

Notice of

Final Determination and Levy of Definitive Antidumping Duties on Import of Formic Acid 85% into Pakistan Originating in and/or Exported from the Republic of Finland and the Federal Republic of Germany

The National Tariff Commission (the "Commission") initiated an antidumping investigation on September 08, 2005 under Section 23 of the Anti-Dumping Duties Ordinance, 2000 (the "Ordinance") upon an application lodged by Tufail Chemical Industries Ltd, Lahore (the "Applicant") on behalf of the domestic industry in accordance with Sections 20 and 24 of the Ordinance. The subject investigation concerns dumping of Formic Acid 85% ("FA 85%") originating in and/or exported from the Republic of Finland ("Finland") and the Federal Republic of Germany ("Germany") into Pakistan.

The Commission earlier made a preliminary determination in this case in terms of Section 37 of the Ordinance and provisional antidumping duties on FA 85% @ 16.49% and @ 6.16% *ad val* of C&F price importable from a Finnish exporter/ producer (Kemira Oyj) and a German exporter/producer (BASF) were levied respectively on March 09, 2006 for a period of four months. In accordance with the Ordinance and the Anti-Dumping Duties Rules, 2001 (the "Rules"), the Commission after further investigation has made an affirmative final determination as follows:

Exporters and Foreign Producers: The Applicant identified following exporters/foreign producers involved in the dumping of FA 85% into Pakistan and requested for the imposition of antidumping duty on FA 85% importable from the identified exporters/foreign producers:

- i. Kemira Oyj, Porkkalankatu 3, 00101 Helsinki, Finland ("Kemira")
- ii. BASF, Zentralabteilung Steuern, ZRS – C 104, 67056 Ludwigshafen, Germany ("BASF")

Product Under Investigation: FA 85% exported by the exporters/producers from Finland and Germany was the product under investigation (the "investigated product"). It is classified under Pakistan Customs Tariff (PCT) No. 2915.1100 (PCT heading in Pakistan is equivalent to Harmonized Commodity Description and Coding System under Brussels nomenclature upto six digit level).

Like Product: In terms of Section 2 of the Ordinance, the examination revealed that even though the investigated product and FA 85% produced by the domestic industry are produced with different manufacturing process, and from different raw materials, the product produced by the domestic industry and exporters/producers from Finland and Germany is the same i.e., FA 85%. Both have the same physical characteristics, usage, and tariff classification. Thus it is established that both the products are "like products".

Period of Investigation ("POI"):

Investigation of dumping	From July 1, 2004 to June 30, 2005
Investigation of injury	From July 1, 2002 to June 30, 2005

Determination of Normal Value: In order to determine the normal value of the investigated product exported by Kemira, the Commission in accordance with Section 6(1) (b) of the Ordinance has resorted to Kemira's cost of production of FA 85% during the POI as the total domestic sales of the like product of Kemira were less than five percent of its export sales of the investigated product to Pakistan. For the latter reason, the Commission, in terms of Section 6(1) (b) of the Ordinance, established normal value for Kemira on the basis of cost to make and sell (cost of production plus administrative, selling and general cost) and reasonable profit. The information on cost of production of Kemira was obtained and verified during on-the-spot investigation at its premises.

The Commission in terms of Section 5(1) of the Ordinance has established normal value for BASF on the basis of comparable price paid or payable, in the ordinary course of trade, for sales of a like product when destined for consumption in Germany based on the information provided by BASF in the exporter's questionnaire and verified as well as supplemented with details obtained during on-the-spot investigation.

Determination of Export Price: Export prices for Kemira and BASF have been calculated in accordance with Section 10(1) of the Ordinance. For this purpose information/data submitted by Kemira and BASF in the exporter's questionnaire and obtained during on-the-spot investigation has been used.

Dumping Margin: The dumping margins have been calculated in accordance with Section 12(1) of the Ordinance by comparing the normal value at ex-factory level with the weighted average export price at ex-

factory level. The definitive dumping margins expressed as percentage of weighted average C&F export price thus worked out to be 13.63% and 6.25% for Kemira and BASF, respectively.

Injury to the Domestic Industry: Injury to the domestic industry has been determined in accordance with Part VI of the Ordinance. The Commission has established that the domestic industry suffered material injury on account of significant increase in dumped imports in absolute terms; significant price undercutting; price suppression; loss in market share; negative effects on capacity utilization; decline in profits and increase in inventories.

Dumped Imports: Volume of dumped imports of the investigated product decreased by 5.89 percent in Financial Year ("FY") 2004 over FY 2003 and it increased by 91.76 percent in FY 2005 over FY 2004. On an annualized basis, 81 to 85 percent of the total imports of the investigated product during the POI was from dumped sources.

Injury Factors other than Dumped Imports: The Commission has also examined factors other than dumped imports to ascertain whether there is any other factor which may have been causing injury to domestic industry. One pertinent factor which may arguably have caused injury was the volume of imports from non-dumped sources which increased by 24.11 percent in FY 2004 and by 81.25 percent in FY 2005. Such injury as was caused due to increase in the volume of non-dumped imports has not been attributed to dumped imports. Furthermore, the injury caused due to other factors is not significant as compared to the injury caused due to dumped imports.

Imposition of Definitive Antidumping Duty In reaching this final affirmative determination, the Commission is satisfied that the investigated product has been imported at dumped prices. This has caused material injury to domestic industry during the POI. In terms of Section 50 of the Ordinance, by notification in the official Gazette, definitive antidumping duty, equal to the dumping margins @ 13.63% and @ 6.25% *ad valorem* of C&F export price on the investigated product (Formic Acid 85%) PCT No. 2915.1100 importable from Kemira and BASF, respectively, is imposed for a period of five years effective from March 09, 2006.

The definitive antidumping duty shall take the form of *ad val* duty and will be held in a non-lapsable personal ledger account established and maintained by the Commission for this purpose. Release of the investigated product for free circulation in Pakistan shall be subject to imposition of such antidumping duty. Definitive antidumping duty levied would be in addition to other taxes and duties levyable on import of the investigated product under any other law. The definitive antidumping duty would be collected in the same manner as customs duty is collected under the Customs Act, 1969 (IV of 1969).

Refund. In terms of section 55(2) of the Ordinance, if the definitive anti-dumping duty is lower than the amount of provisionally determined anti-dumping duty, the difference shall be refunded by the Commission within forty-five days of the final determination. The Commission, informs the importers of FA 85% to send their requests for refund of anti-dumping duty (if any) that may have been paid (under the Commission's Provisional Determination) on imports of the investigated product from the exporter/producer from Finland to extent of the difference between the rate of definitive anti-dumping duty and the rate of provisional anti-dumping duty, to the Secretary, National Tariff Commission, State Life Building No. 5, Blue Area, Islamabad within a period of thirty days of the publication of this notice.

Imports of FA 85% from sources other than dumped sources would not be subject to this antidumping duty.

Disclosure meeting Pursuant to Rule 16 of the Rules, the exporters foreign producers may request for disclosure meeting within 15 days of the date of publication of this notice.

Further Information A non-confidential version of the report of final determination and levy of definitive antidumping duty has been placed on public file established and maintained by the Commission. It has also been posted on the Commission's website: www.ntc.gov.pk. The public file shall be available to the interested parties, registered with the Commission for the purposes of this investigation, for review and copying at the offices of the Commission, from Monday to Thursday between 1100 hrs to 1300 hrs.

Authority Under Law This investigation has been conducted under the Ordinance (No. LXV of 2000). This notice is published pursuant to Section 39 of the Ordinance.

By order of the Commission.

(Mrs. Batool Iqbal Qureshi)
Secretary
July 07, 2006