

**GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE
(DIRECTORATE GENERAL OF ANTI-DUMPING & ALLIED DUTIES)
NOTIFICATION**

25th October 2011

Preliminary Findings

Subject:- Anti-dumping investigation concerning imports of ‘Phosphoric Acid of all grades and all concentrations (excluding Agriculture/Fertilizer Grade)’ originating in or exported from Israel and Taiwan.

No. 14/44/2010-DGAD: - Having regard to the Customs Tariff Act 1975 as amended (hereinafter referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules thereof, as amended (hereinafter referred to as the AD Rules);

2. Whereas M/s. Gujarat Alkalies & Chemicals Limited, Baroda (hereinafter referred to as the Applicant) filed an application before the Designated Authority (hereinafter referred to as the Authority) in accordance with the Act and the AD Rules for initiation of Anti-Dumping Duty investigation concerning imports of ‘Phosphoric Acid of all grades and all concentrations (excluding Agriculture/Fertilizer Grade)’ (hereinafter also referred to as the subject goods) originating in or exported from Israel and Taiwan (hereinafter also referred to as the subject countries) and requested for levy of anti-dumping duties on the subject goods. The subject countries were informed about receipt of application in accordance with the Rule 5(5) of the AD Rules.

3. And whereas, the Authority on the basis of sufficient evidence submitted by the applicant issued a public notice dated 4th February 2011, published in the Gazette of India, Extraordinary, initiating Anti-Dumping investigation concerning imports of the subject goods, originating in or exported from the subject countries, to determine the existence, degree and effect of alleged dumping and to recommend the amount of antidumping duty, which, if levied would be adequate to remove the injury to the domestic industry.

A. PROCEDURE

4. The procedure described herein below has been followed with regard to investigation after issuance of the public notice notifying the initiation of the above investigation by the Authority:

- i. The Authority sent a copy of initiation notification dated 4th February 2011 to the Embassy/ /Economic & Cultural Centre of the subject countries in India, known exporters from the subject countries, known importers/ users and the domestic

industry as per the addresses made available by the applicant and requested them to make their views known in writing within 40 days of the initiation notification.

- ii. The Authority provided a copy of the non-confidential version of the application to the known exporters and to the Embassy/ /Economic & Cultural Centre of the subject countries in India in accordance with Rule 6(3) supra.
- iii. The Embassy/ /Economic & Cultural Centre of the subject countries in India were informed about the initiation of the investigation in accordance with Rule 6(2) of the AD Rules with a request to advise the exporters/producers from their countries to respond to the questionnaire within prescribed time limit. A copy of the letter and questionnaire sent to the exporters was also sent to them along with the names and addresses of the known exporters.
- iv. The Authority sent questionnaires to elicit relevant information to the following known exporters in subject countries in accordance with Rule 6(4) of the AD Rules:

S.N.	Name of Producer/ Exporter
1	M/s Gwohuah Chemical Taiwan,
2	M/s Taiwan Alum Chemical Industrial Co. Ltd., Taiwan
3	M/s Green Mountain Co, Taiwan
4	M/s Yirher Chem & Hort Co. Ltd. Taiwan
5	M/s South flower Trading Company, Ltd, Taiwan
6	M/s Core Chemical Inc. Taiwan
7	M/s Israel Chemicals Ltd, Israel

- v. In response to the above notification, the following exporters/producers/Association from the subject countries have responded:

- 1. M/s Yeou FA Chemical Co. Ltd, Taiwan
- 2. M/s Israel Chemicals Limited, Israel
- 3. M/s Hiforce Chemicals Corporation, Taiwan

- vi. Questionnaires were sent to the following known importers / users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the AD Rules:

S.No.	Name of Importers/Exporters
1	M/s Albright & Wilson Chemicals Ltd ,Mumbai
2	M/s Bhavita Chemicals Pvt Ltd, Maharashtra
3	M/s C J Shah & Co., Mumbai
4	M/s Jaydip Agencies, Mumbai
5	M/s Pharmachem Traders Pvt. Ltd., West Bengal
6.	M/s Betzdearborn India Pvt. Ltd., Karnataka
7.	M/s Fertilizers And Chemicals, Kerala
8	M/s Madras Fertilizers Ltd., Manali Madras
9.	M/s Excel Industries Ltd., Maharashtra
10	M/s Hind Lever Chemicals Ltd., Punjab
11	M/s Reliance Industries Ltd., Maharashtra
12	M/s Carborandum Universal Ltd, Chennai
13	M/s Tonira Pharma Ltd. , Baroda
14	M/s Berger Auto & Industrial Coat, New Delhi
15	M/s LG Electronic India Pvt. Ltd., New Delhi
16.	M/s Sudeep Pharma Ltd., Baroda
17.	M/s Mangalore Chemicals & Fertilizers Ltd., Karnataka
18	M/s ICI India Ltd., Madras
19.	M/s Bharat Electronics Ltd., New Delhi
20	M/s Tosif Silktex. Kolkata
21	M/s Torrent Pharmaceuticals Ltd, Bombay
22	M/s Star Chemicals Pvt. Ltd., Mumbai.
23	M/s Punjab Chem & Crop Protection Ltd., Mumbai.
24	M/s Solaris Chemtech Limited, Karnataka

vii. Request for extension of time to file the questionnaires' response was received from some interested parties. The Authority granted the time extension, keeping in view the time constraints.

viii. Responses to the Importer's questionnaire have been received from the following importers of the subject goods In India:

1. M/s Chem Tall Rai India Ltd

ix. The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties;

x. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods for the past three years, including the period of investigation.

xi. Optimum cost of production and cost to make & sell the subject goods in India based on the information furnished by the applicant on the basis of Generally Accepted Accounting Principles (GAAP) was worked out so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to Domestic Industry.

xii. Investigation was carried out for the period starting from **1st April 2009 to 30th June 2010 (15 Months)** (POI). The examination of trends, in the context of injury analysis, covered the periods April 2006-March 2007, April 2007-March 2008, April 2008-March 2009 and the POI.

xiii. Information provided by interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claims. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.

xiv. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has recorded these findings on the basis of the facts available.

xv. *** in this notification represents information furnished by an interested party on confidential basis, and so considered by the Authority under the AD Rules.

Submissions by M/s Hiforce Chemicals Corporation, Taiwan

5. M/s. Hiforce Chemicals Corporation, Taiwan, *inter alia*, stated that they have learnt from Taiwanese market about the investigation on the instant subject and that they have not received any notice from the DGAD so far and have thus requested that they be provided an opportunity to file the exporter's questionnaire granting them sufficient time to do so the same.

Examination by the Authority

6. In response to the above, the Authority noted that the investigation in the instant matter was initiated on 4th February, 2011. In terms of the AD Rules, the known interested parties from the subject countries were duly advised to file the exporter questionnaire's response within forty days vide letter dated 25th February, 2011. Besides, vide the letter dated 25th February, 2011 the Taiwan Economic & Cultural Centre was also forwarded a copy of the initiation notification along with the Non-confidential version of the application and a copy of the questionnaire, *inter alia*, intimating them that the known exporters are being requested separately to furnish the relevant information in the form of response to the questionnaire sent to them, however, there may be more producers/exporters of the subject goods who may be interested in this investigation and therefore, they were requested to bring it to the notice of all concerned, so that they can

defend their interests effectively. Thus, it was expected that Taiwan Economic & Cultural Centre would suitably advise the exporters/producers from Taiwan.

7. Besides, there is no obligation under the AD Rules or WTO's AD Agreement which requires that each and every producer exporter from the subject country must be intimated about the initiation notification. Besides, not only the initiation notification was published vide the Govt. of India Gazette notification but it was also hosted on the website of the Department of Commerce. An exporter/producer from the subject country that has not been specifically named in the application filed before the DGAD is expected to file the response to the questionnaire (which could have been downloaded from the Department's website) within the stipulated time as indicated in the initiation notification. In view of the above, considering the time constraints to complete the investigation, the request of time extension could not be acceded to.

B. Product under Consideration and Domestic Like Article

8. The product under consideration is 'Phosphoric Acid of all grades and all concentrations (excluding Agriculture/Fertilizer Grade)'. Phosphoric Acid is an inorganic chemical used for the production of sodium phosphate, calcium phosphate, magnesium phosphate, ammonium phosphate, etc. The subject goods are also being used in pharmaceutical applications, beverages, seed processing, sugar juice clarification and sugar refining, food phosphate manufacturing etc.

9. Though Phosphoric Acid is classified under sub-heading no. 28092010 in the Customs Tariff Act but there is no dedicated custom classification for the product under consideration. The customs classification is indicative only and in no way binding on the scope of this investigation.

Submissions made by M/s Yeou FA Chemical Co. Ltd, Taiwan

10. The company in its declaration filed with the Authority, *inter alia*, claimed that their process of production of the subject goods is a Dry Method which is different from the domestic industry's Wet Method and that they have patented their Phosphoric Acid Purification Process and thus their cost structure is incomparable to that of the domestic industry. It has also been contended that the subject goods should be categorized into different market segments as per the user's application. It has been further contended that they are not listed as a known exporter of the subject goods according to the application and stated that they will provide the relevant information if required by the Designated Authority.

Examination by the Authority

11. The submissions filed by the company were perused and it was found that the company has simply filed certain sheets detailing the export sales and domestic sales records without bothering to file the exporter questionnaire's response as per the format prescribed.

12. In response to their submissions, the Authority *vide* its letter dated 6th April, 2011, *inter alia*, communicated to the Company that they are expected file the Exporter Questionnaire's response as per the prescribed format in order to substantiate their claim that they are not dumping the subject goods into India. A copy of the questionnaire was enclosed and it was clarified that the same could also be downloaded from www.commerce.nic.in website. It was clarified *vide* this letter that in the absence of requisite information/ data, the Authority would be constrained to record its findings on the basis of facts available to it in terms of Rule 6(8) of the Anti-Dumping Rules.

13. The Authority notes that the company failed to provide the requisite information/data inspite of the above clarification. As the company has failed to substantiate its claims and did not submit its response as per the prescribed format; the Authority is constrained to proceed on the basis of 'facts available' on record.

Like Article

Submissions made by the Domestic industry

14. The Applicant has claimed that there is no known significant difference in the subject goods produced by the Indian industry and the subject goods exported from the subject countries. The subject goods produced by the Indian industry and imported from the subject countries are comparable in terms of characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably. Though producers of phosphoric acid world over broadly follow either of the two paths, viz. the wet process or the dry process but the technology and production process of the two are comparable to the best of knowledge of the Applicant.

Examination by the Authority

15. With regard to like articles, Rule 2(d) of the AD Rules provides as under: -

"like article " means an article which is identical or alike in all respects to the article under investigation for being dumped in India or in the absence of such article, another article which although not alike in all respects, has characteristics closely resembling those of the articles under investigation;

16. The claim of the domestic industry with respect to 'like Article' has not been disputed by any interested party. After considering the information on record, the Authority is of the view that there is no known difference in product under consideration exported from subject countries and the product produced by the Indian industry. Product under consideration produced by the domestic industry is comparable to the imported subject product in terms of chemical characteristics, functions & uses, product specifications, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable.

17. Thus, the Authority is of the view that the subject goods produced by the applicant domestic industry is like article to the product under consideration in accordance with the AD Rules.

C. **SCOPE OF DOMESTIC INDUSTRY & STANDING**

18. Rule 2(b) of the AD Rules defines domestic industry as under: -

“domestic industry” means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof in such case the term ‘domestic industry’ may be construed as referring to the rest of the producers only”

19. The application has been filed by M/s. Gujarat Alkalies & Chemicals Limited, Baroda on behalf of the domestic industry and has been supported by M/s Punjab Chemicals & Crop Protection Ltd. As per information available on record, the Applicant accounts for about 45 % of the total Indian production and thus the production of the Applicant accounts for a major proportion of the domestic production. Further, the production of the Applicant along with the supporter is more than 50% of the Indian production.

20. Thus, the application satisfies the requirements of Rule 2(b) and Rule 5(3) of the AD Rules and the Applicant is being treated as ‘domestic industry’ within the meaning of Rule 2(b) of the AD Rules.

D. **NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN**

General methodology

21. The Authority has noted that there have been significant variations in the prices of major raw-materials during the POI; hence, the determination of the Normal value, Export price and consequent Dumping margin has been undertaken based on a month-wise analysis. Besides, analysis has been undertaken considering the differences in grades within the subject goods, to the extent feasible.

Determination of Normal value in respect of Co-operative Exporters / Producers from Israel and Taiwan

22. The Authority sent questionnaire to the known exporters/producers from the subject countries, advising them to provide information in the form and manner prescribed.

Only M/s Israel Chemical Limited, Israel has filed its exporter’s questionnaire’ response in the instant matter.

M/s Israel Chemical Limited, Israel

23. The questionnaire' response submitted by the company was perused. It has been stated that the company produces only food grade phosphoric acid and that in case there is a demand for technical grade; the same is met by supplying the food grade as technical grade. It has been further stated that while the goods produced and sold in the home market and goods exported to India are identical but there is a difference in their concentration level. It was noted that the company had not provided data in the relevant Appendixes to enable the Authority to carry out an appropriate ordinary course of trade test. Accordingly, the company was requested to furnish the requisite information/data vide a deficiency letter.

24. It is, however, noted that despite providing an opportunity; the company has not provided the relevant information within the stipulated time. Therefore, the Authority is not able to determine the Normal value on the basis the company's domestic sales and is constrained to do so, on the basis of 'facts available' in terms of the AD Rules.

Determination of Normal value in respect of Non-Co-operative Exporters / Producers

25. The Authority notes that no other exporter/producer from Israel and Taiwan has responded to the exporter' questionnaire. Therefore, the normal value in their cases has been determined on the basis of 'facts available'. The Normal Value has accordingly been constructed on the basis of best information available. For this purpose, international prices of raw materials namely Rock Phosphate and Hydrogen Peroxide have been considered; whereas consumption norms and conversion costs have been adopted as per best information available on record. Besides, a profit margin of 5% has been added to the costs so arrived, to determine the constructed normal value, which works out as US \$ *** for Israel and US \$ *** in respect of Taiwan.

E. **EXPORT PRICE**

Export price for the responding exporters

M/s Israel Chemicals Limited, Israel through M/s Rotem Amfert Negev Ltd.

26. The Authority examined whether the export prices in respect of responding exporters could be determined on the basis of questionnaire responses filed by the respondent. The export prices have been allowed as claimed by the respondent, subject to further investigation and verification. The respondent has furnished information in Appendix 2 relating to exports to India. The company has exported *** MT of the subject goods to India during the POI. The adjustments on account of inland freight, oversea freight, commission, storage, packing cost, marine insurance, ICL fees, credit cost, rebate and have been claimed and are provisionally being accepted subject to further investigation and verification. Besides, it is noted that the company does not get VAT refund; hence adjustment on this account has also been made on provisional basis, subject

to further investigation and verification. Thus, the net export price so determined works out as US \$ ***/ MT.

Determination of Export Price in respect of Non-Co-operative Exporters/Producers

27. Since no other response has been received from any other producer/exporter of the subject goods; the Authority has determined the Export price as per ‘facts available’ in terms of Rule 6(8) of the AD Rules. The data has been collated as per the information available on record. Accordingly, net export price in respect of the other producers/exporters from Israel has been worked out as US \$ ***/ MT. Further, net export price in respect of the producers/exporters from Taiwan has been worked out as US \$ ***/MT.

F. **DUMPING MARGIN**

28. Considering the Normal values and Export prices as determined above, the dumping margins have been determined as follows:

In US\$/MT							
S. No.	Country	Producer	Exporter	Normal Value	Net Export Price	Dumping Margin	Dumping Margin % - Range
1.	Israel	M/s Rotem Amfert Negev Ltd.	M/s Israel Chemicals Limited	***	***	***	35-45
2.	Israel	All other exporters/ producers		***	***	***	40-50
3.	Taiwan	All exporters/ producers		***	***	***	15-25

G. **INJURY AND CAUSAL LINK**

29. The Authority has noted that here have been significant variations in the prices of major raw-materials during the POI; hence, the injury analysis has been undertaken by considering the data on a month-wise basis, to the extent feasible. Besides, while doing so the differences in grades within the subject goods have been duly considered.

Submissions made by the domestic industry

30. The following submissions have been made by the domestic industry:-
- (i) Even when the imports of the subject goods from the subject countries appeared for the first time in 2008-09, the volumes increased significantly in the proposed POI.
 - (ii) Imports are undercutting the prices of the domestic industry.
 - (iii) The price undercutting is leading to price depression much beyond the decline in the cost of production.
 - (iv) Performance of the domestic industry declined in terms of production, sales , capacity utilization, market share, profits, return on investment, cash flow and inventories in the proposed POI when the imports are showing a significant increase.
 - (v) The domestic industry was in the process of recovering from past effects of dumping. The recovery has been prevented by the fresh dumping of the product. the industry was earlier faced with fresh dumping from Korea. The industry is now faced with fresh dumping from subject countries.
 - (vi) Performance of the domestic industry was expected to improve after imposition of anti dumping duty on imports from China & Korea RP. Performance in terms of price parameters did improve briefly in 2008-09. But the same deteriorated once again in 2009-10.
 - (vii) The deterioration in the performance during the current period is material and quite significant.
 - (viii) In addition to the material injury already inflicted on the domestic industry, imports from subject countries are posing threat of material injury to the domestic industry.

Cumulative assessment

31. Annexure II para (iii) of the AD Rules provides that in case imports of a product from more than one country are being simultaneously subjected to anti-dumping investigations, the Authority will cumulatively assess the effect of such imports, in case it determines that: -

- a. the margin of dumping established in relation to the imports from each country is more than two percent expressed as percentage of export price and the volume of the imports from each country is three percent (or more) of the import of like article or where the export of individual countries is less than three percent, the imports collectively accounts for more than seven percent of the import of like article and
- b. Cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles.

32. The Authority notes that:-

- The subject goods are being dumped into India from a number of countries.
- The margins of dumping from each of the subject countries are more than the *de-minimis* limits prescribed;
- The volume of imports from each of the subject countries is more than the *de-minimis* limits prescribed;
- Cumulative assessment of the effects of imports is appropriate as the exports from the subject countries directly compete with the like articles offered by the domestic industry in the Indian market, which is evident from the following:-
 - a. The products manufactured by the producers from the subject countries and the products manufactured by the Applicant have comparable properties. In other words, goods supplied by various subject countries and by the domestic industry are *inter-se* like articles.
 - b. There are common parties who are resorting to use of the imported subject goods from various sources and the goods produced by the domestic industry. Both, the imported and the domestic subject goods, are being used interchangeably and there is direct competition between the domestic product & imported products and *inter-se* amongst imported products.
 - c. The exporters from the subject countries and domestic industry have sold the product in the same periods to the same set of customers. The sales channels are comparable.
 - d. The volume of imports from each of the subject countries is significant.

33. In view of the above, the Authority considers that it would be appropriate to assess injury to the domestic industry cumulatively from exports of the subject goods from the subject countries

Examination by the Authority

34. Rule 11 of Antidumping Rules read with Annexure II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, “.... taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles....” In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.

35. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, stock, profitability, net sales realization, the magnitude

and margin of dumping, etc. have been considered in accordance with Annexure II of the AD Rules.

A) Volume Effects of Dumped Imports:

Demand and market share

36. Demand of the product in the Countries has been assessed as the sum of domestic sales of the domestic producers and imports from all sources.

Particulars	Unit	2006-07	2007-08	2008-09	POI (April 2009 to June 2010)	POI (Annualised)
Imports - as per IBIS data						
Volume (MT)						
Israel	MT	Nil	Nil	Nil	9243	7394
Taiwan	MT	Nil	Nil	233	4776	3821
Country Attracting Duty	MT	4150	17877	12935	9797	7838
Other Countries	MT	429	252	842	1177	942
Total Imports	MT	4579	18129	14010	24993	19995
Applicant domestic industry along with supporting domestic producer	MT	27679	30292	22353	28595	22876
Other domestic producers	MT	29332	27954	23765	26937	21550
Total	MT	57011	58246	46118	55532	44426
Total Demand	MT	61590	76375	60128	80505	64421

37. It is noted that demand for the product has significantly increased in the 2007-08 period as compared to the base year and then went down in 2008-09 period and has increased again thereafter in the POI. The demand, however, increased in the POI as compared to the base year.

Import volumes and market share

38. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India.

39. The Authority requested the office of DGCI&S for the relevant import details as regards the subject goods but the same has not yet been received. The Applicant has provided information with regard to imports of the subject goods into India based on IBIS data for 2006-07, 2007-08, 2008-09 and POI periods. Thus, the volume of imports reported by IBIS has been adopted. Further, a response form one producer/exporter from Israel has been received by the Authority. The data available on record has thus been collated and compiled to determine the total volume of the subject goods imported into India.

40. It is seen that the imports of the subject goods from the subject countries have increased significantly during the POI:

Particulars	Unit	2006-07	2007-08	2008-09	POI (April 2009 to June 2010)	POI (Annualised)
Imports - as per IBIS data						
Volume (MT)						
Israel	MT	Nil	Nil	Nil	9243	7394
Taiwan	MT	Nil	Nil	233	4776	3821
Country Attracting Duty	MT	4150	17877	12935	9797	7838
Other Countries	MT	429	252	842	1177	942
Total Imports	MT	4579	18129	14010	24993	19995

b) Imports from subject countries have increased in relation to production and consumption in India as compared to the base year.

	Unit	2006-07	2007-08	2008-09	POI (April 2009 to June 2010)
Dumped imports in relation to Indian production	%	0	0	0.48	25.10
Dumped imports in relation to demand in India	%	0	0	0.38	16.89

C) While market share of the subject countries has increased, the share of Indian producers has declined.

Market Share in Demand		2006-07	2007-08	2008-09	POI (April 2009 to June 2010)
Petitioners	%	43.78	37.97	36.06	33.88
Supporters	%	1.16	1.69	1.12	1.64
Other Indian producers	%	47.62	36.60	39.52	33.46
Subject countries	%	-	-	0.39	17.41
Countries attracting anti dumping duties	%	6.74	23.41	21.51	12.17
Other Countries		0.70	0.33	1.40	1.44
Total	%	100	100	100	100

41. It is seen from the above table that volume of import of the subject goods from the subject countries has increased significantly; whereas the share of domestic industry has decreased over the injury period. The share of imports from the subject countries, which was Nil in the base year, went up by 17.41% in the POI.

Price effect of imports

42. With regard to the effect of the dumped imports on prices, the Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. It is seen that the landed value of imports of the subject goods are significantly below the net selling prices of the domestic industry, resulting in significant price undercutting. The position is as follows.

	Unit	Israel	Taiwan
Net Sales Realization	Rs./MT	***	***
Landed Value	Rs./MT	***	***
Price Undercutting	Rs./MT	***	***
Price Undercutting	Range (%)	5-15	15-25

43. A perusal of the data in respect of the cost of sales and the net selling price shows that the domestic industry has apparently not suffered from any price suppression/depression, if the data of the POI is compared *vis a vis* the base year data. However, if the cost of sales and net selling price are seen *vis a vis* 2008-09 period, there appears to be a

case of significant price depression during the POI, as it is noted that the cost of sales dropped by 23%; whereas the net selling price dropped by about 29%.

	Unit	2006-07	2007-08	2008-09	POI(April 2009 to June 2010)
Cost of Sales	Rs./MT	***	***	***	***
Trend	Index	100	99.72	189	145
Net Selling Price	Rs./MT	***	***	***	***
Trend	Index	100	114	225	159

44. The other injury parameters relating to the domestic industry are as follows:

Sales volumes

45. The sales volumes of the domestic industry were analyzed over the injury period as follows:

Domestic Sales volume (MT)	Unit	2006-07	2007-08	2008-09	POI (April 2009 to June 2010)	POI (Annualised)
Applicant domestic industry	MT	26965	28997	21682	27273	21818
Supporting domestic producer	MT	714	1295	671	1322	1058
Applicant domestic industry along with supporting domestic producer	MT	27679	30292	22353	28595	22876
Other domestic producers	MT	29332	27954	23765	26937	21550
Total	MT	57011	58246	46118	55532	44426

46. The Authority notes that the domestic industry's sales volume have decreased significantly during the POI as compared to the base year; whereas it has marginally improved as compared to the 2008-09 period. The Authority notes that the decline in the sales volume was inspite of increase in the demand for the subject goods in the country over the injury period.

Capacity and Capacity Utilization

	Capacity	Production	Capacity utilization
Unit	MT	MT	%
2006-07	***	***	90
2007-08	***	***	99
2008-09	***	***	84
POI(April 2009 to June 2010)	***	***	74
POI (Annualised)	***	***	74

47. The Authority notes that while capacity has remained constant throughout the injury period; the production of the Applicant domestic industry increased in the 2007-08 period as compared to the base year; but has subsequently fallen significantly. Capacity utilisation has dropped from 90% in the base year to 74% in the POI. The domestic industry has contended the positive trend in the 2007-08 period was because of the levy of anti-dumping duty concerning imports of the subject goods from China PR.

48. The Authority notes that ordinarily the production and the sales of the domestic industry should have increased with the increase in demand of the subject goods in India; but it has shown a decline instead. It is seen that the production of the applicant domestic industry declined by 18 % during the period of investigation as compared to the base year; whereas its sales have declined by 17 %. Apparently, the domestic industry has not been able to utilize its production capacities, and its utilization is at lowest level during the period of investigation.

Factors affecting prices:

49. The Authority notes that during the POI, imports are undercutting the domestic industry's selling prices.

		2006-07	2007-08	2008-09	POI (April 2009 to June 2010)
Cost to make & sell	Rs\MT	***	***	***	***
Trend	Index	100	99	189	145
Net Selling price	Rs\MT	***	***	***	***
Trend	Index	100	114	225	159
Profit/(loss)	Rs\MT	(***)	(***)	***	(***)
Trend	Index	(100)	(4)	49	(55)
Landed value of dumped import - Israel	Rs\MT				***
Landed value of dumped import - Taiwan	Rs\MT				***

50. It is observed that the landed value of imports of the subject goods is significantly below the net selling price of the domestic industry during the POI, thus causing significantly price undercutting. A perusal of data further shows that in comparison to the base year, the domestic industry' net selling prices increased more than the increase in its cost of sales. However, the domestic industry has claimed that this positive trend in the 2007-08 and 2008-09 was because of some check on dumping by way of imposing anti dumping duty concerning imports of the subject goods from China PR and Korea RP.

Profit/Loss, return on investment and cash profits

51. The position with regard to Profit/Loss, return on investment and cash profits is as follows:

		2006-07	2007-08	2008-09	POI (April 2009 to June 2010)	POI Annualised
Profit/(loss)	Rs./lakhs	(***)	(***)	***	(***)	(***)
Trend	Index	(100)	(4)	39	(57)	(45)
Return on Investment	%	(***)	***	***	(***)	(***)
Trend	Index	(100)	16	70	(52)	(52)
Cash profit	Rs. Lakhs	(***)	***	***	***	***
Tend	Index	(100)	132	246	42	34

52. It is seen that the domestic industry was incurring huge losses during the base year 2006-07. The situation in this respect improved a little, as the losses reduced significantly during 2007-08 period. Its performance further improved as it earned profits during the year 2008-09 period. But the performance worsened significantly thereafter during the POI, as heavy losses were incurred by it during the POI. However, the losses to domestic industry have reduced substantially from Rs. *** lakhs during the base year to Rs. *** lakh on annualized basis during the period of investigation. Return on investment and cash profits have followed the same trend as that of profitability. This improvement too has been alluded to by the domestic industry to the levy of anti-dumping duty on the subject goods *vis a vis* countries already attracting duties.

Inventories:

53. The data relating to inventories shows as follows:

	Unit	2006-07	2007-08	2008-09	POI(April 2009 to June 2010)
Average Stock	Mt	***	***	***	***
Trend	Indexed	100	43	97	134

54. It is noted that inventories have increased in the POI as compared to the base year. Apparently the domestic industry is not able to sell its produce completely resulting in increase in inventories, despite increase in the demand.

Employment, wages and productivity:

55. The data relating to employment, wages and productivity is as follows

	Unit	2006-07	2007-08	2008-09	POI(April2009-June10)	POI Annualised
Number of employees-	Nos.	***	***	***	***	***
Trend	Indexed	100	102	104	105	105
Wages-	Rs.Lacs	***	***	***	***	***
Trend	Indexed	100	116	128	228	182
Wages per unit of production-	Rs./MT	***	***	***	***	***
Trend	Indexed	100	104	137	221	221
Productivity per employee-	MT	***	***	***	***	***
Trend	Indexed	100	109	90	78	78

56. It is seen that the number of employees marginally increased during the injury period. Wages per unit of production increased significantly during the POI as compared to the base year; whereas the productivity per employee showed a declining trend during the same period. Besides, it is seen that total wages paid showed an increasing trend.

Dumping Margin:

57. It is observed from the section pertaining to Dumping Margin above that dumping margin in respect of the subject countries is significantly positive.

Growth:

58. It is noted that the growth of the domestic industry shows a declining trend in respect of volume as well as price parameters. In fact, parameters relating to profitability have become negative in the POI as compared to the preceding year.

Ability to raise funds:

59. The Authority notes that the applicant is a multi-product company; hence its ability to raise funds cannot be fairly evaluated on the basis of its performance of the subject goods.

Conclusion on material injury:

60. The demand of the subject goods has increased from 100 (Index) in base year to 105(Index) in POI, i.e., increase by 5%. During the same period, the domestic sales have declined by 17%; thus the domestic industry has not been able to take advantage of the increase in demand of the subject goods in the Indian market.

61. It is seen that the imports have increased significantly in absolute terms and in relation to production & consumption in India. The imports are significantly undercutting the prices of the domestic industry. As a result, of the significant increase in imports and price difference between the imported and domestic product, the performance of the domestic industry has deteriorated in terms of parameters such as production, sales volumes, capacity utilization and market share during the POI in comparison to the base year. However, during the same period loss to the domestic industry has come down and cash profit and return on investment also follows the same trend. The improvement on some of the parameters has been alluded to by the domestic industry to the levy of anti-dumping measures concerning imports of the subject goods from countries already attracting the duties.

62. The above analysis shows that the domestic industry has suffered material injury.

Causal Link

63. As per the AD Rules, the Authority is, *inter alia*, obligated to also examine any known factors other than the dumped imports, which at the same time are injuring the domestic industry, so that the injury caused by these other factors are not attributed to the dumped imports. Factors which may be relevant in this respect include the volume and prices of imports not sold at dumped prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and the productivity of the domestic industry.

64. It was examined whether these other parameters listed under the AD Rules could have contributed to injury to the domestic industry. It is noted that:

- a. Imports from Third Countries: - The Authority notes that imports from third countries other than those already attracting anti-dumping duties are negligible and thus could not have caused injury to the domestic industry.
- b. Contraction in Demand: - The Authority notes that there is no contraction in the demand over the injury period. On the contrary, overall demand for the subject goods has shown significant positive growth during the POI as compared to the base year.
- c. Pattern of consumption: - No significant change in the pattern of consumption has come to the knowledge of the Authority, nor any interested party has made any submission in this regard.

- d. Conditions of competition: - The investigation so far has not shown that conditions of competition or trade restrictive practices are responsible for the claimed injury to the domestic industry.
- e. Developments in technology: - The investigation so far has not shown that there was any significant change in technology, which could have caused injury to the domestic industry.
- f. Export performance of the domestic industry: - The price and profitability in the domestic and export market has been segregated by the Authority for the purpose of present injury assessment. Therefore, the analysis on injury is not misrepresentative due to possible inclusion of export performance.

65. The Authority notes that while listed known other factors do not show injury to the domestic industry, the following parameters indicate that injury to the domestic industry has been caused by dumped imports.

- The imports of the subject goods from the subject countries are available at prices lower than domestic industry. Apparently, the consumers are switching over to imports as consequence thereof, thus leading to loss of market share for the Indian producers in general and domestic industry in particular.
- The domestic industry has lost sales volumes. Its market share has declined, whereas that of imports from the subject countries has increased.
- As a consequence of decline in the market share of the domestic industry, production & capacity utilization of the domestic industry deteriorated significantly. Deterioration in these parameters is apparently due to the presence of the dumped imports.
- The dumped imports are undercutting the prices of the domestic industry. There is a case of significant price-depression as well, if its net selling prices are seen *vis a vis* the preceding year. Besides, the domestic industry's performance in terms of profits, return on investment and cash flow is far from satisfactory. In fact its performance has significantly deteriorated, if analysed *vis a vis* its performance during the preceding period.

66. The Authority is of the view that injury to the domestic industry has been caused by dumped imports.

Magnitude of injury and injury margin:

67. The Authority has determined non-injurious prices of different grades of the subject goods for the domestic industry taking into account the respective cost of production of the domestic industry. The non-injurious price of the domestic industry has been compared with the landed values of the subject goods to determine the injury margins. The injury margins have been worked out as follows:

Producer/Exporter	IM US\$ per Kg	IM% - Range
ICL	***	55-65

All other exporters/ producers from Israel	***	65-75
All exporters/producers from Taiwan	***	30-40

H. Conclusions:

68. After examining the submissions made by the interested parties and issues raised therein; and considering the facts available on record, the Authority provisionally concludes that:

- (a) The product under consideration has been exported to India from the subject countries below associated Normal values, thus resulting in dumping of the product.
- (b) The domestic industry has suffered material injury.
- (c) The material injury to the domestic industry has been caused by the dumped imports from subject countries.

I. Indian industry's interest & other issues

69. The Authority notes that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the Domestic Industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the Countries. Imposition of anti-dumping measures would not restrict imports from the subject countries in any way, and, therefore, would not affect the availability of the product to the consumers.

70. It is recognized that the imposition of anti-dumping duties might affect the price levels of the product manufactured using the subject goods and consequently might have some influence on relative competitiveness of these products. However, fair competition in the Indian market will not be reduced by the antidumping measures, particularly if the levy of the anti- dumping duty is restricted to an amount necessary to redress the injury to the domestic industry. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by dumping practices, would prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.

J. Recommendations

71. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the exporters, importers and other interested parties to provide positive information, *inter alia*, on the aspects of

dumping, injury and causal link. Having initiated and conducted a preliminary investigation into dumping, injury and the causal link thereof in terms of the AD Rules and having provisionally established positive dumping margins as well as material injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of provisional duty is required to offset dumping and injury pending completion of the investigation. Therefore, the Authority considers it necessary and recommends imposition of provisional anti-dumping duty on imports of the subject goods from the subject countries in the form and manner described hereunder.

72. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of provisional anti-dumping duty equal to the lesser of the margin of dumping and the margin of injury, so as to remove the injury to the domestic industry. Accordingly, provisional antidumping duty as per amount specified in Col 8 of the table below is recommended to be imposed from the date of this notification in the event of acceptance of these recommendations by the Central Government, on all imports of the subject goods originating in or exported from the subject countries.

S. No.	Heading/ Subheading	Description of goods	Countries of Origin	Countries of Exports	Producer	Exporter	Duty Amount In US \$ per MT
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1	2809-2010	Phosphoric Acid of all grades and concentrations (excluding Agriculture /Fertiliser Grade)	Israel	Israel	M/s Rotem Amfert Negev. Ltd.	M/S Israel Chemicals Limited	236.83
2	-do-	-do-	Israel	Israel	Any combination of producer & exporter except at Sr. No.1		260.26
3	-do-	-do-	Any	Israel	Any	Any	260.26
4	-do-	-do-	Israel	Any	Any	Any	260.26
5	-do-	-do-	Taiwan	Taiwan	Any	Any	116.25
6	-do-	-do-	Any	Taiwan	Any	Any	116.25
7	-do-	-do-	Taiwan	Any	Any	Any	116.25

K. Further Procedure

73. The following procedure would be followed subsequent to notifying the preliminary findings: -

- (a) The Authority invites comments on these findings from all interested parties and the same would be considered in the final findings;
- (b) Exporters, importers, the applicant and other interested parties known to be concerned are being addressed separately by the Authority, who may make known their views, within forty days from the date of the dispatch of these Preliminary findings. Any other interested party may also make known its views within forty days from the date of publication of these findings;
- (c) The Authority would hold a hearing to hear the views of various interested parties orally;
- (d) The Authority would conduct further investigation and verification to the extent deemed necessary;
- (e) The Authority would disclose essential facts as per the AD Rules before determining the final findings.

(Vijaylaxmi Joshi)
Designated Authority