

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

NOTIFICATION

New Delhi 3rd May, 2011

FINAL FINDINGS

Subject:- Anti-dumping investigation concerning imports of Sodium Tripoly Phosphate (STPP) originating in or exported from China PR.

NO. 14/25/2009-DGAD: - Having regard to the Customs Tariff Act 1975 as amended in 1995 (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, 1995 (hereinafter referred to as the Rules) thereof:

1. Whereas M/s Tata Chemicals Ltd., Mumbai (hereinafter referred to as the applicant) has filed an application before the Designated Authority (hereinafter referred to as the Authority), in accordance with the Act and the Rules alleging dumping of Sodium Tripoly Phosphate (hereinafter referred to as the subject goods) originating in or exported from China PR (hereinafter referred to as the subject country) and requested for initiation of Anti-Dumping investigation for levy of anti dumping duty on the imports of the subject goods originating in or exported from the subject country.
2. And whereas, the Authority on the basis of sufficient evidence submitted by the applicant, issued a public notice dated 5th November, 2009, published in the Gazette of India, Extraordinary, initiating anti-dumping investigation concerning imports of the subject goods originating in or exported from the subject country, in accordance with the sub Rule 5(5), of the Rules, to determine the existence, degree and effect of the alleged dumping and to recommend the amount of anti-dumping duty, which, if levied would be adequate to remove the injury to the domestic industry.
3. And whereas, the Designated Authority having regard to the Act and the Rules investigated and recommended imposition of provisional Anti Dumping Duties on imports of the subject goods falling under subheading

2835.31 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) originating in or exported from the subject country, vide Preliminary Findings of even number dated 21st May, 2009 and Provisional Anti Dumping Duties were imposed on the subject goods vide Customs Notification No. 96/2010 dated 21st September, 2010.

A. PROCEDURE

4. The procedure described below has been followed with regard to this investigation after issuance of the Public Notice notifying the initiation of the above investigation by the Authority:

(i) The Embassy of the subject country in New Delhi was informed about the initiation of the anti-dumping investigation in accordance with the sub-rule (5) of Rule 5 supra.

(ii) The Designated Authority sent copies of the initiation notifications dated 5th November, 2009 to the embassy of the subject country in India, known exporters from the subject country, known importers and other interested parties, and the domestic industry, as per the information available with it. The known interested parties to this investigation were requested to file questionnaire responses and make their views known in writing within prescribed time limit. Copies of the letter, petition and questionnaire sent to the exporter were also sent to the Embassy of the subject country along with a list of known exporters/producers with a request to advise the exporters/producers from the subject country to respond to the questionnaire within the prescribed time.

(iii) Copy of the non-confidential version of the application filed by the domestic industry was made available to the known exporters and the Embassy of the subject country in accordance with Rules 6(3) supra.

(iv) Questionnaires were sent to the known exporters from subject country in accordance with the rule 6(4) to elicit relevant information. Responses to Exporter's Questionnaire/ MET Questionnaire have been received from the following producers/exporters of the subject goods from the subject country:

Sl.No.	Producer/Exporter
1.	Guizhou Wengfu Gene-Phos Chemical Co., Ltd. (Producer)

2.	Wengfu Intertrade Ltd (Exporter)
3.	Sichuan Blue Sword Chemical (Group) Co., Ltd. (Domestic seller)
4.	Sichuan Blue Sword Chuanxi Phosphochemicals Co., Ltd. (Producer and Domestic seller)
5.	Sichuan Blue Sword Import & Export Co., Ltd. (Exporter)
6.	M/s Yibin Tianyuan Group Co., Ltd. (Exporter)
7.	M/s Yibin Tianlan Chemical Co., Ltd. (Producer)
8.	M/s Leshan Jinguang Chemical Industry Co., Ltd. (Producer)
9.	M/s Sichuan Jinguang Industrial Group Co., Ltd. (Producer / Exporer)
10.	M/s Sichuan Jinguang Chemical Co., Ltd. (Producer)
11.	Hubei Xingfa Chemicals Group Co., Ltd. (Producer / Exporter)
12.	Kunming Malong Chemical Co Ltd. (Producer/Exporter)

(v) Questionnaires were sent to the known importers and users of subject goods in India calling for necessary information in accordance with Rule 6(4) and response to the importers questionnaire has been received from M/s Rohit Surfactants Private Limited. However, submissions have been received from M/s Parth Chem Impex Private Limited, M/s Fena (P) Limited, M/s Power Soaps Limited, M/s Sandeep Organics Pvt. Ltd, M/s Ardor International Pvt. Ltd, M/s Prabu Soap Works and Tamilnadu Small Scale Soap and Detergent Manufacturers Association.

(vi) Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to provide details of imports of subject goods for the injury period including the period of investigation.

(vii) 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.

(viii) The Non-Injurious Price based on the cost of production on the basis of the accounting information furnished by the petitioner on the basis of Generally Accepted Accounting Principles (GAAP) is worked out so as to ascertain whether anti-dumping duty lower than the dumping margin would be sufficient to remove injury to domestic industry.

(ix) The Authority initiated the investigation with Non-Market Economy presumption in respect of People's Republic of China in terms of Para 8 of Annexure I to the Rules and provided an opportunity to the country concerned and the exporters from People's Republic of China to rebut the said presumption under the said Rule. It was also mentioned in the said notification that the Authority may however, notify an appropriate third country, in the due course, for the purpose of determination of normal value in China PR in terms of Para 7 of Annexure I to the Rules. However, none of the interested parties, including the applicants, have placed any material fact before the Authority to select an appropriate market economy third country for the above purpose.

(x) The confidentiality claims of various interested parties in respect of the data submitted by them have been examined. The information, which is by nature confidential or which has been provided on a confidential basis by the interested parties, along with non-confidential summary thereof, has been treated as confidential.

(xi) In accordance with Rule 6(6) of the Anti-dumping Rules, the Authority also provided opportunity to all the known interested parties to present their views orally in oral hearing held on 13th August 2010 and 18th March, 2011. The parties, who presented their views in the oral hearing, were requested to file written submissions of the views expressed orally.

(xii) The submissions made by various interested parties post initiation and thereafter during the course of investigation and also before various courts have been considered, wherever found relevant, in this finding.

(xiii) Verification to the extent deemed necessary was carried out in respect of the information & data submitted by the domestic industry and the respondent cooperating producers/exporters from the subject countries. The verification report was sent to the respective producers/exporters for their comments and comments received thereon have been examined and considered in this finding.

(xiv) *** in this finding represents information furnished by the domestic industry and other interested parties on confidential basis and so considered by the Authority under the Rules.

(xv) The exporters, producers, importers, consumers and other interested parties who have not supplied information in this investigation have been treated as non co-operating interested parties. However, submissions made by such parties have been considered in this finding.

(xvi) The disclosure statement was issued by the Authority disclosing the essential facts of the investigation to the interested parties. The relevant comments/submissions received from the interested parties have been examined and addressed in this finding.

(xvii) Investigation was carried for the period starting from 1st April 2008 to 31st March 2009 (12 months-POI). However, the injury investigation period covers the period 2005-06, 2006-07, 2007-08 and the POI.

(xviii) The exchange rate adopted for the POI is Rs. 45.80=1 US \$.

5. M/s Kunming Malong Chemical Co Ltd. submitted a belated and incomplete response and therefore the same was not accepted by the Authority.

6. The exporter's questionnaire response submitted by M/s Hubei Xingfa Chemicals Group Co., Ltd. (Producer / Exporter) was not accepted by the Authority and independent dumping margin was not given to the respondent producer/exporter for the preliminary findings due to the fact that their owned subsidiary company namely M/s Hubei Xingfa Chemicals Export & Import Co Ltd, who had also exported the subject goods to India during the POI, did not submit exporter's questionnaire response. Post preliminary findings, M/s Hubei Xingfa Chemicals Export & Import Co Ltd submitted exporter's questionnaire response submitting that they had exported the subject goods to India during the POI by procuring from an unrelated party. M/s Hubei Xingfa Chemicals Group Co., Ltd. submitted that they have neither sourced subject goods from any producer for export to India nor exported the subject goods through any exporter/trader and the channel of their sales to India is direct and complete in all respects. Further, they submitted that their subsidiary company M/s Hubei Xingfa Chemical Export and Import Co. Ltd has exported subject goods to India by sourcing from an unaffiliated producer namely M/s Wuhan Xingshi Chemical Co. Ltd. and this sale cannot be termed as relevant in determination of their dumping margin.

7. The Authority Notes that the responses filed by M/s Hubei Xingfa Chemicals Group Co Ltd, China PR, and their subsidiary company M/s Hubei Xingfa

Chemicals Export & Import Co Ltd, were incomplete as per the prescribed format. Further, in the absence of complete response from the producer, who has supplied the subject goods to M/s Hubei Xingfa Chemicals Export & Import Co Ltd, China, that has been exported to India, the normal value in respect of the same supply cannot be established. Accordingly, the normal value and consequential dumping margin, if any, are not possible to be worked out for overall exports by the holding company and the subsidiary company. In view of the above reasons, the exporters questionnaire responses filed by M/s Hubei Xingfa Chemicals Group Co Ltd, China PR and their owned subsidiary company M/s Hubei Xingfa Chemicals Export & Import Co Ltd, China PR have not been accepted by the Authority in this finding for determination of individual dumping margin. Post disclosure, the concerned party reiterated its arguments for acceptance of its responses. But, considering the fact and position of the case, the Authority treats the concerned producers/exporters as non-cooperative.

B. Litigation before various courts during the course of the investigation

8. The following cases were filed before various courts by interested parties;

- i. M/s Rohit Surfactants Pvt Ltd filed a Special Civil Application No. 7818 of 2010 before Hon'ble High Court of Ahmadabad, challenging the preliminary finding dated 21.05.2010. The Honble High court vide its order dated 08.07.2010 disposed the special civil application as under;

“.....The issue raised in the petition is no longer res integra as this High Court in the case of Surefaces Plus v. Union of India, 2004 (173) ELT 127 (Guj.) has held that the preliminary finding is only recommendatory and is not appealable. That before the Central Government issues notification for provisional duty in exercise of powers under Rules 12 and 13 of the Rules, 1995, it is always open to make a representation. Accordingly, as laid down by this High Court, the petition is not required to be entertained considering the fact that the Central Government is bound, before issuing the notification for provisional duty, to consider the representation which may be made by the petitioners in accordance with law. The petitioners having already made a representation intend to make an additional representation within seven days from today. Subject to the aforesaid, the petition is not entertained and is, accordingly, summarily rejected.”

- ii. M/s Sandeep Organics Pvt Ltd had also filed a similar writ petition before the Hon'ble High Court of Delhi and the same was dismissed by the Hon'ble Court being premature.

C. Issues Raised by exporters/importers/other interested parties during the course of the investigation

9. The following issues were raised by exporters/importers/other interested parties during the course of the investigation:

i. **Issues relating to Product under consideration-**

- a) Food grade STPP is different from technical grade STPP in respect of cost of production, chemical characteristics, etc and are not used interchangeably. There is no reason for imposition of duty on imports of Food Grade STPP by inclusion of it in the Product under Consideration.
- b) The quality of STPP imported from China is much better quality compared to domestically produced STPP.

ii. **Issues relating to determination of Normal Value-**

- a) The Designated Authority has not followed the Rules contained in Para-7 of Annexure-1 of the Anti-dumping Rules while constructing normal value. Para 7 of Annexure-I of the Rules provides three methods which, must be determined sequentially and in the same chronology, but the Designated Authority has proceeded unilaterally, without eliminating or exhausting the first two options, and has directly resorted to the construction of the normal value based on the cost of production in India.
- b) The production process adopted by Domestic Industry and Chinese producers is different and therefore construction of normal value by the Authority on the basis of cost of production of domestic industry is wrong.
- c) As per MET status is concerned the Authority's finding that major raw materials are procured at prevailing market prices comparable to the prices prevailing at international market is extraneous to the Anti dumping Rules. Market Value of an input need not necessarily be equal to prevailing international prices.

- d) The Authority should have considered the domestic sale price of the Product in China for determining the Normal Value.
 - e) Data provided by the Domestic Industry for construction of normal value is fraught with tremendous problems. Having considered this data, the Authority has ignored certain factors like, different production process adopted by DI and the exporters, availability of Rock Phosphate, Soda Ash and Sulphuric Acid at low prices in China, cost of Phosphoric Acid, heat cost, purifying cost, etc which affect the comparability of the prices and costs and have failed to make adjustments for the same.
 - f) Erroneous determination of normal value has contributed to incorrect assessment of dumping and dumping margin by the Authority.
- iii. **Issues relating to Confidentiality-** Excessive confidentiality by the Authority in respect of normal value, export price, dumping margin, injury margin etc not in accordance with Rule 7 of the Rules.
- iv. **Issues relating to absence of injury to the domestic industry**
- a) Landed value has no adverse effect on the Domestic Selling Price in view of the fact that the Domestic Industry has doubled its sales realization.
 - b) Erroneous determination of cost of production, Non-injurious Price and consequent erroneous determination of Price Underselling, Injury margin etc.
 - c) Decline in Profitability, Return on Investment etc. are nothing but effect of inflated cost of production due to transfer pricing.
 - d) There is no price suppression.
 - e) Monthly production figures from DI should have been considered as there was plant shut down during the POI.
 - f) Domestic industry plant is very old.
 - g) Decline in productivity cannot be attributed to imports as decline in production is not a direct consequence of imports.
 - h) The analysis of the Authority on the issue of market share is erroneous because it has not considered the figures of capacity/production of the supporter, but for the purpose of sales the same is being considered.

v. **Issues relating to absence of causal link between dumping and injury.**

- a) Abnormal increase in cost of Sulphur during late 2007 resulted in sharp increase in cost of production and made it uncompetitive for domestic industry who adopted wet process of production in comparison to thermal process. The injury to the Domestic Industry, if any, was temporary and attributable to the technology and price of Sulphur and the same cannot be attributed to alleged dumping of goods. Imposition of Anti-dumping duty is not a solution for such temporary phenomenon. It requires structural solutions, which the domestic industry has admitted in its Annual Report.
- b) Injury suffered by the Domestic Industry is on account of the termination of the contractual arrangement for the production of STPP between TCL and Hindustan Unilever Limited. Therefore, the resultant decline in production and capacity of TCL cannot be attributed to the alleged dumping.
- c) TCL has enjoyed double edged benefit on account of two reasons - by showing lower profit due to high cost of Phosphoric Acid and obtained benefits from fertilizer- subsidy for a premium transfer price paid to its foreign affiliate. TCL is importing Phosphoric Acid from its related foreign joint venture at the price of Rs *** Per MT, whereas GACL and GSFC selling Phosphoric Acid at the price *** and *** respectively. The excess price paid by TCL must be adjusted for calculation of accurate NIP, injury and causal link determination.
- d) Inflated cost of Phosphoric Acid has been used in determining Non injurious Price as well as Constructed Normal Value. Injury is established by inflated costs based on excessive transfer prices to affiliates.
- e) The transfer price paid by TCL for purchasing Soda ash should be substituted with the market value of soda ash while determining accurate NIP, CNV, Injury and casual link.
- f) NIP determination should include the transfer price as the market price of the internally produced intermediates according to the Supreme Court of India. This would lead to the NIP, injury margin to come down substantially in the instant case.

- g) The fact of Plant shut down for part of the POI should also be adjusted for injury and causal link determinations.
- h) The annual report shows the inefficient usages of utilities that would have simply made the unit cons uncompetitive, thereby causing self inflicted injury.
- i) DI diverted raw material from STPP production to fertilizer production to maximize profit and sales, therefore not dumping but better profitability from fertilizers was one of the causes of lower production and sale of STPP in the POI.

vi. **Miscellaneous issues**

- a) There is no justification for imposing duty on the product concerned as the product is already protected as both of its major ingredients are already overprotected by anti dumping duty and safeguard duty. Indiscriminate and successive imposition of successive safe guard duty and Anti-dumping duty is causing tremendous cost to the users and consumers which the Authority should understand while recommending such Duty.
- b) There has been a distinct change in the pattern of consumption. The growth in demand from the ceramic industry which by far is the 2nd largest consumer of STPP after detergent industry has been ignored.
- c) Domestic demand has been erroneously presented by the Domestic Industry. The growth in demand from ceramic industry which is the second largest consumer of STPP is ignored.
- d) TCL enjoys a monopolistic market situation and has maintained irregular production of STPP.
- e) Domestic industry is unable to meet the demand of the subject goods in the domestic market and therefore imports from China is inevitable.
- f) Period of investigation is inappropriate as it is not recent. It deliberately includes the period of Global recession.
- g) There is greater public interest in the weak user industries due to higher investment, jobs and revenues. If the anti-dumping duty is imposed price of the subject goods will be increased many detergent manufacturers will closed their factories.

D. Views of domestic industry

10. Views offered by the domestic industry are as follows;

- i. The product under consideration in the present investigation is Sodium Tripoly Phosphate (STPP) originating in or exported from China PR. Sodium Tripoly Phosphate (STPP, also known as STP or Sodium Triphosphate or TPP) with chemical formula $\text{Na}_5\text{P}_3\text{O}_{10}$, is a polyphosphate of sodium or sodium salt of triphosphoric acid. Broadly, there are two grades of STPP – Food Grade and Technical Grade. Further, the Technical Grade STPP has various types like, Regular, Medium Temperature Rise, High Temperature Rise, Granular and Hydrated. All the types of STPP are covered within the scope of Product under consideration. The domestic industry submits that if technical grade STPP price becomes more than food grade STPP, consumers will switch to food grade STPP. The only difference between food grade STPP and technical grade STPP is that, food grade has lower level of impurities as compared to technical grade STPP, it is evident that the consumers would readily switch to food STPP if the relative price of the food STPP become lower. On this ground alone, food and technical STPP should be considered as like article.
- ii. Petitioner submits that Normal Value is based on constructed cost of production; including selling, general and administrative expenses and profits as no other information was available in this regard. This being the scenario, the Authority is fully justified in determining Normal Value on the basis of any other information. Petitioner completely agrees to the approach adopted by the Authority in determination of Normal Value. Apart from this, the Petitioner submits that product under consideration is produced in a number of other countries. The Authority may consider writing to these producers to determine Normal Value based on other principles laid down in Para 7, Annexure I, AD Rules.
- iii. Market economy status cannot be granted on the following grounds;

- (a) Market economy status cannot be given in a situation where one of the major shareholders is a State owned/controlled entity.
 - (b) Market economy status cannot be given unless the responding Chinese exporters establish that the prices of major inputs substantially reflect market values.
 - (c) Major inputs include utilities must reflect market value
 - (d) Market economy status cannot be given unless the responding exporters establish that their books are audited in line with international accounting standards:
 - (e) Onus/obligations: onus to prove market economy condition is on the Chinese exporters.
 - (f) It is a settled position that the Market economy status cannot be granted unless the responding company and its group as a whole make the claim.
 - (g) market economy status cannot be granted unless process of transformation has been completely established through documentary evidence.
 - (h) Market economy status cannot be granted even if one of the parameters is not satisfied:
- iv. The volume of imports has increased in absolute terms as well as in relation to production & consumption in India. Imports are undercutting the prices of the Domestic Industry. Price undercutting has resulted in significant price suppression to such an extent that the contribution margin of the Domestic Industry has become negative. On the contrary, performance of the Domestic Industry has deteriorated in terms of sales, production, capacity utilization, market share, profits, return on investment and cash profit. As a result of significant price difference between the domestic product and imported product, there has been significant increase in imports in absolute terms and in relation to production and consumption in India. The deterioration in the performance during the current period is quite significant and material. Injury to the Domestic Industry has been caused by the dumped imports.
- v. The argument of the monopolistic position being held by TCL is without any basis, given the legal and factual position of the present case. TCL has its own credibility in the Country and moreover it does not believe/aspires for any kind of monopolistic/opportunistic situation. Further, it cannot be argued that because Petitioner is the sole producer of the product under consideration, anti-dumping duties should not be imposed.

vi. As far as the argument of irregular production of the Petitioner is concerned, information on month by month basis production given in the written submissions clearly shows that it is the dumping of product concerned which has led to reduction in production. There is no deliberate attempt on the part of the Domestic Industry to reduce the production. All such allegations are denied.

vii. Global recession cannot be argued as a universal phenomenon impacting all countries and all products. It is not even established that global recession has affected the STPP industry.

viii. All allegations of inconsistent supply and insufficient production are denied. These are baseless arguments, wholly unsubstantiated and without any evidence.

ix. With regard to increase in sales realization, Petitioner submits that the same is required to be seen along with increase in the cost of production. The mere fact that selling price has increased does not establish that import did not have significant adverse impact on the domestic price.

x. With regard to the argument of interested parties that situation of injury claimed is temporary and can be solved through structural solution as admitted by the DI itself in its Annual Report, it is submitted that the problem of the Domestic Industry is largely dumping and the same cannot possibly be solved by structural solutions. In fact, steps have already been taken despite which the Domestic Industry is not able to improve its production and sales.

xi. It has been contended by the interested parties that the injury suffered by the Domestic Industry is on account of the termination of the contractual arrangement for the production of STPP between TCL and Hindustan Unilever Limited and therefore the resultant decline in production and capacity of TCL cannot be attributed to the alleged dumping. Petitioner submits that the argument that injury to the Domestic Industry is on account of termination of contracts with HUL is without any factual basis.

xii. A number of parties have contended that the process employed by the petitioner and Chinese manufacturer is different, and the process employed by the petitioner is highly inefficient and is in fact the cause of injury suffered by the Domestic Industry. In this regard petitioner submits as follows:

- a. The entire argument of these parties with regard to difference in process is flawed for the reason that the alleged difference in process is not involved in producing STPP. But the difference in process lies in production of Phosphoric Acid, which is one of the inputs required for producing STPP. The production of STPP requires Phosphoric Acid and Soda Ash as the major raw materials. This Phosphoric Acid may be obtained by such producers either captively or from market. Typically, producers have captive production of Phosphoric Acid. Captive production of Phosphoric Acid can be either through Rock Phosphate route or Yellow Phosphate route. Thus, there are alternate ways to obtain Phosphoric Acid as far as production of STPP is concerned, but as far as production of STPP is concerned there is no difference in the process followed for STPP production by different producers globally.

- b. As regards the argument that the process employed by Domestic Industry is inefficient, petitioner submits that a report published by “China Chemical Reporter” clearly shows that, in fact, Chinese producers are now contemplating to switch from yellow phosphate route to rock phosphate route. This shift of process from yellow phosphate to rock phosphate is certainly a result of multiple reasons/advantages attached to the rock phosphate route. Indeed, Guizhou Hongfu Industry Company, a Chinese company has already shifted its process to rock phosphate route. This fact clearly implies that rock phosphate route for production of Phosphoric Acid is a better/preferred process and the same is even realized by the Chinese Producers. In other words, the process deployed by Domestic Industry for making Phosphoric Acid is, in fact, the process which the Chinese producers also intent to employ in future.

xiii. Differences in the production process is entirely immaterial for the determination of CNV, dumping margin or the injury margin.

xiv. Petitioner submits that for determination of CNV and non-injurious price, the Designated Authority is required to consider raw materials and prices thereof. The Designated Authority is not required to consider cost of production of such raw materials. A domestic producer may obtain the inputs from market or produce captively. If the input has been obtained from market, the Designated Authority admittedly has taken only purchase price of such inputs. If a producer is also producing such raw materials, it would have cost of production of such raw materials. The Designated Authority however does not seek this information. The Domestic Industry is not required to provide information on cost of production of such captive inputs and the Designated Authority is consistently considering market value of such captive inputs. The difference in cost of inputs and market value of inputs is in profits – Given the purpose for which dumping margin and injury margin is determined, in any case, it can be concluded that the cost of inputs is entirely immaterial.

xv. Petitioner submits that there was no plant shut down during the period of investigation. The plant shut down occurred after the investigation period.

xvi. It has been argued that the petitioner has imported Phosphoric Acid from affiliated supplier which has adversely impacted the Domestic Industry. Petitioner submits that this argument is required to be rejected on the grounds that-

- (a) The petitioner has produced its own Phosphoric Acid for the purpose of producing STPP. The company has not imported Phosphoric Acid for producing STPP;
- (b) The imported Phosphoric Acid is of different grade and specification which cannot be used for producing STPP. It can only be used in production of fertilizers;

E. Post Disclosure Comments/Submissions made by the interested parties and domestic industry

11. The following comments/submissions have been made by interested parties post disclosure:

- Provisional Antidumping Was Imposed Before Issuance Of Final Findings & Final Oral Hearing.
- Currently / Presently, the Applicant, M/S. Tata Chemicals Ltd., Is Under Shut Down For Expansion Purpose.
- Any Levy Of Final Antidumping Should Not Be Back Dated Or Prior Dated (Before Final Finding Date).
- Result Of Provisional Antidumping On Prices, Profitability & Production Of The Applicant & Volume Of Imports Are Not Provided. Even After Antidumping, If The Applicant Does Not Reach Its Level Of Production, Then What Will Be The Situation? Will The Anti Dumping Be Abolished Or Reduced?
- Increase In Domestic Selling Prices To Be Given Importance.
- Detailed Structural Steps Taken By The Applicant Are Not Provided.
- D.I Has Not re-verified with HUL any details of its contract or termination or its imports or its purchase. The allegation of the Applicant is baseless & Without Any Proof / Supporting.
- The Domestic Industry uses the WET process for the manufacture of STPP whereas Blue Sword uses the DRY process for the production of STPP.
- Difference in process of raw material To Be Given Importance. Further difference In Yellow Phosphate Route & Rock Phosphate Route to be considered.
- Selection of an abnormal POI as far as price of Phosphoric Acid is concerned. The cost of captive produced Phosphoric Acid was affected by the abnormality in the prices of Sulphur/Sulphuric Acid and Rock Phosphate which are the ingredients of Phosphoric Acid. The interested parties had highlighted the fact of abnormal situation that prevailed in the prices of sulphur/sulphuric acid, rock phosphate and phosphoric acid during the POI. But Authority has not dealt with the issue in the Disclosure statement

- Exact Reason & Exact Duration Of Plant Shut Down Not Provided By The Applicant.
- Due to the low capacity utilisation, per- unit fixed cost absorbed in the NIP is inflated. A fair level of capacity utilisation in a normal year should have been considered by the Authority.
- The Applicant Has Not Given Details Of Its Sales Industry Wise (Detergent Industry Wise, Ceramic Industry Wise Etc.).
- The Applicant Does not Manufacture Other Various Sub Grades Of Technical STPP.
- Methodology of determination of normal value adopted by the Authority needs to be explained clearly.

12.The following submissions have been made by the domestic industry post disclosure:

- If food grade can be imported without anti dumping duty and used in technical grade applications, the entire purpose of present long drawn investigation is frustrated. Should the Designated Authority propose to exclude food grade, it should be excluded only for those applications wherein food grade alone is required and technical grade cannot be consumed.
- The non injurious price determined is too low and is unsupported even by the new law.
- The non injurious price has been determined following methodology inconsistent with the newly introduced rules.

F. Issues relating to Confidentiality

13.Interested parties contended excessive confidentiality by the Authority in respect of normal value, export price, dumping margin, injury margin etc is not in accordance with Rule 7 of the Rules.

F.1 Examination by the Authority

14. The Authority has examined the confidentiality claims of the interested parties. The Authority made available to all interested parties the public file containing non-confidential version of evidences submitted by various interested parties for inspection, upon request as per Rule 6(7). The Authority after examining the submissions of the interested parties observed that the methodology of computation of Normal Value, export price and non-injurious price have been disclosed in the Preliminary Findings.

15. With regard to confidentiality of information Rule 7 of Anti-dumping Rules provides as follows:-

Confidential information. (1) Notwithstanding anything contained in sub-rules (2), (3) and (7) of rule 6, sub-rule (2) of rule 12, sub-rule (4) of rule 15 and sub-rule (4) of rule 17, the copies of applications received under sub-rule (1) of rule 5, or any other information provided to the designated authority on a confidential basis by any party in the course of investigation, shall, upon the designated authority being satisfied as to its confidentiality, be treated as such by it and no such information shall be disclosed to any other party without specific authorization of the party providing such information.

(2) The designated authority may require the parties providing information on confidential basis to furnish non-confidential summary thereof and if, in the opinion of a party providing such information, such information is not susceptible of summary, such party may submit to the designated authority a statement of reasons why summarization is not possible.

(3) Notwithstanding anything contained in sub-rule (2), if the designated authority is satisfied that the request for confidentiality is not warranted or the supplier of the information is either unwilling to make the information public or to authorise its disclosure in a generalized or summary form, it may disregard such information.

b) The WTO Agreement on Anti Dumping provides as follows with regard to confidentiality of information :-

Article-6.5 Any information which is by nature confidential (for example, because its disclosure would be of significant competitive advantage to a competitor or because its disclosure would have a significantly adverse effect upon a person supplying the information or upon a person from whom that person acquired the information), or which is provided on a confidential basis by parties to an investigation shall, upon good cause shown, be treated as such by the authorities. Such information shall not be disclosed without specific permission of the party submitting it.

Article-6.5.1 The authorities shall require interested parties providing confidential information to furnish non confidential summaries thereof. These summaries shall be in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence. In exceptional circumstances, such parties may indicate that such information is not susceptible of summary. In such exceptional circumstances, a statement of the reasons why summarization is not possible must be provided.

Article-6.5.2 If the authorities find that a request for confidentiality is not warranted and if the supplier of the information is either unwilling to make the information public or to authorize its disclosure in generalized or summary form, the authorities may disregard such information unless it can be demonstrated to their satisfaction from appropriate sources that the information is correct.

Footnote to Article 6.5.2 (footnote 18 of the WTO Agreement on Anti Dumping) provides as follows :—

Members agree that requests for confidentiality should not be arbitrarily rejected.

16. It is thus evident that the public notices issued by the authorities are directly subjected to confidentiality provisions and should protect confidentiality of information provided by an interested party. Further, a conclusion drawn by the Authority based on confidential information also becomes confidential, if disclosure of such conclusion can in any way effectively lead to disclosure of information provided on confidential basis.

17. The Authority also examined the legal provisions and practices of other investigating Authorities and observed that similar public notice/communications issued by other investigating Authorities as well, does not include any confidential information while issuing findings.

18. It is the consistent position of the Authority that the constructed normal value determined cannot be disclosed in the public notification. However, the methodology adopted in this regard has been explained in this finding.
19. The provision for disclosure of essential facts before giving final findings has been laid down at Rule 16 of the Anti-dumping Rules. Even under Rule 16, the confidential facts are required to be disclosed to “respective interested parties”, while non-confidential facts are required to be disclosed to all interested parties. At no stage the Designated Authority is empowered to disclose the confidential information to the parties with competing and conflicting interests. Thus it would be sufficient if full explanation of the reasons for the methodology used in the establishment and comparison of the export price, normal value and Non-injurious price are disclosed by the Designated Authority instead of disclosing the actual figures. Normal Value, export price and non-injurious price are based on the confidential information submitted by the parties and disclosure of the same would be of significant competitive advantage to a competitor and its disclosure could have a significantly adverse effect upon the person supplying the information.
20. Disclosure of the commercially sensitive and confidential information, provided by the interested parties to the Designated Authority, by reposing trust and confidence, to facilitate the investigation, will completely vitiate the market atmosphere both in the domestic as well as international fronts. The disclosure of confidential information relating to the cost of production, non-injurious price etc. of the domestic industry will provide undue advantage to its domestic as well as overseas competitors and place them in a disadvantageous position before the consumers. Likewise disclosure of the confidential information relating to the exporters such as normal value, net export price, landed price etc. will jeopardize their commercial interest vis-à-vis their competitors as well as buyers.
21. In view of the above Authority notes that confidential information demanded by the interested parties can not be disclosed to the parties with competing and conflicting interests however the non –confidential information has been disclosed to the interested parties.

G. Miscellaneous issues

22. Following miscellaneous issues have been raised by the interested parties during the course of investigation.

- There is no justification for imposing duty on the product concerned as the product is already protected as both of its major ingredients are already overprotected by anti dumping duty and safeguard duty. Indiscriminate and successive imposition of successive safe guard duty and Anti-dumping duty is causing tremendous cost to the users and consumers which the Authority should understand while recommending such Duty.
- There has been a distinct change in the pattern of consumption. The growth in demand from the ceramic industry which by far is the 2nd largest consumer of STPP after detergent industry has been ignored.
- Domestic demand has been erroneously presented by the Domestic Industry. The growth in demand from ceramic industry which is the second largest consumer of STPP is ignored.
- TCL enjoys a monopolistic market situation and has maintained irregular production of STPP. Domestic industry is unable to meet the demand of the subject goods in the domestic market and therefore imports from China is inevitable.
- There is greater public interest in the weak user industries due to higher investment, jobs and revenues. If the anti-dumping duty is imposed price of the subject goods will be increased many detergent manufacturers will closed their factories.
- Period of investigation is inappropriate as it is not recent. It deliberately includes the period of Global recession.
- Provisional Antidumping Was Imposed Before Issuance Of Final Findings & Final Oral Hearing.
- Currently / Presently, the Applicant, M/S. Tata Chemicals Ltd., Is Under Shut Down For Expansion Purpose.

- Any Levy Of Final Antidumping Should Not Be Back Dated Or Prior Dated (Before Final Finding Date).
- Result Of Provisional Antidumping On Prices, Profitability & Production Of The Applicant & Volume Of Imports Are Not Provided. Even After Antidumping, If The Applicant Does Not Reach Its Level Of Production, Then What Will Be The Situation? Will The Anti Dumping Be Abolished Or Reduced?

G.1. Examination by Authority

23. With regard to contention that major raw materials already protected by anti-dumping duty and safeguard duty and thus the import of subject goods does not merit any such protection, the Authority notes that there is no bar under the Rules which prohibit the Authority to recommend anti-dumping duty where the goods are found to be dumped and causing injury to the domestic industry, regardless of the fact that any such protective measure is already imposed on the imports of its raw materials.

24. With regard to the contention that demand from ceramic industry has been ignored, the Authority notes that demand for the subject goods in domestic market has been defined as the sum of imports into India and all sales by domestic producer. This includes consideration of demand in all sectors, including ceramics.

25. With regard to contention that TCL enjoys a monopolistic market situation and is unable to meet the demand of the subject goods in the domestic market and therefore imports from China is inevitable, the Authority notes that the objective and purpose of imposing anti-dumping duty is to prevent unfair trade practice and to create a level playing field for the domestic industry vis a vis dumped imports under the aegis of WTO. The Authority notes that 'dumping' is an unfair trade practice and must be condemned if it causes injury to an established domestic industry, even though there is only one domestic producer; as the intent of anti-dumping duty is only to redress the injury caused to the domestic industry on account of the unfair trade practice of dumping. Imposition of the duties shall not restrict the rights of foreign producers to sell the subject goods at un-dumped prices in the Indian market. Moreover the investigation has shown that the capacity utilization of

the domestic industry declined significantly during the period of investigation due to dumping of the subject goods from the subject country.

26. As regard to contention that period of investigation is inappropriate and includes the period of Global recession, no evidence/information has been provided by any interested party that global recession has affected the STPP industry.

27. Further under the law, the Authority is required to consider whether the product is being exported at dumping prices; and if so, whether such dumping has caused injury to the domestic industry. Further, the Authority is required to consider whether such injury has been caused by any other known factor or any other factor brought to the knowledge of the Authority. None of the interested parties have established in this regard that injury to the domestic industry has been caused by other factors.

28. Provisional Anti-Dumping Duties are governed by Rule 12 & 13, whereas final findings and definitive duties are governed by Rule 17 & 18. Further, the Rules do not contemplate public hearing before recommendations for interim duties.

29. The Authority has to take note of information relating to Period of investigation only and the post POI developments are matters of review and not relevant to the present investigation.

30. Rules 12, 13, 17 & 18 of the Anti-dumping Rules govern imposition of interim and final duties. The definitive anti-dumping duties shall take effect from the date of imposition of provisional duties.

31. It is consistent practice of the Authority not to consider any parameter for the period after the period of investigation. Any development post investigation

period whether favorable or adverse can only be considered through review mechanism and not in the current proceedings.

32. The relevant submissions raised by the interested parties at various stages of the investigation have been examined and addressed in the respective paras of this finding.

H. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

33. The product under consideration is “Sodium Tripoly Phosphate” (STPP), having chemical formula $\text{Na}_5\text{P}_3\text{O}_{10}$. It is a polyphosphate of sodium or sodium salt of triphosphoric acid. Broadly there are two grades of STPP viz., Technical Grade and Food Grade. There are various technical grades of STPP – Regular, Medium Temperature Rise, High Temperature Rise, Granular and Hydrated. STPP is a solid inorganic compound used in a large variety of household cleaning products, mainly as a builder, but also in human foodstuffs, animal feeds, industrial cleaning processes and ceramics manufacture.

34. The product under consideration is classified under Chapter 28 of the Customs Tariff Act, 1975 under subheading 2835.3100. However, Customs classification is indicative only and not binding on the scope of the present investigation. The present investigation covers all grades and types of STPP.

Views of the exporters/Importers/Other Interested Parties

35. It has been contended by the exporters/importers/other interested parties that - Food grade STPP is different from technical grade STPP in respect of cost of production, chemical characteristics, etc and are not used interchangeably. There is no reason for imposition of duty on imports of Food Grade STPP by inclusion of it in the Product under Consideration. Further, the quality of STPP imported from China is much better quality compared to domestically produced STPP. Post disclosure it is further submitted that the Applicant does not manufacture other Various Sub Grades of Technical STPP.

Views of the Domestic Industry

36. The domestic industry has claimed that there is no known difference between the products manufactured by them and the subject goods imported from the subject country, which can have any impact on price, usage, quality etc. The domestic industry also claims that the technology and primary production process employed by them and the producers from the subject country are comparable. The domestic industry submits that if technical grade STPP price becomes more than food grade STPP, consumers will switch to food grade STPP. The only difference between food grade STPP and Technical grade STPP is that the food grade STPP has lower level of impurities as compared to technical grade STPP. It is evident that the consumers would readily switch to food STPP if the relative price of the food STPP becomes lower. On this ground alone, food and technical STPP should be considered as like article. Post disclosure the domestic industry submitted that if food grade can be imported without anti dumping duty and used in technical grade applications, the entire purpose of present long drawn investigation is frustrated. Should the Designated Authority propose to exclude food grade, it should be excluded only for those applications wherein food grade alone is required and technical grade cannot be consumed.

Examination by the Authority

37. In respect of the PUC, on the basis of examination of information submitted by the interested parties and verification thereof, the Authority notes that there is no known difference between the subject goods produced by the domestic industry and imported from the subject country and, therefore, are like articles.

38. 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;

39. The information on record does not show any grade of technical STPP which is not being produced/supplied by the domestic industry. Further, with regard to difference between Food grade STPP and Technical grade STPP, the Authority notes that food grade STPP contains much less impurities and heavy metals than the technical grade STPP. The Authority further notes that certain exporters have acknowledged that the food grade STPP being more pure in nature and may replace technical grade STPP in its usage, but not vice versa. However, considering the facts that the domestic industry does not manufacture the food grade STPP, the demand for food grade STPP in the domestic market and import of the same into the country being very low and negligible and because price of food grade STPP is around 25% higher than the technical grade STPP and usage of both the grades is not substitutable both the ways, the Authority holds that there is no need to include the food grade STPP within the purview of anti-dumping measures. In view of the above, the Authority notes that the recommendation of anti-dumping measures on imports of Food grade STPP is not warranted.

I. DOMESTIC INDUSTRY & STANDING

40. The application has been filed by M/s. Tata Chemicals Limited, Mumbai and supported by M/S Albright & Wilson Ltd. The applicant is the major producer of the product in India and along with the supporter, constitutes 100% of the production of the subject goods in India. None of the interested parties have raised any issue concerning scope of domestic industry and standing.

41. TCL's plant at Haldia produces the subject goods and both the required major intermediate products such as Sulphuric Acid and Phosphoric Acid for manufacturing the subject goods. The plant was originally set up by M/s Hind Lever Chemical Limited (HLCL) in the year 1979 and the same was subsequently purchased by M/s TCL in 2004, pursuant to the orders of Honorable High Court of Mumbai and Honorable High Court of Punjab and Haryana at Chandigarh. TCL had an agreement with Hindustan Uniliver Limited (HUL) i.e. erstwhile Hindustan Lever Limited, to sale the subject goods to HUL against supply of the required major raw materials on job-work basis. The company has stopped job work production from the month of May 2006 onwards.

42. As per the application submitted by M/s Tata Chemicals, there are two known producers of the subject goods in India. Apart from the applicant, M/s Albright & Wilson Chemicals India Ltd, Mumbai also has the capacity to produce the subject goods. But, during the POI the later producer has only *** Mt of production, as against *** Mt of production by M/s Tata Chemicals. During the POI the total Indian production of the subject goods is *** Mt, out of which the production by M/s Tata Chemicals Limited, Mumbai (the applicant) constitutes 92% and therefore commands standing in terms of Rule 5(3) and constitutes the domestic industry in terms of Rule 2(b) of the Anti-dumping Rules.

J. DE MINIMIS LIMITS

43. As per the import data received by the Authority from the Directorate General of Commercial Intelligence and Statistics (DGCI&S) and other secondary sources, as well as the data furnished by the cooperating exporters from China PR, the import of the subject goods from the subject country is found to be above the de minimis level.

K. DETERMINATION OF DUMPING MARGIN

K.1 EXAMINATION OF MARKET ECONOMY CLAIM

44. The Authority notes that in the past China PR has been treated as a non-market economy country in the anti-dumping investigations by other WTO Members. Therefore, in terms of Para 8 (2) of the Annexure of Anti-dumping Rules, China PR has been treated as a non-market economy country subject to rebuttal of the above presumption by the exporting country or individual exporters in terms of the above Rules.

45. As per Paragraph 8, Annexure I to the Anti Dumping Rules as amended, the presumption of a non-market economy can be rebutted if the exporter(s) from China PR provide information and sufficient evidence on the basis of the criteria specified in sub paragraph (3) in Paragraph 8 and prove to the contrary. The cooperating exporters/producers of the subject goods from People's Republic of China are required to furnish necessary

information/sufficient evidence as mentioned in sub-paragraph (3) of paragraph 8 in response to the Market Economy Treatment questionnaire to enable the Designated Authority to consider the following criteria as to whether:-

- (a) The decisions of concerned firms in China PR regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values;
- (b) the production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts;
- (c) such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms; and,
- (d) the exchange rate conversions are carried out at the market rate.

46. The Authority notes that following producers and exporters of the subject goods from China PR have submitted Market Economy Questionnaire responses consequent upon the initiation notice issued by the Authority and rebutted the non-market economy presumption:

S.N.	Company's Name
1.	Guizhou Wengfu Gene-Phos Chemical Co., Ltd.
2.	Wengfu Intertrade Ltd
3.	Sichuan Blue Sword Chemical (Group) Co., Ltd.
4.	Sichuan Blue Sword Chuanxi Phosphochemicals Co., Ltd.
5.	Sichuan Blue Sword Import & Export Co., Ltd.
6.	M/s Yibin Tianyuan Group Co., Ltd.
7.	M/s Yibin Tianlan Chemical Co., Ltd.
8.	M/s Leshan Jinguang Chemical Industry Co., Ltd.

9.	M/s Sichuan Jinguang Industrial Group Co., Ltd.
10.	M/s Sichuan Jinguang Chemical Co., Ltd.

K. 2. EXAMINATION BY THE AUTHORITY

M/s Guizhou Wengfu Gene-Phos Chemical Co., Ltd. (Producer) and Wengfu Intertrade Limited (Exporter)

47. The Authority notes that the responding companies have acknowledged that they are State owned. The Board of Directors of the companies are dominated by the State owned share holding companies. The Group Company, M/s Wengfu Group Co. Ltd., an acknowledged State owned Company, has not filed response even after being pointed by the Authority. The Authority further notes that phosphoric acid, which is the basic intermediate for manufacturing the subject goods, is being procured by the responding producer company from M/s Wengfu Group Co. Ltd., the parent company. Moreover, from the auditor's report, it is evident that the company has received substantial amount of subsidies /grants from Govt. sources.

48. Following observations were made by the Authority during the course of on the spot verification:

- i. Both Guizhou Wengfu Gene Phos Chemical Co. Ltd. (producer) and Wengfu Intertrade Ltd (Exporter) are related companies owned and controlled by Wengfu Group Co Ltd, a State owned company. The Group Company did not file exporters and MET questionnaire responses.
- ii. Although the respondent companies were requested by the Authority well in advance to keep the required records/documents ready for verification, they failed to provide most of the required documents/records including some relevant appendices. Instead they provided a letter expressing their inability to provide the required documents/records.

- iii. Apart from Wengfu Group Co Ltd which holds ***% share in Wegfu Intertrade Ltd, another State owned company namely Guizhou Chem Fertilizer Industry Co Ltd holds ***% share in the company. In that way, the respondent exporting company is a 100% State owned company.
- iv. As per the MET response submitted by the exporter, the company was formerly known as Guizhou Wengfu Chemiphos Import and Export Corporation and changed to present name on 3rd July, 2008. During verification the company informed that originally it was the branch of the group parent company i.e. Wengfu Group Co. Ltd. Since the year 2008 the company became a limited company. However the company could not produce relevant documents to show whether it was merely a nomenclature change or there are more to that involving physical transformation of the company involving transfer of assets and liabilities.
- v. Moreover, as per the web based information of the company, the company was founded on 25th November, 1994 as a trading arm of Guizhou Hongfu Industry and Commerce Development Corporation Limited. The company could not explain satisfactorily to a query about how the business license of the company reflected the date of establishment as 3rd July, 2003, while the web based information of the company states that the company was founded on 25th November, 1994. The company also could not produce relevant documents/records in support of their MET claim, despite intimation much in advance.
- vi. The producing company could not provide documents/records relating to the audited annual accounts of the company of the year of establishment, the assets schedule with details regarding date of acquisition, mode of acquisition, mode of payment, proof of payment through normal banking channel, etc, copy of capital verification report, origin and growth of the company, etc. Similarly, relevant documents/records relating to the Group parent company could not be furnished by the company to substantiate their MET claim.
- vii. During the course of the verification it was informed that the original name of the company was M/s South Guizhou Phosphate Factory, which

was purchased by the Hongfu Group from the Government in the year 2000. After purchase the name of the company was changed to M/s Wengfu Group in the year 2009. However, documents/records showing mode of purchase, mode of payment etc could not be furnished by the company.

viii. Further, it was observed during verification that phosphoric acid, which is the major raw material was purchased by the company from parent company Wengfu Group Co. Ltd. But, the company could not provide the back up documents substantiating that raw materials purchased from the parent group company was procured at arm's length basis.

49. The verification report was sent by the Authority to the producer and exporter for comments. However the companies failed to offer comments and remained non-cooperative. In view of the above reasons, the authority considers it appropriate not to grant them MET status and declares them as non-cooperative.

M/s Sichuan Blue Sword Chemical (Group) Co., Ltd., M/s Sichuan Blue Sword Chuanxi Phosphochemicals Co., Ltd. (Producer) and M/s Sichuan Blue Sword Import & Export Co., Ltd, (Exporter).

50. The Authority observed from the responses submitted by the above companies that M/s Sichuan Rongxin Investment Company Limited holds ***% share in Sichuan Blue Sword Investment Management Co. Ltd., which in turn holds ***% share in Sichuan Blue Sword Chemical Group. It is acknowledged in the response that Blue Sword Chemical Group controls Blue Sword Chuanxi and Blue Sword Import & Export Co. Ltd. It is further stated therein that Sichuan Blue Sword Investment Management Co. Ltd. controls Blue Sword Chemical Group. Despite attention being drawn by the Authority, the responding companies did not submit any response on behalf of the group/parent company which holds the ultimate control over the companies. Although in the response M/S Sichuan Blue Sword Chemical Group Co. Limited is stated to have been set up in the year 2002, the Authority observed from the web based information of the company that it has grown out of M/S Sichuan Blue Sword Group which was established way back in the year 1985. The Authority further observes that the responding producers/exporters have claimed that they have procured major raw materials from un-affiliated sources without furnishing any evidence that

the same are procured at prevailing market prices comparable to the prices prevailing at international market.

51. Following observation were made by the Authority during the course of on spot verification:

- i. Sichuan Blue Sword Chuanxi Phosphochemical Co Ltd and Sichuan Blue Sword Import & Export Co Ltd are the producing and exporting subsidiary companies for the subject goods, respectively, of Sichuan Blue Sword Chemical (Group) Co Ltd. Sichuan Blue Sword Chemical (Group) Co Ltd is a subsidiary of Sichuan Investment Management Co Ltd, which in turn is a subsidiary of Sichuan Rongxin Co Ltd. The controlling Group Company is a State owned company stated to be set up in 1979 and all the subsidiaries are under the common control of the Group Company. During the verification Sichuan Blue Sword Investment Management Co Ltd was stated to be the actual controlling company of the entire Blue Sword Group. But, the same company did not file the MET Response. They could not produce the business license of the controlling Group Co i.e. Sichuan Blue Sword Investment Management Co Ltd.
- ii. Further, during the verification, it was informed by the company that the assets of Sichuan Blue Sword Packing co Ltd were acquired by the company through an auction, but they could not produce the details of the auction and relevant documents relating to the auction to the verification team.
- iii. Although the company was informed by the Authority much in advance to keep the records ready for verification, the company could not produce before the verification team the relevant details including the details regarding the assets of the company and could not provide the assets schedule for verification purpose.
- iv. It was declared in the responses that the registered office of Sichuan Blue Sword Import & Export Co Ltd was Yoning Village, Shifang City. But, during the verification it was informed by the company that the office does not exist in the above address any more and has been shifted to Chengdu.

- v. It was acknowledged that the controlling group company was originally a State owned company. The subsidiary companies are under the common control of the group parent company. The group company has gone through many changes over the years and is a transformed company. But, the documents/records required by the verification team to substantiate the process of transformation, whether taken place in terms of market forces and free of State interference or otherwise, could not be produced.

- vi. As per the web based information, Sichuan Blue Sword Chemical (Group) Co Ltd, established in 1985, is a subsidiary fully invested by Sichuan Blue Sword Group. The former name of the Group Company was Sichuan Chuanxi Phosphochem. The Group Company was set up through the reformation of investment structure of Sichuan Chuanxi Phosphochem Works Group Corporation.

- vii. The group company is a transformed company and has gone through many changes over the years. But since the relevant documents/records required by the verification team could not be provided, the respondent companies decided to give up and forego MET claim. In view of the reasons stated above, the respondent companies gave up their market economy treatment claim in writing.

- viii. The verification report was sent by the Authority to the above stated companies for comments. However, they did not offer comments. In view of the above reasons, the authority considers it appropriate not to grant them MET status.

M/s Yibin Tianyuan Group Co., Ltd. (Exporter) and M/s Yibin Tianlan Chemical Co., Ltd. (Producer)

52. The Authority notes that substantial shares are being held by State owned companies in the responding companies. Further, the majority of the Board of Directors of the Group Company, including the Chairman and Vice-chairman are representing the Yibin State Owned Assets Operation. Moreover, the Authority observes that M/S Yibin Tianyuan Group Co. Ltd. has acknowledged themselves to be a state proprietary enterprise in their

response. The Authority further observes that the responding producers/exporters have claimed that they have procured major raw materials from un-affiliated sources, without furnishing any evidence that the same are procured at prevailing market prices comparable to the prices prevailing at international market.

53. Following observation were made by the Authority during the course of on spot verification:

- i. Yibin Tianyuan Group Co. Ltd is a 100% State owned company. The Company had claimed Market Economy Treatment (MET) and filed response to that regard. The company was requested to keep the relevant documents/records ready much in advance, but, they could not furnish the required documents/records in support of their Market Economy Treatment (MET) claim.
- ii. During verification the Group Company informed that they were originally set up in 1944. Over the years the company has gone through many changes and transformations. Presently, the company is a 100% State owned company. The Company could not explain with documentary evidence the original structure and function of the company, the growth of the company over the years, source of fund/investment when the company was set up and as and when share of the capital was increased, details of the assets of the company, details regarding the grants and incentives received by the company from the Government sources, etc. In view of the facts stated above, the Group Company gave up their MET claim and gave a letter to that effect to the verification team.
- iii. Yibin Tianlan Chemical Co Ltd (producer) is a fully owned and controlled subsidiary company of Yibin Tianyuan Group Co. Ltd., which is a 100% State owned company. The subject company had claimed Market Economy Treatment (MET) and filed Response to that regard. The company was requested to keep the relevant documents/records ready much in advance, but, they could not furnish the required documents/records in support of their Market Economy Treatment (MET) claim. The documents/information/records relating to the history of the

company, assets procured and held by the company, mode of payment, source of funding, etc could not be provided when the officers asked for verification purpose. In view of that the company gave up the MET claim and gave a letter to that effect to the verification team.

54. The verification report was sent by the Authority to the above stated companies for comments. However, they failed to offer comments. In view of the above reasons, the authority considers it appropriate not to grant them MET status.

M/s Sichuan Jinguang Industrial Group Co., Ltd., M/s Sichuan Jinguang Chemical Co., Ltd and M/s Leshan Jinguang Chemical Industry Co., Ltd.

55. M/s Sichuan Jinguang Industrial Group Co., Ltd., is stated to have been established in March, 2001 as per Business Licence. The Authority further notes that the subject Group Company is acknowledged to have been grown out of Leshan Keer Fine Chemical Co Ltd, which is also stated to have been established in March, 2001. As per the copy of the Board Resolution of Leshan Keer Fine Chemical Co Ltd, the Board has approved the change of name of the company to M/s Sichuan Jinguang Industrial Group Co., Ltd on 16th June, 2003. It is not clear how the date of establishment of M/s Sichuan Jinguang Industrial Group Co., Ltd will be prior to the change of name. Further, Leshan Jinguang Chemical Industry Co Ltd, a subsidiary of Sichuan Jinguang Industrial Group Co., Ltd., is stated to have been established in 1998, predating the date of establishment of the parent company. To this, they have clarified that Leshan Jinguang Chemical Industry Co Ltd was set up by six individuals in 1998, out of whom Mr. Chang Ruiguang transfred ***% share holding to Leshan Keer Fine Chemiocal Ltd in 2003, which is the predecessor of Sichuan Jinguang Industrial Group Co., Ltd. But, from the response it is observed that the company has only three share holders and not six. Further, from the official website of the company, the Authority observes that MS Lesahn Keer Alkali Co. Ltd., one of it's affiliated companies, was originally founded as Calcined Soda Factory, about which the response has remained silent. The Authority further observes that the responding producers/exporters have claimed that they have procured major raw materials from un-affiliated sources without furnishing any evidence that the same are procured at prevailing market prices comparable to the prices prevailing at international market.

56. During on the spot verification the following were submitted:

- a. Sichuan Jinguang Chemical Co Ltd, is a subsidiary of Sichuan Jiguang Industrial Group, was set up in 2008 in the Fantai Industrial Zone, Pan Zhihua City. From May, 2008 to September, 2009 the subsidiary company was preparing for yellow Phosphorous producing line and during the same period the company received the Phosphoric Acid and STPP producing lines from Sichuan Jiguang Group.
- b. Leshan Jiguang Chemical Co Ltd, Jinhe Town, Jinkouhe District, Leshan City, was established in 1998. Sichuan Jiguang Industrial Group Co Ltd purchased 53.75 of the shares of this company and made it a subsidiary of the Group Company. This company is situated in a military zone prohibited for foreigners.
- c. From April, 2008 to March, 2009, Sichuan Jiguang Industrial Group Co Ltd produced and sold STPP in both domestic and international markets. The manufacturing facility of the Group Company at Leshan City covered both Phosphoric acid plant and STPP plant.
- d. The Group Company shifted the Phosphoric Acid and STPP producing plants and equipments from its Leshan City facility to Sichuan Jiguang Chemical Co Ltd at Fantai Industrial Zone at Pan Zhihua City during May, 2009 to February, 2010. Sichuan Jiguang Industrial Group Co Ltd, Leshan City stopped production of STPP w.e.f August, 2009. However, post POI, the Group Company has exported a few consignments of STPP from its earlier stock of POI. Post POI, Sichuan Jiguang Industrial Group Co Ltd is a trader which purchases STPP from its subsidiaries and sells in domestic market as well as international market.

57. Following observations were made by the Authority during the course of on spot verification:

- i. The respondent Group Company and the subsidiary companies had claimed MET status in their response. The company has grown out of another company namely Leshan Keer Fine Chemical Co Ltd. The original investors of the subject company had brought shares in the form of plants and equipments. But, during the verification the company could not produce the relevant documents with regard to the process of growth/transformation of the company, the source of the plants and equipments invested by the original shareholders, the mode of such transfer of plants and equipments, the source of fund etc. in support of their MET claim and instead, in view of that, furnished letters saying that they forgo and give up their MET claim.

Similar letters were also provided by the Group Company on behalf of the two subsidiary companies saying that they forgo and give up their MET claim.

- ii. Plant visit was undertaken by investigating team on 24th December, 2010. There was neither any plant nor any production activity in the plant site, except some dilapidated sheds and some defunct equipment, which were in the process of dismantling and shifting. It was informed by the company that both the Phosphoric Acid Plant and the STPP Plant were already shifted to its subsidiary company Sichuan Jiguang Chemical Co Ltd, Fantai Industrial Zone at Pan Zhihua City, except a few equipments that were found to be in the process of shifting. It was also informed that the Group Company has stopped production of STPP since 15th August, 2009 and engaged in trading activity only.
- iii. However, the fact of closure of the production facility of the Group Company at Leshan and shifting of the plant to another city was not brought to the notice of the Authority earlier. Even while inviting the Authority for verification, the Group Company could have brought these facts before the Authority. But, it was brought to the notice of the Authority only during verification and plant visit. This amounts to suppression of vital facts and clearly reflects the non-cooperative attitude of the respondent company.

58. The verification report was sent by the Authority to the producer/exporter for comments. However the companies failed to provide any positive information and remained non-cooperative. Post Disclosure, the concerned party has informed that they had invited the Authority to Pan Zhihua City to visit Sichuan Jinguang Chemical. But, the Authority notes that no such invitation was received from them. Moreover, the respondent company has ceased to be a producer of the subject goods post POI. In view of the above reasons, the authority considers it appropriate not to grant them MET status and declares them as non-cooperative.

M/s Hubei Xingfa Chemicals Group Co., Ltd. and M/s Kumming Malong Chemical Co., Ltd.

59. The Authority observes that M/s Hubei Xingfa Chemicals Group Co., Ltd. has not filed MET response. Moreover, the response submitted by M/s Hubei Xingfa Chemicals Group Co., Ltd. has not been accepted by the Authority due to reasons already stated in this finding. Further, M/s Kumming Malong Chemical Co. Ltd. has submitted belated and incomplete

response without claiming MET status and because of which the same has not been accepted by the Authority. The Authority therefore holds that the above Chinese producers/ exporters are, in any case, not eligible for market economy status and have not been accepted by the Authority for determination of individual dumping margin.

60. Thus, the Authority has constructed the normal value by taking into account cost of production in India, duly adjusted to reflect international raw material prices and optimum conversion costs, selling, general & administrative expenses and reasonable profit. It is noted that none of the interested parties including the responding Chinese companies have made any claim with regard to an appropriate market economy third country by providing information as per Para 7 of Annexure 1 of the Rules.

L. DETERMINATION OF NORMAL VALUE

61. Following issues were raised by the interested parties relating to determination of Normal Value during the course of the investigation:

- i. The DA has not followed the rules contained in Para-7 of Annexure-1 while constructing normal value. Para 7 of Annexure-I of the Rules provides three methods which, must be determined sequentially and in the same chronology. Para 7 further provides that keeping in view the level of development of the country concerned and the product in question, the parties to the investigation shall be informed without reasonable delay the selection of the market economy third country and shall be given a reasonable period of time to offer their comments. However the Designated Authority has proceeded unilaterally, without eliminating or exhausting the first two options, and has directly resorted to the constructed value based on the cost of production in India. It is not open to the Designated Authority to directly jump to the cost of production in India without first ruling out the two options of determining the normal value in a market economy third country or the export price of such a third country to any other country including India.
- ii. Production process adopted by Domestic Industry and Chinese producer is different and therefore construction of normal value by the Authority on the basis of cost of production of domestic industry is wrong.

- iii. As far as MET status is concerned the Authority's finding that major raw materials are procured at prevailing market prices comparable to the prices prevailing at international market is extraneous to the Anti dumping Rules. Market Value of an input need not necessarily be equal to prevailing international prices.
- iv. The Authority should have considered the domestic sale price of the Product in China for determining the Normal Value.
- v. Data provided by the Domestic Industry for construction of normal value is fraught with tremendous problems. Having considered this data, the Authority has ignored certain factors like, different process used by DI and Exporters, availability of rock phosphate, Soda ash and Sulphuric Acid at low prices in China, cost of phosphoric acid, heat cost, purifying cost, etc which affect the comparability of the prices and costs and have failed to make adjustments for the same.
- vi. Erroneous determinations of Normal Value has contributed to an incorrect assessment of dumping and dumping margin by the Authority.
- vii. The Domestic Industry uses the WET process for the manufacture of STPP whereas Blue Sword uses the DRY process for the production of STPP.
- viii. Difference in process of raw material To Be Given Importance. Further difference In Yellow Phosphate Route & Rock Phosphate Route to be considered.

L.1 Examination by Authority

62. In this connection Para 7 of Annexure I of the Anti-dumping Rules provide that:

In case of imports from non-market economy countries, normal value shall be determined on the basis of the price or constructed value in the market economy third country, or the price from such a third

country to other countries, including India or where it is not possible, or on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted if necessary, to include a reasonable profit margin. An appropriate market economy third country shall be selected by the designated authority in a reasonable manner, keeping in view the level of development of the country concerned and the product in question, and due account shall be taken of any reliable information made available at the time of selection. Accounts shall be taken within time limits, where appropriate, of the investigation made in any similar matter in respect of any other market economy third country. The parties to the investigation shall be informed without any unreasonable delay the aforesaid selection of the market economy third country and shall be given a reasonable period of time to offer their comments.

63. The Authority indicated, in the Initiation Notification, that the Authority may notify an appropriate third country, in the due course, for the purpose of determination of normal value in China PR in terms of the above provision. However, none of the interested parties, including the domestic industry, have made available any material fact to the Authority to select an appropriate market economy third country for the above purpose.

64. The Authority notes that there is no known difference in the production process of the subject goods. However Authority notes that there are differences in the production process of Phosphoric Acid and the Phosphoric Acid is captively produced by the Domestic Industry and also by some of the Chinese producers. The Authority has considered Phosphoric Acid as the raw material for production of STPP. Therefore, for determination of constructed normal value, the Authority has taken international market value of Phosphoric Acid. Thus, in either case, cost of production of Phosphoric Acid has not been considered. Since cost of production has not been considered, in any case, the issue of difference in cost of production of raw material gets entirely immaterial and has in any case not adversely impacted either the dumping margin or the injury margin.

65. In view of the fact that none of the responding producers/exporters have been accorded MET status and none of the interested parties, including the domestic industry, have made available any material fact to the

Authority to select an appropriate market economy third country, the Authority has determined the normal value in China PR on other reasonable basis, in terms of second proviso of Para 7 of Annexure 1 to the Rules. Accordingly, the ex-works Normal Value of the product under consideration for all exporters from China PR has been constructed based on facts available. The Authority verified the data submitted by four respondent producers from China PR. Out of the same M/s Guizhou Wengfu Gene-Phos Chemical Co., Ltd. and M/s Sichuan Jinguang Industrial Group Co., Ltd. have been declared by the Authority as non co-operative. M/S Yibin Tianlan claimed that they produce STPP from yellow phosphorous stage and provided raw material consumption norms from yellow phosphorus to STPP for verification. In absence of conversion cost from yellow phosphorous to phosphoric acid the Authority proposes not to accept their consumption norms. Although, M/S Sichuan Blue Sword Chuanxi Phosphochemicals Co., Ltd. submitted during the verification that they are producing the subject goods through phosphoric acid route, they failed to demonstrate the claimed production process to the verification team. Therefore, their raw material consumption norms have not been considered for computation of normal value. In view of the above, the normal Value has been constructed taking into account international prices of the major inputs and consumption norms, conversion cost and SGA expenses of the domestic industry. After adding a reasonable profit margin of 5% of ex-factory cost excluding interest, constructed normal value works out as under:

US\$ / Mt

Cost of raw materials	***
Conversion Cost	***
SGA Expenses and Finance cost	***
Profit margin	***
Constructed Normal Value	***

66. To be more reasonable Authority also attempted alternative ways to construct normal value by considering the consumption norms of the respondent co-operating exporters, by applying international prices of raw materials and conversion cost of domestic industry. However, the Authority notes that the methodology adopted for construction of normal value as at para above is in order.

M. EXPORT PRICE

M/s Sichuan Blue Sword Import & Export Co., Ltd. (exporter) M/s Sichuan Blue Sword Chuanxi Phosphochemicals Co., Ltd. (producer)

67. M/s Sichuan Blue Sword Chuanxi Phosphochemicals Co., Ltd. is a producer of the subject goods. Its subsidiary company M/s Sichuan Blue Sword Import & Export Co., Ltd. exported the subject goods produced by its parent company to India. M/s Sichuan Blue Sword Import & Export Co., Ltd. has reported exports of *** MT of the subject goods to India during the POI. The adjustments have been made on account of ocean freight, insurance, inland freight, bank charges and VAT adjustments as verified by the Authority for the purpose of this finding. Accordingly ex-factory export price has been determined as US\$ *** per MT.

M/s Yibin Tianyuan Group Co., Ltd. (exporter) M/s Yibin Tianlan Chemical Co., Ltd. (producer)

68. M/s Yibin Tianlan Chemical Co., Ltd. is a producer of the subject goods and M/s Yibin Tianyuan Group Co., Ltd., their parent company, exported the same to India. M/s Yibin Tianyuan Group Co., Ltd. has exported *** MT of the subject goods to India during the POI. The adjustments have been made on account of ocean freight, insurance, inland freight, bank charges and VAT adjustments as verified by the Authority for the purpose of this finding. Accordingly ex-factory export price has been determined as US\$ US\$ *** per MT.

Determination of Export Price in respect of Non-Cooperating Exporters

69. In respect of non-cooperating exporters, the Authority has decided to determine the export price as per facts available in terms of Rule 6(8) of the Anti-dumping Rules. Adjustments at par with the ones allowed in case of co-operating producers/exporters have been allowed for arriving at their export price at ex-factory level. By adopting this method the export price at ex-factory level in respect of non-cooperating exporters for the subject goods worked out by the Authority is US\$ ***per Mt. on the basis of facts available.

N. DUMPING MARGIN

70. The ex-works normal value and export prices determined have been compared at the same level of trade and dumping margin has been determined for the exporters from the subject country as below:

Amount in USD/Mt

Producer	Exporter	Normal Value	Net Export Price	Dumping Margin	DM %
M/s Sichuan Blue Sword Chuanxi Phosphochemicals Co., Ltd.	M/s Sichuan Blue Sword Import & Export Co., Ltd.	***	***	***	70-80
M/s Yibin Tianlan Chemical Co., Ltd.	M/s Yibin Tianyuan Group Co., Ltd.	***	***	***	85-95
Non-cooperating Producers/ Exporters	Non-cooperating Producers/ Exporters	***	***	***	150-160

O. INJURY AND CAUSAL LINK

71. The following views have been raised by exporters/importer/ other interested parties during the course of investigation:

- The availability of STPP to the Indian detergent manufacturers from the only one source is not sufficient in terms of their capacity.
- Under the WTO and globalization of trade, Indian product should also be made available to users in the neighboring countries and their price should also go in line with the same material offered by the neighboring countries.
- The domestic manufacturer concentrates only on a few customers who buy their material in large volumes and ignores the lesser buyers.
- The anti-dumping duty, if imposed, will boost the input cost to the user industries.
- China's STPP quality is much better than that of the domestic industry and phosphate content adds more value to their product.
- A substitute for STPP has been developed by China for use in detergent sector.
- Domestic producer suffers from frequent shut down due to raw material shortage and other critical problems and as a result user industries suffer.
- STPP is not a focused product of Tata Chemicals.
- The price of STPP depends upon quality and quantity of its constituents.
- Landed value has no adverse effect on the Domestic Selling Price..
- Erroneous determination of Cost of Production, Non-injurious Price and consequent erroneous determination of Price Underselling, Injury margin.
- Decline in Profitability, Return on Investment etc. are nothing but effect of inflated cost of production due to transfer pricing.
- No price depression is caused to DI as it has doubled its selling price during the POI. Further, there is no price suppression also.
- Monthly production figures from DI should have been considered as there was plant shut down in the part of POI. The fact of Plant shut down for part of the POI should also be adjusted for injury and causal link determinations.
- Domestic industry plant is very old. Decline in productivity cannot be attributed to imports as decline in production is not a direct consequence of imports.

- The analysis of the Authority on the issue of market share is erroneous because on one hand, it has not considered the figures of capacity/production of the supporter but for the purpose of sales the same is being considered.
- Abnormal increase in cost of Sulphur during late 2007 resulted in sharp increase in cost of production and made it uncompetitive for domestic industry who adopted wet process of production in comparison to thermal process. The injury to the Domestic Industry, if any, was temporary and attributable to the technology and price of Sulphur and the same cannot be attributed to alleged dumping of goods. Imposition of Anti-dumping duty is not a solution for such temporary phenomenon. It requires structural solutions, which the domestic industry has admitted in its Annual Report.
- Injury suffered by the Domestic Industry is on account of the termination of the contractual arrangement for the production of STPP between TCL and Hindustan Unilever Limited. Therefore, the resultant decline in production and capacity of TCL cannot be attributed to the alleged dumping.
- TCL has enjoyed double edged benefit on account of two reasons - by showing lower profit due to high cost of Phosphoric Acid; and obtained benefits from fertilizer- subsidy for a premium transfer price paid to its foreign affiliate. TCL is importing Phosphoric Acid from its related foreign joint venture at the price of Rs *** Per MT, whereas GACL and GSFC selling Phosphoric Acid at the price ***and *** respectively. The excess price paid by TCL must be adjusted for calculation of accurate NIP, injury and causal link determination.
- Inflated cost of Phosphoric Acid has been used in determining Non injurious Price as well as Constructed Normal Value. Injury is established by inflated costs based on excessive transfer prices to affiliates.
- The transfer price paid by TCL for purchasing Soda ash should be substituted with the market value of soda ash while determining accurate NIP, CNV, Injury and casual link.
- NIP determination should include the transfer price as the market price of the internally produced intermediates according to the Supreme Court of India. This would lead to the NIP, injury margin to come down substantially in the instant case.
- The annual report shows the inefficient usages of utilities that would have simply made the unit uncompetitive, thereby causing self inflicted injury.
- DI diverted raw material from STPP production to fertilizer production to maximize profit and sales, therefore not dumping but better profitability from

fertilizers was one of the causes of lower production and sale of STPP in the POI.

- Increase In Domestic Selling Prices To Be Given Importance.
- Detailed Structural Steps Taken By The Applicant Are Not Provided.
- D.I Has Not re-verified with HUL any details of its contract or termination or its imports or its purchase. The allegation of the Applicant is baseless & Without Any Proof / Supporting.
- Selection of an abnormal POI as far as price of Phosphoric Acid is concerned. The cost of captive produced Phosphoric Acid was affected by the abnormality in the prices of Sulphur/Sulphuric Acid and Rock Phosphate which are the ingredients of Phosphoric Acid. The interested parties had highlighted the fact of abnormal situation that prevailed in the prices of sulphur/sulphuric acid, rock phosphate and phosphoric acid during the POI. But Authority has not dealt with the issue in the Disclosure statement
- Exact Reason & Exact Duration Of Plant Shut Down Not Provided By The Applicant.
- Due to the low capacity utilisation, per- unit fixed cost absorbed in the NIP is inflated. A fair level of capacity utilisation in a normal year should have been considered by the Authority.
- The Applicant Has Not Given Details Of Its Sales Industry Wise (Detergent Industry Wise, Ceramic Industry Wise Etc.)

EXAMINATION BY THE AUTHORITY

72. The relevant views are examined by the Authority as below:

- The Authority notes that imposition of anti-dumping duty does not prevent import of goods to the country. Rather, it is intended to create a level playing field for the domestic producers to compete better in the market vis-s-vis the dumping countries.
- In the subject investigation the domestic demand of the subject goods is 71390 Mt and the domestic producers produce 26912 Mt and have the capacity to produce 50000 Mt. The Authority notes that the purpose behind imposition of anti-dumping duty is to create a level playing field and ensure fair trade, which

may enable the domestic producers to upgrade their capacity utilization and cater to the domestic demand to a greater extent. The balance domestic demand can always be filled through imports.

- The imposition of anti-dumping duty may have an inflationary impact on the imported subject goods, but by neutralizing the ill effects of the dumping, a level playing field is created for the domestic industries to compete more effectively with the overseas exporters taking recourse to dumping.
- During the injury period (2005-06 to 2008-09) the domestic industry had reached the highest level of production of 50647 Mt during 2005-06. But, due to dumped imports the production of the domestic industry has gone down to the level of 26912 Mt during the POI. Once a level playing field is created, the domestic industry may bounce back to the earlier level of production and cater to the domestic demand to the maximum possible extent. However, if the volume of production of the domestic industry is not adequate or not satisfactory in terms of quality, nothing prevents the user sector to import the subject goods.
- The view regarding a substitute for the subject good developed by China, no such information has come to the notice of the Authority.
- The data/records of the domestic industry were verified and Authority notes that there was no plant shut down during the period of investigation.
- There are two processes for production of phosphoric acid – Sulphur route and Rock Phosphate route. STPP is produced using Phosphoric Acid and not Sulphur. Sulphur is used in producing phosphoric acid. In either process, actual raw material for making STPP is Phosphoric Acid. Price of phosphoric acid increased in this period, regardless of the manufacturing process followed for producing phosphoric acid. While Sulphur prices increased leading to increase in price of phosphoric acid produced through this route, rock phosphate prices increased substantially leading to increase in the prices of phosphoric acid processed through this route. However, regardless of the manufacturing process followed for making phosphoric acid, raw material involved in making STPP being phosphoric acid, the investigation has shown that prices of phosphoric acid had universally increased. Such increase in prices of phosphoric acid was therefore relevant to both Chinese and Indian producers and could not have been a reason for significant deterioration in the performance of the domestic industry.
- The issue has been well investigated by the Authority. It is conjecture on the part of the interested parties that the injury to the domestic industry was a temporary short term phenomena. Investigation is carried out in detail in which data for four years is analyzed to see the trend of injury, if any, to domestic industry and duty

is recommended after analyzing all parameters. Further, if it comes to the notice of the Authority that injury caused is temporary in nature then the facts would have been revealed in the findings. The issue with regard to structural solution stated by TCL in its annual report has also been investigated in detail and it was replied by the domestic industry that company invested some amount which resulted in improvement in the quality of gypsum which in turn fetched good realization. Therefore, improved quality of gypsum and sales realization of gypsum resulted in reduction in cost of production of STPP.

- As regard to contention of inefficient consumption of power, fuel etc. by domestic industry, the Authority notes that best consumption norms of the domestic industry has been taken for injury period for determining extent of injury. The Authority has gone by verified financial information wherein the Authority has considered consumption norms of power and fuel over the entire injury period. In fact, the non-injurious price has been determined after considering the past consumption norms for consumption of raw materials and utilities for the entire injury period. Non Injurious price has been determined and injury analysis has been carried out on the basis of verified data.
- Significant price difference between domestic and imported product coupled with increase in import volumes, decline in sales of the domestic industry, decline in demand clearly establishes that the price difference (price undercutting) between domestic and imported product has led to increase in the import volumes. If there are any other factors which had led to increase in imports, interested parties are required to identify such factor and thereafter demonstrate impact of the same with verifiable evidence. No such information, however, has been filed by the interested parties. The domestic selling prices have doubled over the period. However, cost of sales increased by **%, landed price of import from China increased only by **%. This clearly establishes that import prices have not increased in proportion to the increase in the costs.
- It has been contended by the interested parties that the injury suffered by the Domestic Industry is on account of the termination of the contractual arrangement for the production of STPP between TCL and Hindustan Unilever Limited and therefore the resultant decline in production and capacity of TCL cannot be attributed to the alleged dumping. The Authority notes that M/s HLCL and M/s TCL had an agreement with the condition that TCL will sale 60% of the produced subject goods to HLCL, against supply of the required major raw materials on job-work basis. The company stopped job work production from 2007-08 onwards. Authority further notes that despite the contract, HUL resorted to import whenever import prices were lower and similarly it used to purchase material from TCL whenever TCL prices were comparable to import price. The volume of

supply to HUL by the Petitioner was lined to the prices offered by the domestic industry and foreign producers. Thus, it can be said that the Petitioner was suffering injury due to dumped imports even during the existence of the contract with HUL as HUL was free to import the dumped material. Further, the other domestic consumers also increased imports, as they found imports much lucrative as compared to the prices offered by the Domestic Industry. Moreover other consumers increasingly shifted to import instead of buying from Domestic Industry due to dumped imports. All this resulted in steep decline in sales volume of Domestic Industry which adversely impacted the production and capacity utilization as well.

- As regard to contention of artificial increase in cost of production of TCL is due to import of Phosphoric Acid from its related foreign joint venture, the Authority notes that domestic industry is producing own Phosphoric Acid for the production of STPP. The company has not imported Phosphoric Acid for producing STPP. Fertilizers produced and sold by the petitioner is altogether different product, performance of the same is entirely immaterial for the product under consideration. Moreover Non Injurious price has been determined and injury analysis has been carried out on the basis of verified data.
- The price increases being universal, it cannot be said that the increase in the prices of the inputs should have caused injury to the domestic industry. The inputs required for production of phosphoric acid were imported by the domestic industry. It is not the argument of interested parties that the prices of these inputs increased selectively for the Indian market. In case the prices have increased in global market, it cannot be said that the domestic industry is not entitled to increase its prices in line with the increase in the input costs.
- The Authority is required to determine injury to the domestic industry by considering data in respect of production and sales of like article. The rules do not provide for segmented injury analysis, unless the same is justified. Moreover the domestic industry has not claimed injury in some particular market segment.
- The relevant information as required for the present purpose is on record. For all captive inputs, the Authority has taken cost of production of such captive inputs. Inputs imported by the company for production of other products (which are not under investigation in the present case) and transfer pricing followed therein is wholly irrelevant to the Authority for the present purpose.
- The Authority has verified information and has come to a conclusion that profitability and return on investment of the domestic industry has suffered significantly. The investigation has not shown that this deterioration is due to

transfer pricing or inefficient use of power and fuel. As regards low capacity utilization, the same is the result of dumped imports.

73. 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.

74. 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 rules supra.

75. All economic parameters affecting the Domestic Industry as indicated above such as production, capacity utilization, sales volume etc. have been examined as under:

P.1 Volume Effects of Dumped Imports: Import volumes and market share

76. With regard to the volume of the dumped imports, the Designated Authority is required to consider whether there has been a significant increase in dumped imports, in absolute terms or relative to production and consumption in India. As far as import volume is concerned the DGCIS import data as well as import data reported in secondary sources i.e. IBIS have been examined. The Authority notes that the product under consideration is imported under product classification No 2835.3100. Therefore, after analyzing the transaction level data, the volume and value of imports have been determined as follows:

a) Import volumes and share of subject countries:

77. 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.

78. The Authority has examined the volume of imports of the subject goods from the subject country and other countries based on the transaction-wise import data provided by DGCI&S and IBIS data provided by the domestic industry. The Authority notes that exports from China PR as reported in the DGCI&S data is higher than the export data as available in the IBIS data and that furnished by the responding exporters from China PR. Therefore, determination the export volume reported by the DGCI&S has been considered for volume analysis.

79. The Applicant has provided information with regard to imports based on the DGCI&S published data up to 2007-08 thereafter IBIS data for the POI. The Authority requested the DGCI&S for the import data, which was received. Further, a number of producers/exporters from China PR and Indian consumers/ importers have responded to the Authority. The Authority collated all information on imports and compared the same with the data furnished by the domestic industry based on IBIS source in order to assess the volume of imports during the period. The Authority notes that the volume of imports reported in DGCI&S data is comparable with imports reported in IBIS data. Therefore, the Authority has relied upon the information received from the DGCI&S source. On the basis of various import data on record, the import volume from China PR is found to be above the de-minimis level.

a) Imports volumes and shares of subject countries:

80. Imports from China PR constitute a major share in the total imports in to India. Imports have increased significantly over the injury period in absolute terms as evident in the table given below:

	Unit	2005-06	2006-07	2007-08	2008-09
Imports					
Imports from China PR	MT	15,356	18,763	35,831	41,367

Imports from Other Countries	MT	3,112	675	1,658	1,075
Total Imports	MT	18,469	19,438	37,490	42,442
Share in imports					
China PR	%	83.15	96.53	95.58	97.47
Other countries	%	16.85	3.47	4.42	2.53
Total imports	%	100.00	100.00	100.00	100.00

b) Actual and potential effect on production and capacity utilization:

81. The volume of domestic production and effects of dumped imports on the domestic operation of the domestic industry have been examined in terms of total production, capacity utilization and domestic sales of the domestic industry as below:.

Capacity, Production and Sales	Unit	2005-06	2006-07	2007-08	2008-09
Installed Capacity of DI	MT	50,000	50,000	50,000	50,000
Production (DI)	MT	50,647	43,881	44,411	26,912
Capacity Utilization	MT	101.29	87.76	88.82	53.82
Sales of Domestic Industry	MT	46,398	48,246	44,694	26,311

82. The Authority notes that up to April 2006 the domestic industry was carrying out a job work for HUL apart from its normal commercial production. The Authority notes that the production, sales and capacity utilization of the domestic industry declined significantly in the period of investigation as compared to the base year. Further, it is noted that production, sales and capacity utilization also declined during POI in comparison to immediate preceding year, when domestic industry was not carrying out any job work production. While the production, capacity utilization and sales of the domestic industry has declined almost consistently through out the injury period, the imports of the subject goods from the subject country has increased consistently and substantially.

c) **Actual and potential effect on market share:**

83. Effects of the dumped imports on the domestic sales and market shares have been examined as follows:

Share in Demand	Unit	2005-06	2006-07	2007-08	2008-09
Sales of Domestic Industry	MT	46,398	48,246	44,694	26,311
Sales of Supporter	MT	15,851	18,822	15,266	2,637
Total Imports	MT	18,469	19,438	37,490	42,442
Total Demand	MT	80,718	86,506	97,450	71,390
Subject country - China PR	%	19.02	21.69	36.77	57.95
Other Countries	%	3.86	0.78	1.70	1.51
Domestic Industry	%	57.48	55.77	45.86	36.86
Supporter	%	19.64	21.76	15.67	3.69

84. It is noted that demand for the product has shown significant and consistent increase over the injury period except POI. Also, it is seen that the imports from the subject country has been increasing continuously throughout the injury period . The imports from the subject country constitute 97% of the total imports during POI. Further, whereas the market share of the Chinese imports increased substantially, that of domestic industry declined significantly. It is observed that the market share of dumped imports in demand from China PR increased from 19.02% during base year to 57.95% during the POI, whereas the market share of domestic industry declined from 57.48% to 36.86% during the POI. The Authority notes that during the POI as compared to the immediate proceeding year domestic demand has decreased by 27%, however sales of domestic industry (including supporter) has declined by 52%, the share of imports from the subject country in domestic demand has increased by 21% and the share of the domestic industry (including that of the supporter) in the domestic demand has declined by 21%.

P.2 Price Effect of the Dumped imports on the Domestic Industry

85. 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 product 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. The impact on the prices of the domestic industry on account of the dumped imports from the China PR have been examined with reference to the price undercutting, price underselling, price suppression and price depression, if any. For the purpose of this analysis the cost of sales, net sales realization (NSR) and the non-injurious price (NIP) of the Domestic industry have been compared with the landed cost of imports from China.

(i) Price undercutting and underselling effects

a) Price undercutting

86. The Authority determined whether imports of the product under consideration are undercutting the prices of the domestic industry in the market. Price undercutting has been determined by comparing the landed value of dumped imports from the China PR over the injury period of investigation with the net sales realization of the domestic industry for the same period. While working out the net sales realization of the domestic industry, the rebates, discounts and commissions offered by the domestic industry and the central excise duty have been deducted. For this purpose, landed value of imports has been calculated by adding 1% landing charge and applicable customs duties to the import price.

	Unit	2005-06	2006-07	2007-08	2008-09
Net sales realization	Rs. Kg	***	***	***	***
Landed price from China PR	Rs. Kg	30.70	30.31	29.86	49.50
Price undercutting	Rs. Kg	***	***	***	***

Price undercutting (%)	%	0-5%	0-10%	5-15%	20-30%
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87. It is noted that whereas there was insignificant difference in the import and domestic prices between 2005-06 and 2006-07, the difference increased from 2007-08 and moved further during 2008-09. The price undercutting during the POI was in the range of 20-30% during POI.

(b) Price underselling

Non-Injurious price (Rs. Kg)	***
Landed price (Rs. Kg)	***
Price underselling (Rs. Kg)	***
Price underselling as a %	25-35

88. For the purpose of assessment of price underselling, the landed prices of imports from China PR have been compared with the non-injurious price of the domestic industry determined for the POI. The analysis shows that price underselling was in the range of 25-35%.

ii) Price suppression and depression

89. Price depression exists when the industry's prices are lower than the level of the previous period. Price suppression occurs when dumping prevents price increases that would otherwise take place due to increase in costs.

90. The price suppression effect of the dumped imports has also been examined with reference to the cost of sales, net sales realization and the landed values from the China PR.

	Unit			2007-08	2008-09
		2005-06	2006-07		
Cost of sales	Rs. Kg	***	***	***	***

Trend	Indexed	100	106.00	132.20	233.19
Net Sales Realization Price	Rs. Kg	***	***	***	***
Trend	Indexed	100	97.60	104.16	208.14
Landed price from China PR	Rs. Kg	30.70	30.31	29.86	49.50

91. The Authority notes that even when the cost of sales increased in 2006-07, the net sales realization declined marginally during the year in line with the decline in the import prices. Cost of sales and net sales realization has only been considered in respect of merchant sales only. Further, during POI cost of sales increase by ***% in comparison to base year whereas the net sales realization increase by ***% only indicating that the domestic industry could not realize the selling price commensurate with the increase in cost of sales.

Examination of other injury factors

92. After examining volume and price effect in the previous section, the Authority has examined the other mandatory injury parameters as follows:

a) Profit/Loss and Return on investments

93. Profits earned by the domestic industry from the sales of the subject goods in the domestic market were as follows: -

	Unit	2005-06	2006-07	2007-08	2008-09
Cost of sales	Rs. Kg	***	***	***	***
Trend	Indexed	100	106.00	132.20	233.19
Net Sales Realization Price	Rs. Kg	***	***	***	***

Price					
Trend	Indexed	100	97.60	104.16	208.14
Profit/Loss	Rs. Kg	***	***	***	***
Trend	Indexed	100	6.49	-199.23	-63.36
Profit/Loss before Tax	Rs. Lacs	***	***	***	***
Trend	Indexed	100	9.74	-146.76	-27.40
PBIT	Rs. Lacs	***	***	***	***
Trend	Indexed	100	6.43	-142.24	-62.02
Return on Capital Employed	%	***	***	***	***
Trend	Indexed	100	6.34	-134.39	-74.45

94. It is observed that the domestic industry was earning profits in 2005-06, which declined steeply over the injury period. The domestic industry started suffering financial losses from 2007-08, which continued in POI as well. Whereas cost of sales of the domestic industry increased by ***% in POI as compared to base year, the net sales realization increased only by ***% over the period. Profitability of the domestic industry changed significantly over the injury period. Both profit before tax and profit before interest & taxes showed steep deterioration over the period. The profit of domestic industry on the domestic sales (PBIT) has followed the same trend as profit per unit. Although, the financial position of the domestic industry during POI has improved in comparison to preceding year but it is observed that market share of the domestic industry in volume terms has reduced substantially during the corresponding period.

95. The Authority notes that return on capital employed for domestic industry has also deteriorated significantly over the injury period to such an extent that the same became negative during 2007-08 and in the POI.

b) Cash Profit

96. Cash profits of the domestic industry over the injury period have been as under:

	Unit	2005-06	2006-07	2007-08	2008-09
Cash Profit	Rs. Lacs	***	***	***	***
Trend	Indexed	100	19.23	-121.59	-13.90

97. As regards cash flow, the Authority has examined cash profits situation of the domestic industry and concludes that cash profits of the domestic industry also shows steep deterioration. Whereas the cash profits were positive in 2005-06, the situation declined thereafter and the domestic industry started suffering negative cash profits from 2007-08, which position continued in POI as well.

c) Employment and wages

98. Data relating to employment and wages show as follows:

	Unit	2005-06	2006-07	2007-08	2008-09
Dedicated Employment for the PUC	Nos.	***	***	***	***
Trend	Indexed	100	100	95	93
Wages	Rs/Lacs lakhs Lacs	***	***	***	***
Trend	Indexed	100	106	169	170

99. It is seen that there has been a decline in number of employees and wages paid show improvement.

d) Inventories:

100. Data relating to inventories shows as follows:

	Unit	2005-06	2006-07	2007-08	2008-09
Opening Stock	MT	***	***	***	***

Closing Stock	MT	***	***	***	***
Average Stock	MT	***	***	***	***

101. It is noted that inventories with the domestic industry declined up to March, 2008. The inventories however increased once again by the end of the POI.

e) **Productivity**

102. Data relating to productivity shows as follows:

	Unit	2005-06	2006-07	2007-08	2008-09
Productivity per day	MT	***	***	***	***
Trend	Indexed	100	86.21	87.59	53.10
Productivity per employee	MT	***	***	***	***
Trend	Indexed	100	86.64	92.30	57.44

103. Authority notes that productivity of the domestic industry declined significantly over injury period.

f) **Growth**

104. The domestic industry has shown negative growth in terms of absolute volume of production and sales of the domestic industry over the injury period. However, the growth market share of the domestic industry is lower than the growth in domestic demand. The growth is negative when examined in terms of profitability, productivity and market share.

g) **Ability to raise fresh investment**

105. Authority notes that no significant investments were made by the domestic industry. Further, both the companies are multi product companies. However, continued dumping of the product would certainly have adverse impact on the ability of the domestic industry to raise capital investment.

h) Magnitude of Dumping

106. The dumping margin determined for the subject country and the applicant exporters is above de minimis level.

i) Factors affecting prices

107. Examination of trend in the volume of dumped imports and prices from the subject country and the domestic prices indicate that the dumped imports through volume and price effects have affected the prices of the domestic industry.

108. The above analysis of the factors indicate that production and sales of the domestic industry has declined in absolute terms and the domestic industry suffered injury on account of decline in market share, net sales realization, profitability, return on investments and cash profits. Volume of dumped import from the subject country simultaneously increased significantly and the prices of dumped imports were significantly undercutting the prices of the domestic industry, resulting in significant suppression of price in the domestic market. This has resulted in significant financial losses to the domestic industry. The injury suffered by the domestic industry is material and significant.

Q. Causal Link and other factors

109. As per the Anti Dumping Rules, the designated 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 must not be attributed to the dumped imports. Factors which may be relevant in this respect include, inter alia, the volume and prices of imports not sold at dumping 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.

i) *Volume and prices of imports from other sources*

110. The Authority notes that there are negligible imports of the product under consideration from other countries. Imports from third countries could not have caused injury to the domestic industry.

ii) *Contraction in demand and / or change in pattern of consumption*

111. The Authority notes that demand for the product showed significant decline during POI. Consequently, sales volumes of the domestic industry and resultantly production & capacity utilization of the domestic industry suffered up to this period. However, it is also noted that the decline in sales volumes of the domestic industry was more than the decline in demand for the product. Further, the profitability of the domestic industry continuously declined over the injury period. The Authority thus concludes that injury to the domestic industry was not due to contraction in demand.

iii) *Trade restrictive practices of and competition between the foreign and domestic producers*

112. The goods are freely importable. The applicant is the one of the major producer of the subject goods and account for significant domestic production and sales. No other evidence of conditions of competition or trade restrictive practices has been brought to the knowledge of the Authority by any interested party.

iv) *Development in technology*

113. There has been no development in technology for production of the product during the POI. Possible development in technology therefore, is not a reason for any injury to the domestic industry.

v) *Export performance of the domestic industry*

114. The Authority notes that the export sale of the domestic industry is insignificant. However, for the purpose of injury analysis the domestic sales only has been considered and injury, if any, caused due to the export

performance of the domestic industry has not been attributed to the dumped imports.

	Unit	2005-06	2006-07	2007-08	POI
Volume in Mt	MT	***	***	***	***

vi) Productivity of the Domestic Industry

115. Productivity of the domestic industry has declined in the period of investigation due to surge in dumped imports from subject country.

116. The above non-attribution analysis shows that no other known factors, other than the dumped imports, appear to have affected the domestic industry.

R. Factors establishing causal link

117. Analysis of the performance of the domestic industry over the injury period shows that the performance of the domestic industry has materially deteriorated due to dumped imports from the subject county. Therefore, the causal link between dumped imports and the injury to the domestic industry is established on the following grounds:

- a. The volume of dumped import from the subject country has sharply increased at significantly lower prices during the injury investigation period, resulting in significant price undercutting and underselling. As a direct consequence, the domestic industry was not able to increase its prices in line with increase in the cost of sales resulting in tangible financial losses.
- b. Increase in import volumes and suppression of domestic prices adversely affected the profits, cash flow and return on investments of the company.
- c. Significant positive price undercutting resulted in increase in market share of imports from the subject country. As a direct consequence, market share of the domestic industry declined. The domestic industry appears to have

responded to decline in import prices by suppressing its prices and suffered financial losses.

118. Therefore, the Authority concludes that the domestic industry suffers material injury and the injury to the domestic industry has been caused by the volume and price effects of dumped imports from the subject country.

S. Magnitude of Injury and injury margin

119. The Authority has determined non-injurious price of the subject goods for the domestic industry taking into account cost of production of the domestic industry and non-injurious price of the domestic industry so determined has been compared with the landed values of the subject imports to determine the injury margin. The injury margins have been worked out as follows:

S.No.	Company's Name	NIP (US\$ per MT)	Landed price (US\$ per MT)	Injury margin (US\$ per MT)	Injury margin As a %
1.	M/s Yibin Tianlan Chemical Co., Ltd. (producer) M/s Yibin Tianyuan Group Co., Ltd. (exporter)	***	***	***	25-35
	M/s Sichuan Blue Sword Chuanxi Phosphochemicals Co., Ltd. (producer) M/s Sichuan Blue Sword Import & Export Co., Ltd. (exporter)	***	***	***	15-25
	Non-cooperating Exporters	***	***	***	65-75

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T. Conclusions

120. After examining the issues raised and submissions made by the interested parties and facts made available before the Authority, as recorded in this finding, the Authority concludes that:

- i) The subject goods have entered the Indian market from the subject country at prices less than their normal values in the domestic market of the exporting country;
- ii) The dumping margins of the subject goods imported from the subject country are substantial and above de minimis (2%);
- iii) The domestic industry has suffered material injury and the injury has been caused to the domestic industry, both by volume and price effect of dumped imports of the subject goods originating in or from the subject country.

U. Indian industry's interest & other issues

121. 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 general, in the interest of the country. Imposition of provisional anti-dumping measures would not restrict imports from the subject countries in any way, and, therefore, would not affect the availability of the products to the consumers.

122. It is recognized that the imposition of anti-dumping duties might affect the price levels of the products 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. Imposition of anti-

dumping measures would not restrict imports from the subject country in any way, and therefore, would not affect the availability of the product to the consumers.

V. *Recommendations*

123. 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 on the aspects of dumping, injury and causal links. Having initiated and completed the investigation into dumping, injury and causal links in terms of the Anti-dumping Rules laid down and having established positive dumping margin as well as material injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of anti-dumping measures is required to offset dumping and injury. Therefore, the Authority considers it necessary and recommends imposition of definitive anti-dumping duties on imports of the subject goods from the subject country in the form and manner described hereunder.

124. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of anti-dumping duty on the imports of the subject goods originating in or exported from the subject country, excluding the Food Grade STPP, equal to the lesser of margin of dumping and the margin of injury, so as to remove the injury to the domestic industry. Accordingly, antidumping duty equal to the amount mentioned in Col 8 of the table below is recommended to be imposed from the date of imposition of the provisional duty notified by the Central Government, in the event of acceptance of these recommendations by the Central Government, on all imports of subject goods, originating in or exported from the China PR:-

Duty Table

Sl.No	Sub Heading Of Tariff item	Description of Goods	Country Of Origin	Country Of Export	Producer	Exporter	Duty Amount	Unit of Measurement
1.	2.	3.	4.	5.	6.	7.	8.	9.

1.	2835.3100	Sodium Tripoly Phosphate (STPP)	China PR	China PR	Yibin Tianlan Chemical Co., Ltd.	Yibin Tianyuan Group Co., Ltd	0.293	Kg
2.	- Do -	- Do -	China PR	China PR	Sichuan Blue Sword Chuanxi Phosphochemicals Co., Ltd.	Sichuan Blue Sword Import & Export Co., Ltd.	0.238	Kg
3.	- Do -	- Do -	China PR	China PR	Any Combination of producer and exporter other than Sl. No. 1 & 2		0.556	Kg
4.	- Do -	- Do -	China PR	Any country other than China PR	Any	Any	0.556	Kg
5.	- Do -	- Do -	Any country other than China PR	China PR	Any	Any	0.556	Kg

125. The Food Grade STPP is excluded from the scope of the anti-dumping measures as recommended in the duty table above.

126. Subject to the above, the Authority confirms the preliminary findings dated 21th May, 2010.

127. An appeal against the findings after its acceptance by the Central Government shall lie before the Customs, Excise and Service Tax Appellate Tribunal (CESTAT) in accordance with the Customs Tariff Act, 1975 as amended in 1995 and Customs Tariff Rules, 1995.

(Vijaylaxmi Joshi)

The Designated Authority