

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

**NOTIFICATION**

Udyog Bhavan, New Delhi  
Dated the 21<sup>st</sup> May, 2010

**PRELIMINARY 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 5<sup>th</sup> 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.

## A. PROCEDURE

3. 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 5<sup>th</sup> 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 / Exporter)
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 only from M/s Rohit Surfactants Private Limited. However, Comments on the initiation notification been received from M/s Fena (P) Limited, New Delhi, M/s Power Soaps limited, Puducherry and M/s Sandeep Organic Pvt. Ltd., Mumbai.

(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) was worked out provisionally 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 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.

(xii) 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.

(xiii) 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.

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

5. M/s Hubei Xingfa Chemicals Group Co., Ltd. (Producer / Exporter) submitted in their response that they have one subsidiary company, namely M/s Xingfa Export & Import Co Ltd, involved in the exports of the subject goods during the POI. They have further informed that their subsidiary has refused to cooperate with them and submit the response. The Authority notes that response from a subsidiary company involved in the export of the subject goods during the POI is essential for the investigations. Moreover the responding producer/exporter has failed to furnish relevant information relating to their domestic sales, export sales to third countries, production cost, SG&A expenses, etc in their exporter's questioner response. In view of the above the Authority has not accepted the response submitted by M/s Hubei Xingfa Chemicals Group Co., Ltd, for the purpose of preliminary findings.

## **B. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE**

6. 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.

7. 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.

8. 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.

9. No argument has been received from any interested party on the scope of product under consideration or like article. Examination of the product and import data submitted by the applicant indicates that there is no difference between subject goods produced by the domestic industry and imported from China. In view of the similarity in manufacturing process and substitutability, the Authority provisionally holds that the two are required to be treated as alike and one product for the purpose of defining the ‘product under consideration’ in this case.

10. The difference between the Technical Grade and Food Grade STPP is a critical issue. With regard to the Technical Grade and Food Grade STPP, some of the responding producers/exporters have stated that these two grades are different in physical characters, cost of production and sales price, usage and sales market. They have further stated that food grade STPP contains more  $\text{Na}_5\text{P}_3\text{O}_{10}$  and less heavy metal, arsenic and fluoride compared to the industrial grade STPP. Food grade STPP is used as quality improver in the process of canned food, fruit juice drinks, foodstuffs from milk or soybeans. It is also used as softener or densifier in food stuff industry. Industrial grade STPP is used as main auxiliaries for synthetic detergent, synergist for soap, water softener, tanning agent for leather manufacturing, auxiliary for dyeing. It is also be used as effective dispersion agent for suspension solution of coating, kaolin, magnesium oxide, calcium carbonate and drilling mud etc. Different usage results in

different customer and different sales market. It is further stated that generally, cost of production of food grade STPP is higher than industrial grade STPP, because food grade STPP contains more  $\text{Na}_5\text{P}_3\text{O}_{10}$  and less heavy metal, arsenic and fluoride as compared to industrial grade STPP and the Phosphoric acid and liquid alkali used for production of food grade STPP are more expensive than those used for production of industrial STPP. Sales price of food grade STPP is higher than industrial grade STPP both in Chinese market and Indian market.

11. However some of the responding producers/exporters have also submitted that as the food grade STPP contains much less impurities and heavy metals than the technical grade STPP, the food grade STPP may replace the technical grade STPP, but the technical grade STPP cannot replace the food grade STPP in their usage. They have further stated that the users normally do not use the food grade STPP to replace the technical grade STPP when the availability of the technical grade STPP is enough for the use and because the production cost and selling price of food grade STPP is significantly higher than those of technical grade STPP.

#### **EXAMINATION BY THE AUTHORITY**

12. 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;*

13. None of the interested parties have disputed the likeness of the subject goods. The Authority notes that both technical grade and food grade STPP are in demand in the Indian market although the demand for technical grade STPP is much more than the food grade STPP. After verification of the domestic industry, the Authority observed that domestic industry does not produce food grade STPP and the entire demand for the same in domestic market is being met through imports.

14. As evident from the responses filed by the producers/exporters, they have production and export of both grades of STPP to India. On the basis of responses filed by the Chinese exporters the total export of STPP to India from the subject country during POI is \*\*\* Mt, out of which Food Grade STPP constitutes \*\*\* Mt and Technical Grade STPP constitutes \*\*\* Mt. The demand for the subject goods in India during POI is 71390 Mt, out of which Food Grade constitutes only 330 Mt, entirely catered through imports from China and other countries. Although due to absence of domestic production of food grade STPP the export of food grade STPP may not primarily cause any injury to the domestic industry, nevertheless, it is evident from the responses of the

subject producers/exporters that the food grade STPP being more refined in nature, can be used as a substitute for the technical grade STPP. Moreover, none of the interested parties have disputed the fact that food grade STPP cannot be used for technical purposes. In view of that, the Authority observes that exclusion of food grade STPP from the scope of the PUC may result in continued dumping of the same in the guise of technical grade STPP in the event of imposition of anti-dumping duty on the technical grade STPP only.

15. Further, based on the information submitted in Appendix-8 of the response of some cooperating producer/exporter, the Authority notes that the cost of the food grade STPP(\*\*\* RMB per Mt ) is higher than that of the technical grade STPP (\*\*\* RMB per Mt ) by approximately 4% and therefore insignificant. Although, it may be true that the higher price of food grade STPP may inhibit to some extent the subject exporters to cause any diversion of Food Grade STPP for Technical Grade STPP, but given the high demand for Technical Grade STPP in domestic market, insignificant pricing difference may not cause any situational difficulties for the subject exporters to dump Food Grade STPP as a substitute for industrial use in Indian market. Thus, pending further investigation and verification, the Authority for the purposes of these preliminary findings, has not excluded Food Grade STPP from the scope of the product under consideration.

### **C. DOMESTIC INDUSTRY & STANDING**

16. 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.

17. 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 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.

18. 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 2470 Mt of production, as against 26912 Mt of production by M/s Tata Chemicals. During the POI the total Indian production of the subject goods is 29382 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.

#### **D. DE MINIMIS LIMITS**

19. 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.

#### **E. DETERMINATION OF DUMPING MARGIN**

##### **E.1 EXAMINATION OF MARKET ECONOMY CLAIM**

20. 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.

21. 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.

22. 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.

### **EXAMINATION BY THE AUTHORITY**

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

23. 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 a 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. In view of the above, for the purpose of the preliminary determination and subject to further verification, the authority has not granted market economy status to the subject companies.

**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).**

24. The Authority observes 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. In view of the above, for the purpose of the preliminary determination and subject to further verification, the authority has not granted market economy status to the subject companies.

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

25. 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. In view of the above, for the purpose of the preliminary determination and subject to further verification, the authority has not granted market economy status to the subject companies.

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

26. 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 16<sup>th</sup> 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 transfereed \*\*\* % share holding to Leshan Keer Fine Chemical Co 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 \*\*\* share holders and not \*\*\*. Further, from the official website of the company, the Authority observes that M/s Leshan Keer Alkali Co. Ltd., one of its 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. In view of the above, for the purpose of the preliminary determination and subject to further verification, the authority has not granted market economy status to the subject companies.

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

27. 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 Kuming 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.

28. The Authority has taken cognizance that the exporters have submitted in their responses relevant facts with which they want to rebut the presumptions as mentioned in Para 8 of Annexure 1 of the Rules and Non Market Economy questionnaire sent to them regarding grant of market economy status to their company. As regards raw materials, which mainly includes phosphoric acid and yellow phosphorous, the exporters have submitted that they have purchased their raw materials from affiliated/ non-affiliated parties at local market price. The Authority notes that the issue of raw material prices paid by the company is vital to an examination of both market economy treatment as also correct assessment of its cost of production. The exporters have not so far established with verifiable evidence that “prices of major inputs substantially reflect market values”. In a situation where the raw material prices are significantly lower than the prevailing market rates in the international market, not only a vital condition for market economy treatment is not satisfied but also costs may be underestimated. Further, the Authority notes that even if one of the critical parameters of market economy treatment is not satisfied, it would not be feasible to grant market economy status to the responding companies. In view of this, for the purpose of preliminary findings, the Authority has not granted them market economy treatment.

29 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. However, as the investigation proceeds further, the Authority proposes to continue examination of the appropriateness of any market economy third country for the purpose of determination of normal value as per Para 7 of Annexure 1 of the Rules, should information about their appropriateness of price or constructed value be received by the Authority. It is also 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.

#### **F. DETERMINATION OF NORMAL VALUE**

30. As recorded above there are significant issues of market economy determination in respect of the responding exporters from the subject country that

require further examination and verification. Therefore, pending further examination and verification of the claims made by the responding exporters and producers from China PR, in respect of their market economy claims and individual treatment claims, for the purpose of the preliminary finding, the authority has provisionally constructed the normal value in China PR on the basis of Para-7 to Annexure-I to the Rules.

31. 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.

32. 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 applicants, have placed any material fact before the Authority to select an appropriate market economy third country for the above purpose.

33. Pending further examination of the issues, for the purpose of preliminary determination the Authority proceeds to provisionally determine 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 provisionally constructed based on facts available. The Normal Value has been constructed taking into account international prices of the major inputs. Consumption norms has been considered as per claims made by the responding exporters, conversion cost and SGA expenses have been adopted on the basis 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	***

#### **G. EXPORT PRICE**

##### **M/s Wengfu Intertrade Ltd (exporter)**

##### **M/s Guizhou Wengfu Gene-Phos Chemical Co., Ltd. (producer)**

34. M/s Guizhou Wengfu Gene-Phos Chemical Co., Ltd. is a producer of the subject goods. It's subsidiary company M/s Wengfu Intertrade Ltd exports the subject goods produced by it, to India. M/s Wengfu Intertrade Ltd. has reported exports of \*\*\* MT of the subject goods to India during the POI. For determination of the weighted average ex-factory price to India, the adjustments have been made on account of ocean freight, port charges, bank charges, packing, inland freight, storage, handling and credit cost as claimed by the producer/exporters, which shall be subject to verification. Accordingly ex-factory export price has been determined as US\$ \*\*\* per MT.

##### **M/s Sichuan Blue Sword Import & Export Co., Ltd. (exporter)**

##### **M/s Sichuan Blue Sword Chuanxi Phosphochemicals Co., Ltd. (producer)**

35. M/s Sichuan Blue Sword Chuanxi Phosphochemicals Co., Ltd. is a producer of the subject goods. It's subsidiary company M/s Sichuan Blue Sword Import & Export Co., Ltd. exported the subject goods produced by it's 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, and inland freight, as claimed by the producer/exporter for the purpose of the preliminary findings subject to further investigation and spot verification. 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)**

36. 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, exports the same to India. M/s Yibin Tianyuan Group 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, port charges, bank charges, inland freight, and credit cost as claimed by the producer/exporter for the purpose of the preliminary findings, subject to further investigation and spot verification. Accordingly ex-factory export price has been determined as US\$ \*\*\* per MT.

**M/s Sichuan Jinguang Industrial Group Co., Ltd. (producer and exporter)**

37. M/s Sichuan Jinguang Industrial Group Co., Ltd is the producer and exporter of the subject goods. They have reported exports of \*\*\* MT of the subject goods to India during the POI. The adjustments have been made on account of ocean freight, port charges, bank charges, insurance, packing, inland freight handling and credit cost as claimed by the producer and exporter for the purpose of the preliminary findings subject to further investigation and spot verification. Accordingly ex-factory export price has been determined as US\$ \*\*\* per MT

**Determination of Export Price in respect of Non-Co-operative Exporters**

38. Since no other response has been received from any other producer/ exporter of the subject goods from the subject country, the Authority has decided to determine the export price in respect of non-cooperating exporters, 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 has 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.

**H. DUMPING MARGIN**

39. The Authority notes that STPP has two grades: Technical Grade and Food Grade and the domestic industry does not manufacture food grade STPP. But since, as acknowledged by some of the responding exporters, food grade STPP can be substituted for technical uses, for the purpose of preliminary finding the Authority has not excluded the food grade STPP from the purview of the scope of the PUC. The ex-works normal value and export prices so determined provisionally have been compared at the same level of trade and dumping margin has been provisionally 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 Guizhou Wengfu Gene-Phos Chemical Co., Ltd.	M/s Wengfu Intertrade Ltd	***	***	***	35-45
M/s Sichuan Blue Sword Chuanxi Phosphochemicals Co., Ltd.	M/s Sichuan Blue Sword Import & Export Co., Ltd.	***	***	***	25-35
M/s Yibin Tianlan Chemical Co., Ltd.	M/s Yibin Tianyuan Group Co., Ltd.	***	***	***	35-45
M/s Sichuan Jinguang Industrial Group Co., Ltd.	M/s Sichuan Jinguang Industrial Group Co., Ltd.	***	***	***	25-35
Non-cooperating Producers/ Exporters	Non-cooperating Producers/ Exporters	***	***	***	100-110

## I. INJURY AND CAUSAL LINK

### Views of the domestic industry

40. The following views have been expressed by the domestic industry with regard to the injury and causal link:

- (a) Imports of STPP have increased significantly in absolute terms as also in relation to production and consumption in India.
- (b) Imports are significantly undercutting the prices of the domestic industry.
- (c) Imports are preventing price increase that would have happened in the absence of dumped imports.

- (d) Production, domestic sales and capacity utilization of the domestic industry has declined significantly over the injury period.
- (e) Profitability of the domestic industry declined significantly over the injury period. Consequently return on investments and cash flow also shows a decline.
- (f) Inventories with the domestic industry had declined significantly, the same have however, once again increased in the investigation period.
- (g) Growth of domestic industry is negative in most of the parameters.
- (h) Employment and wages have not suffered due to the fact that petitioner is a multi product company and in view of prevailing labour laws in the country.
- (i) Margin of dumping is very significant.
- (j) Productivity of the domestic industry declined.

### **Views of Exporters**

41. No specific injury related comments have been received from the responding exporters.

### **Views of Importers/Users**

42. The following views have been received from the importers/ users:

- (i) The availability of STPP to the Indian detergent manufacturers from the only one source is not sufficient in terms of their capacity.
- (ii) 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.
- (iii) The domestic manufacturer concentrates only on a few customers who buy their material in large volumes and ignores the lesser buyers.
- (iv) The anti-dumping duty, if imposed, will boost the input cost to the user industries.
- (v) China's STPP quality is much better than that of the domestic industry and phosphate content adds more value to their product.
- (vi) A substitute for STPP has been developed by China for use in detergent sector.

- (vii) Domestic produces suffers from frequent shut down due to raw material shortage and other critical problems and as a result user industries suffer.
- (viii) STPP is not a focused product of Tata Chemicals.
- (ix) The price of STPP depends upon quality and quantity of its constituents.

### **EXAMINATION BY THE AUTHORITY**

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

- (i) 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.
- (ii) 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. Once a level playing field is created and fair trade is ensured, the domestic producers may upgrade their capacity utilization and cater to the domestic demand to a great extent. The balance domestic demand can always be filled by the imports.
- (iii) 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.
- (iv) 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.
- (v) The view regarding a substitute for the subject good developed by China, no such information has come to the notice of the Authority.

44. The following are the essential facts before the Authority in respect of alleged injury to the domestic industry caused by dumped imports from China, which will form the basis for the preliminary determination by the Authority.

45. Having examined the degree and extent of dumping from China the Authority has examined the injury caused to the domestic industry, if any, and the causal link between the dumped imports and injury so suffered by the domestic industry. The Authority holds that the applicant Company, i.e., M/s Tata Chemicals Ltd, Mumbai, constitutes a major proportion (92%) of Indian production of the subject goods during the period of investigation under Rule 2(b) of Anti-dumping Rules. Therefore, for the purpose of injury determination the applicant company has been held to constitute the domestic industry within the meaning of the Rules.

46. 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.

47. 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.

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

#### **J.1 Volume Effects of Dumped Imports: Import volumes and market share**

49. 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 DGCI&S 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:***

50. 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.

51. 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, for the purpose of the preliminary determination the export volume reported by the DGCI&S has been considered for volume analysis.

52 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:***

53. Imports from China PR constitutes 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:

Imports	Unit	2005-06	2006-07	2007-08	2008-09
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:**

54 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

55. The Authority notes that up to April 2006 the domestic industry was carrying out a job work for HUL apart from it's 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:**

56. 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

57. 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 preceding 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%.

## **J.2 Price Effect of the Dumped imports on the Domestic Industry**

58. 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**

59. 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	Rs. Kg	30.70	30.31	29.86	49.50
Price undercutting	Rs. Kg	***	***	***	***
Price undercutting %	Range	0-10%	0-10%	5-15%	20-30%

60. 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)	49.50
Price underselling (Rs. Kg)	***
Price underselling as a % (Range)	35-45

61. 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 35-45%.

**ii) Price suppression and depression**

62. 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.

63. 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	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	Rs. Kg	***	***	***	***
Trend	Indexed	100	97.60	104.16	208.14
Landed price from China	Rs. Kg	30.70	30.31	29.86	49.50

64. 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 133% in comparison to base year whereas the net sales realization increase by 108% 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**

65. 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**

66. 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	101.66	127.00	224.00
Net Sales Realization	Rs. Kg	***	***	***	***
Trend	Indexed	100	92.04	97.94	195.75
Profit/Loss	Rs. Kg	***	***	***	***
Trend	Indexed	100	9.32	-152.19	-48.40
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

67. 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 133% in POI as compared to base year, the net sales realization increased only by 108% over the period. Profitability of the domestic industry changed significantly over the injury period. Cost of sales and net sales realization, for the purpose of analyzing the trend of profitability, has been considered including job work. 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.

68. 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**

69. 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

70. 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**

71. 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	***	***	***	***
Trend	Indexed	100	106	169	170

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

**d) Inventories:**

73. Data relating to inventories shows as follows:

	Unit	2005-06	2006-07	2007-08	2008-09
Opening Stock	MT	943	5086	678	369
Closing Stock	MT	5086	678	369	675
Average Stock	MT	3015	2882	524	522

74. 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**

75. 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

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

**f) Growth**

77. 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**

78. 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**

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

**i) Factors affecting prices**

80. Preliminary 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.

81. The above preliminary 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.

**K. Causal Link and other factors**

82. 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**

83. 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**

84. 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**

85. 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**

86. 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**

87. 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**

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

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

***L. Factors establishing causal link***

90. 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 country. 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.

91. Therefore, the Authority provisionally 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.

**M. Magnitude of Injury and injury margin**

92. The Authority has determined non-injurious prices of different grades of subject goods for the domestic industry taking into account cost of production of the domestic industry. This non-injurious price of the domestic industry has been compared with the landed values of the subject imports to determine 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 Sichuan Jinguang Industrial Group Co., Ltd (produce/exporter)	***	***	***	25-35
2.	M/s Guizhou Wengfu Gene-Phos Chemical Co., Ltd. (producer) M/s Wengfu Intertrade Ltd. (exporter)	***	***	***	25-35
3.	M/s Yibin Tianlan Chemical Co., Ltd. (producer) M/s Yibin Tianyuan Group Co., Ltd. (exporter)	***	***	***	35-45
4.	M/s Sichuan Blue Sword Chuanxi Phosphochemicals Co., Ltd. (producer) M/s Sichuan Blue Sword Import & Export Co., Ltd. (exporter)	***	***	***	25-35
5	Non-cooperating Exporters	***	***	***	90-100

#### **N. Conclusions**

93. 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 provisionally 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 exported from the subject country.

#### **O. Indian industry's interest & other issues**

94. 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.

95. 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.

**P. Recommendations**

96. 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 conducted a preliminary investigation into dumping, injury and causal links in terms of the Anti-dumping Rules laid down and having provisionally 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 provisional anti-dumping duty is required to offset dumping and injury, pending completion of the investigation. Therefore, the Authority considers it necessary and recommends imposition of provisional anti-dumping duty on imports of subject goods from the subject country in the form and manner described hereunder.

97. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of provisional anti-dumping duty equal to the lesser of margin of dumping and the margin of injury, so as to remove the injury to the domestic industry. Accordingly, provisional antidumping duty equal to the amount mentioned in Col 8 of the table below is recommended to be imposed from the date of the notification to be issued in this regard 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	Currency
1	2.	3.	4.	5	6.	7.	8.	9.	10.
1	2835.3100	Sodium Tripoly Phosphate (STPP)	China PR	China PR	Sichuan Jinguang Industrial Group Co., Ltd.	Sichuan Jinguang Industrial Group Co., Ltd	0.307	Kg	USD
2	- Do -	- Do -	China PR	China PR	Guizhou Wengfu Gene-Phos Chemical Co., Ltd.	Wengfu Intertrade Ltd.	0.342	Kg	USD
3	- Do -	- Do -	China PR	China PR	Yibin Tianlan Chemical Co., Ltd.	Yibin Tianyuan Group Co., Ltd	0.357	Kg	USD
4	- Do -	- Do -	China PR	China PR	Sichuan Blue Sword Chuanxi Phosphochemicals Co., Ltd.	Sichuan Blue Sword Import & Export Co., Ltd.	0.294	Kg	USD
5	- Do -	- Do -	China PR	China PR	Any Combination of producer and exporter other than Sl. No. 1 to 4		0.671	Kg	USD
6	- Do -	- Do -	China PR	Any country other than China PR	Any	Any	0.671	Kg	USD
7	- Do -	- Do -	Any country other than China PR	China PR	Any	Any	0.671	Kg	USD

**Q. Further Procedures**

98. The following procedure would be followed subsequent to notification of the preliminary findings: -

- (a) The Authority invites comments on these findings from all interested parties and the same would be considered in the final finding;
- (b) Exporters, importers, petitioner and other interested parties known to be concerned are being addressed separately by the Authority, who may make known their views, within 40 days from the date of dispatch of the letter. Any other interested party may also make known its views within forty (40) days from the date of publication of these findings;
- (c) The Authority would conduct further verification to the extent deemed necessary;
- (d) The Authority would hold hearing to hear the views of various interested parties orally;
- (e) The Authority would disclose essential facts before announcing final findings.

**(P. K. Chaudhery)**  
The Designated Authority