacity utilization and market share.
- (ii) Unfortunately M/s Tufail Chemical Industries has always demonstrated itself as a non professional business company since its inception. It has always been interested in devising up measures to maintain its mon China and else, Duty

imposed by the Government of Pakistan is either 0% or 5%. The rate of Duty on, Hydrogen Peroxide which is manufactured in Pakistan is 10%. The rate of Duty on Sodium Bicarbonate, another locally produced product, is 20%. Formic Acid has, to the best of knowledge of us, the highest rate of Duty that is 25%. Still, the Applicant that's M/s Tufail Chemical Industries Limited is impatient and restless.

- (iii) The Applicant is bent upon damaging the two basic exporting industries of Pakistan; textile and leather by increasing the price for Formic Acid after exterminating imports of Formic Acid by misguiding the tax authorities of Pakistan and thus establishing its monopoly.
- (iv) The imports of Formic Acid are helping the price for Formic Acid remain balanced. If any further tax is imposed on Formic Acid, as desired by the Applicant, it may result in an end to imports of Formic Acid and it will pave a way for the Applicant to double its price by stroke of pen which is of course detrimental to our leather and textile industries since Formic Acid is one of their basic raw materials.
- (v) The Applicant wants to deprive the end-consumers in Pakistan of the finest and much better quality of Formic Acid than the one produced by the Applicant. Instead of improving its quality and customer service and compete in a fair way, it is engaged in malpractices, which have implications against wider and larger interest of Pakistan.
- (vi) The Applicant is already exploiting its clients by recovering extra-ordinary profits. Manufacturers of Formic Acid worldwide provide Formic Acid on C&F basis (freight included) at price level of the Applicant that testifies the Applicant has a vested interest.
- (vii) Over the period of years, the Applicant has increased its production capacity. It earlier had one industrial unit for production of Formic Acid. At present, it is running two industrial units, concerned with operations of production of Formic Acid, at two different locations of Pakistan. It is well understood if its production has doubled, of course, its sales has doubled as well. Thus, it results in two results. (A) Allegation of decline in production is baseless and (B) Decline in sales is not supported too. It is clear evidence to suggest that the Applicant's cry for decrease in production and sales and unemployment is extremely baseless and based on lies. If alleged dumping of Formic Acid is

true, one fails to understand the logic of adding more plants to their network and increasing production.

- (viii) We will suggest reducing rate of Duty on Formic Acid to 5% helping our exporting countries compete better globally.”

3. **Views/Comments of Artistic Denim Mills Ltd**

Following comments were received from Artistic Denim Mills Ltd:

- (i) “As formic acid is used as a neutralizing agent in fabric dyeing, one of the issues repeatedly addressed by our international customers on the use of Formic acid manufactured of local supplier is the issue of pH values below 5 and above 9. A pH below 5 results in severe fabric deterioration, tear and tensile issues and with a pH above 9 or higher is that a color and cast are affected differently when resins are applied on fabrics at a pH level going from 5 to 8. The locally produced formic acid is not of that quality as compared with imported formic acid, which results in claims from our customers and increase in B grade fabric and wastage.
- (ii) It has been observed that antidumping duty of 6-13% levied on the Formic Acid during the past five years has not affected export of Formic Acid to Pakistan, which clearly shows the intention and will of the Pakistani buyers to continue the import of Formic Acid.
- (iii) Tufail Chemicals is producing the formic acid based on a technology which is already been discarded by the industry hence it cannot produce a product of international standards' as required by the end consumers internationally. The raw material sodium formate used by local supplier is costly as compared to raw material carbon monoxide and methanol used by formic acid exporters.
- (iv) The Applicant's production capacity is the largest in the domestic market and has been catering to the demand of approximately 70% of the domestic market which is a clear indicator of its growing business and can be seen from the list of major customers it is catering to in Pakistan and it is utterly unjustified that the local industry is suffering.
- (v) On time delivery issue from local supplier, which results in production loss, high cost of production and delay in shipments to customers.

- (vi) Being the leading supplier of quality denim products to world renowned brands and to meet the quality standards of our customers, we have to import the formic acid from BASF and INTERM CORP who are world leading manufacturer of formic acid, known for their quality standards.”

4. **View/Comments of SOORTY**

Following comments were received from SOORTY

- (i) “We have imported some quantity of Formic Acid from BASF (Germany) from their China plant to meet our customer EU compliance Le REACH certification, which is one of main requirement from European customer to proof them that our product exporting to Europe market have REACH standard qualified.
- (ii) To meet this quality standard for Europe market, it is necessary that all chemicals, dyes etc will be used from well multinational Companies to avoid any type of risk and cancellation of the order, beside no manufacturer in Pakistan can provide REACH certification,
- (iii) For local made Formic acid, we would like to have REACH certification from manufacturer, so please inform them to arrange this certification first before they offer to sale this product to our company and similar company in Pakistan as well.”

5. **View/Comments of EPCT (Pvt.) Ltd.**

Following comments were received from EPCT (Pvt.) Ltd:

- (i) “The applicant act will create major damage to two major export pillars of Pakistan known as leather and textile. Being a leather producer and exporter, after the imposition of antidumping which is unfair as desired by the applicant it will directly affect the exporter to meet the buyer’s standard in Europe and in other parts of world because always instruct to use raw materials for value addition from approved and quality suppliers to meet the international export standards it will also create imbalance in price/ availability.

- (ii) Further more in the light to present input cost scenario which includes additional power cost and taxes imposition of any further tax or duty will put the exporters with wall and will have no choice rather than losing export business just because of input cost.”

6. **View/Comments of Noor Leather Garments (Pvt.) Ltd.**

Following comments were received from Noor Leather Garments (Pvt.) Ltd:

“The product we import is superior in quality and concentration as compared to other similar product available domestically in market. The local product available in the market normally varies in concentration and quality and therefore we cannot take the risk as all our production is for export purpose.”

7. **View/Comments of Nazeer Dyeing & Bleaching**

Following comments were received from Nazeer Dyeing & Bleaching:

“We want to inform you that the investigated product does not fulfill the requirement of domestic consumption. Period mentioned of investigation October 01, 2009 to September 2010 during this period we did not found applicant's product in market. So because of limited production of control production by applicant its create huge shortage in supply against demand that's why price must be shoot up.”

8. **View/Comments of Hafeez Trading Company**

Following comments were received from Hafeez Trading Company:

- (i) “The claim of local producer that its organization is catering 69% of the consumption is false statement which may be examined by N.T.C.
- (ii) Major consumption of this product FORMIC ACID 85% is in export oriented leather industry which is very quality conscious and in other export oriented textile dyeing industry which is also very quality conscious and major big units do not want to use local sub-standard material with sub-standard packing problems etc etc produced' by complainant and we can produce you on request letters from different leather & textile industries that they do not want to use local FORMIC ACID 85% at any cost as it may damage their export value added products which may cause international claims to their exports.

- (iii) FORMIC ACID 85% produced by complainant local supplier is based on raw material Sodium Formate where as BASF Formic Acid 85% is based on another raw material with other formula.
- (iv) Raw Material Sodium Formate imported by Tufail Chemical industries to produce Formic Acid 85% is being imported with benefit of Zero% duty by FBR as a manufacturer further more prices of raw has been decreased during period of last 18 months to the extent of 30% approximately and the cost of Formic Acid 85% of complainant has been reduced to this extent but It was not passed on to customer and it was extra profit taking.
- (v) Multinational Companies of the world do not under cut prices at any consequence so this statement is also false of complainant.
- (vi) Formic Acid 85% which is imported into Pakistan is already having protective highest duty of 25% slab with other clearing expenses 10% it comes to 35% duty & other expenses which is already on top higher side because other raw materials of leather & textile are having mostly 5% or 0% duty tariff 50 already protection given is very high therefore this request should be rejected on its merits and no anti dumping duty should be imposed.
- (vii) Nowadays due to shortage of electricity and Natural gas production of local manufacturers are suffered and they are not producing quantity required on up to capacity therefore any restriction in importation of Formic Acid 85% or anti dumping duty imposition may harm export oriented industries in Pakistan.
- (viii) Tufail Chemical Industries has requested to initiate this anti dumping duty on malafide intention to monopolize their local product Formic Acid 85% only and to earn extra profits by creating shortage self oriented of local product when imported products will not be imported by importers due to anti dumping duty if imposed as it will then cost wise not feasible to import and leather and textile industries may reach to FBR for remedy.”

9 **View/Comments of Souvenir Trading Company**

Same comments as are mentioned in para 20 above were received from Souvenir Trading Company.

10. **View/Comments of Muhammad Shafi Tanneries**

Following comments were received from Muhammad Shafi Tanneries:

“If antidumping duty is levied on import of this product, then it would become in competitive in the market and the domestic industry would monopolies the market and raise the prices at it will which is not really good for the users of Formic Acid as their cost of production will be increased.”

Annex-II

(Omitted as it contained confidential information)

Annex-III

(Omitted as it contained confidential information)

Annex-IV

(Omitted as it contained confidential information)

Annex-V

(Omitted as it contained confidential information)

Annex-VI

(Omitted as it contained confidential information)

Annex-VII

(Omitted as it contained confidential information)

Annex-VIII

(Omitted as it contained confidential information)