

Formal Investigation Report

**Sodium Tripolyphosphates – Technical Grade:
Safeguard Action Against Imports
(SG Investigation No. 04-2006)**

(Public Version)

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Table of contents

	Page
TABLES.....	V
FIGURES.....	VI
ANNEXES.....	VII
ABBREVIATIONS.....	VIII
EXECUTIVE SUMMARY	X
1 TERMS OF REFERENCE.....	1
1.1 The Application for General Safeguard Measure.....	1
1.2 The Preliminary Investigation	1
2 SAFEGUARD ACTION AND THE ROLE OF THE COMMISSION...	3
2.1 The Safeguard Measures Act of 2000.....	3
2.2 The World Trade Organization Agreement on Safeguards.....	6
2.3 Articles 6 and 8 of the Agreement on the Common Effective Preferential Tariff Scheme for the ASEAN Free Trade Area.....	7
3 THE COMMISSION'S INQUIRY.....	9
3.1 Notifications	9
3.2 Preliminary Conference.....	10
3.3 Staff Report	11
3.4 Public Hearing.....	11
3.5 Plant Visits/Verification of Data.....	12

	Page
4 PARTICIPANTS' VIEWS.....	13
4.1 Submissions Received.....	13
4.2 The Domestic Industry's Case.....	13
4.3 The Opposing Case	15
5 THE DOMESTIC INDUSTRY AND MARKET.....	20
5.1 The Domestic Product.....	20
5.2 Tariff Profile.....	20
5.3 Market Participants.....	21
6 DETERMINATION OF LIKE PRODUCT.....	23
6.1 Product Under Consideration.....	23
6.2 Characteristics.....	23
6.3 Manufacturing Method.....	25
6.4 Uses.....	27
6.5 Tariff Classification.....	27
6.6 Findings.....	27
6.7 Conclusion.....	27
7 DETERMINATION OF INCREASED VOLUME OF IMPORTS.....	28
7.1 Period of Investigation.....	28
7.2 Increase in Volume of Imports in Absolute Terms.....	28
7.3 Increase in Volume of Imports Relative to Domestic Production.....	29

	Page
7.4 Findings.....	30
7.5 Unforeseen Developments Leading to Increased Importation	30
7.6 Conclusion.....	30
7.7 <i>De Minimis</i> Import Volumes from Developing Countries	31
8 DETERMINATION OF SERIOUS INJURY	33
.	
8.1 Domestic Industry Requirement.....	33
8.2 Serious Injury Factors.....	34
8.3 Findings.....	41
8.4 Conclusion.....	41
9 CAUSATION.....	42
9.1 Serious Injury Factors.....	42
9.2 Other Factors.....	44
9.3 Conclusion	45
10 CONCLUSION.....	46
11 DEFINITIVE SAFEGUARD MEASURE.....	47
11.1 Recommended Definitive Safeguard Measure.....	47
11.2 Review of the Definitive Safeguard Measure.....	51
12 EFFECTS OF THE AFFIRMATIVE RECOMMENDATION.....	52
12.1 On the Domestic STPP-TG Industry.....	52
12.2 On Consumers and Industrial Users.....	52
12.3 On Employment.....	53
12.4 On Regional Development.....	53

TABLES

	Page
1 Rates of Duty on STPP-TG:2001-2006	20
2 Comparison of Chemical and Physical Properties of Local and Imported STPP-TG.....	24
3 Volume of Imports of STPP-TG: 2001-2005.....	28
4 Share of Imports to Domestic Production of STPP-TG.....	29
5 Imports of STPP-TG by Country of Origin.....	32
6 Developing Countries with <i>De Minimis</i> Import Volume.....	32
7 Apparent Domestic Consumption and Market Shares (MT).....	34
8 Domestic Sales of STPP.....	35
9 Domestic Production of STPP (MT).....	36
10 Ending Inventory (MT).....	37
11 Actual Production and Capacity Utilization (MT).....	37
12 Income Statement: STPP Operations (% Change).....	38
13 Return on Sales.....	38
14 Percentage Share to Costs of goods Manufactured	39
15 Price Undercutting and Price Suppression	40
16 Employment and Labor Productivity.....	40
17 CAWC's Overall Financial Performance (P'000).....	44
18 Importation of Laundry Detergents Using STPP-TG (MT).....	45
19 In-Quota Allocations By Country (MT).....	49
20 <i>Ad Valorem</i> Equivalents of the Specific Duties.....	50

FIGURES

		Page
Figure 1	Linkage Chart of STPP Using 100% P4 and MGPA/P4 Blend	26
Figure 2	Actual Increase/Decrease in the Volume of Imports of STPP-TG: 2002-2005.....	29

ANNEXES

- A-1 Notice of Formal Investigation, Published in *The Manila Times*
- A-2 Notice of Formal Investigation, Published in *Manila Standard Today*
- B-1 Notice of Public Hearing, Published in *The Manila Times*
- B-2 Notice of Public Hearing, Published in *Manila Standard Today*
- C Tariff Commission Order dated 01 August 2006
- D List of Submissions

ABBREVIATIONS

AEM	ASEAN Economic Ministers
AFTA	ASEAN Free Trade Area
AHTN	ASEAN Harmonized Tariff Nomenclature
ASEAN	Association of South East Asian Nations
BIS	Bureau of Import Services
BOC	Bureau of Customs
CAWC	CAWC, Inc.
CEPT	Common Effective Preferential Tariff
CIAP	Chemical Industries Association of the Philippines
CIF	Cost, Insurance, Freight
CGM	Cost of Goods Manufactured
CMO	Customs Memorandum Order
Commission	Tariff Commission
DA	Department of Agriculture
DOF	Department of Finance
DTI	Department of Trade and Industry
E.O.	Executive Order
FOB	Freight on Board
FPI	Federation of Philippine Industries
GATT	General Agreement on Tariffs and Trade
IRRs	Implementing Rules and Regulations
kg	Kilogram
MAV	Minimum Access Volume
MFN	Most-Favoured-Nation
MGPA	Merchant Grade Phosphoric Acid
MT	Metric Ton
NSO	National Statistics Office
NTC	Nakayama Technology Corporation
Petrocorp	Petrochemical Corporation of Asia Pacific
POI	Period of Investigation

PPI	Polyphosphates, Inc.
P & G	Procter and Gamble
R.A.	Republic Act
SAGE	Selling & General Administrative Expense
SEC	Securities and Exchange Commission
STPP	Sodium Tripolyphosphates
SDAP	Soap and Detergent Association of the Philippines
STPP-TG	Sodium Tripolyphosphates – Technical Grade
STPP-FG	Sodium Tripolyphosphates – Food Grade
TECO	Taiwan Economic and Cultural Office
TSPP	Tetrasodium Pyrophosphates
VAT	Value Added Tax
WTO	World Trade Organization

EXECUTIVE SUMMARY

This report is about safeguard action against imports.

This report addresses the question of whether definitive general safeguard action, in accordance with Republic Act No. 8800 (otherwise known as the "Safeguard Measures Act") and the WTO Agreement on Safeguards, would be justified against imports of Sodium Tripolyphosphates - Technical Grade (STPP-TG).

Safeguards Investigation

The Safeguard Measures Act, in consonance with the WTO Agreement on Safeguards, allows for temporary safeguard action against imports.

The Act provides for:

- general safeguard measures to afford relief to domestic industries suffering from serious injury or the threat thereof as a result of increased imports, and
- additional safeguard measures (additional duty not exceeding 1/3 of the existing rate of duty) on agricultural products marked "SSG" in Schedule LXXV-Philippines, when the import volume exceeds its trigger level or when the actual CIF import price falls below a trigger price level.

A safeguard inquiry must follow the requirements spelled out in the Safeguard Measures Act and the procedures prescribed by the WTO Agreement on Safeguards.

In responding to the question as to whether safeguard action is warranted against imports of STPP-TG, the Tariff Commission was careful to conduct its inquiry process in accordance with the requirements of the Safeguard Measures Act and the procedures prescribed by the WTO Agreement on Safeguards.

In particular, the Commission is required to determine:

- if the domestic product is a like product or a product directly competitive to the imported product under consideration;
- if the product under consideration is being imported into the Philippines in increased quantities (absolute or relative to domestic production);

- the presence and extent of serious injury or threat thereof to the domestic industry that produces like or directly competitive product;
- the existence of a causal relationship between the increased imports of the product under consideration and the serious injury or threat thereof to the affected domestic industry; and
- the appropriate definitive safeguard measure for consideration of the Secretary of the Department of Trade and Industry, upon positive determination.

Findings

Locally produced STPP-TG is a like product to the imported STPP-TG.

The locally produced STPP-TG and the imported STPP-TG have the same chemical formula, name, uses, have properties lying within a close range, undergo the same manufacturing process, and are both classified under the same subheading (AHTN 2835.31.00) of the Tariff and Customs Code of the Philippines.

CAWC's output constituted total domestic production.

CAWC, the sole manufacturer of STPP-TG in the Philippines, accounted for 100% of total domestic production during the period of investigation (POI).

During the period under review...

For purposes of the Commission's formal investigation, the POI covered the years 2001 to 2005.

imports increased significantly...

The annual levels of imports and the annual shares of imports relative to domestic production from 2001 to 2005 show that the increase in imports of STPP began in 2002 and continued sharply and significantly in 2005.

...in absolute terms...

In 2001, imports of STPP-TG amounted to 2,960 MT. Import volume rose to 4,630 MT or by 56% the following year and increased further to 9,060 MT or by 96% in 2003. Imports peaked in 2005 at 20,210 MT, an increase of 7,930 MT or 65% over the 12,280 MT level in 2004.

The 2005 import level was the highest over the POI and was almost seven times more than the initial import volume in 2001.

<i>...and relative to domestic production.</i>	Imports of STPP-TG represented about 9% of total domestic STPP-TG production in 2001. The share of imports relative to local production increased to 15%, 34% and 57% in 2002, 2003 and 2004, respectively.
	The share of imports to production increased to 179% in 2005.
	In a shrinking STPP-TG domestic market, imports increased its share. While demand contracted by 7% in 2005, imports cornered an even bigger portion of the market, its share rising to 65% from only 37% the previous year.
<i>The industry suffered a significant impairment in its overall market position...</i>	When imports increased significantly in 2005, a turnaround in market position took place. Capturing 65% of the market, imports took over market leadership from the domestic industry that was left with a record low of 35% share of the market.
<i>...domestic sales...</i>	When imports increased significantly in 2005, volume of sales shrank drastically to its lowest level of 10,820 MT.
	The rate of decrease in sales experienced by the domestic industry in 2005 significantly exceeded the STPP-TG market contraction.
<i>...domestic production...</i>	Production volume steadily declined starting 2002 as volume of sales decreased.
	When imports increased significantly in 2005, production volume sank to its lowest level of 11,290 MT representing only 34% of 2001 production level of 33,365 MT.
	The huge reduction in sales volume and consequently in production volume prompted CAWC to declare a temporary shutdown of its plant operations in October and a definitive shutdown in November to December 2005.
<i>...ending inventory...</i>	Ending inventory over the POI ranged from 1,040 MT in 2002 to 235 MT in 2003. Inventory levels increased in 2004 and 2005 although to levels lower than in 2001 and 2002.
<i>...capacity utilization...</i>	Plant utilization was on a steady decline during the POI. CAWC's lowest capacity utilization was registered at 23% in 2005.

<i>...profitability...</i>	<p>During the first year of the POI, CAWC generated an operating income from its STPP operations.</p> <p>When imports began to increase in 2002, the company incurred a loss from operations. As imports continued to increase in 2003 and 2004, losses were registered.</p> <p>When imports increased significantly in 2005, CAWC's loss from operations increased by 156%.</p> <p>The bottomline results of operations were unfavorable from 2002 to 2005.</p>
<i>...return on sales...</i>	<p>Due to losses from operations, negative returns on sales were registered from 2002 to 2005. It was in 2005 when the negative return on sales hit the highest point as STPP imports increased significantly.</p>
<i>...cost of goods manufactured...</i>	<p>When imports increased significantly in 2005, production cost further shot up due to the escalating costs of power, bunker fuel oil, supplies, kerosene and to the allocation of fixed overhead expenses, such as depreciation, amortization, rent and insurances, to STPP production. The cost of yellow phosphorous, CAWC's main raw material, went up to US\$2,195/MT in 2005 or an increase of 10% from the 2004 level.</p>
<i>...prices...</i>	<p>When imports started to increase in 2002, the industry was forced to adopt import parity pricing and sell below costs to produce and sell to keep its share of the market.</p> <p>In 2004 and 2005, despite increases in its selling prices, CAWC still incurred losses indicating that the price increases were not sufficient to recover the costs and expenses.</p>
<i>...and employment and labor productivity.</i>	<p>Labor complement in STPP production increased from 59 in 2003 to 62 in 2004. Employment fell to 58 in 2005 when the company went on shutdown mode.</p> <p>In terms of labor productivity, the ratio ranged from 1:530 in 2001 to 1:195 in 2005. When imports increased significantly in 2005 and the company went on shutdown, labor productivity declined markedly (by more than 40%) as output contracted by 48%.</p>

The serious impairment in the industry's overall market position, sales, production, capacity utilization, profitability, return on sales, and labor productivity is directly attributable to the significant increase in imports in 2005.

During the first four years of the POI, CAWC dominated the market with an average market share of 79%. When imports increased significantly in 2005, the market share of the company fell to a low of 35% even as the market was contracting.

The decline in the market share of the domestic industry and the erosion of its competitive position are directly attributable to the significant increase in imports in 2005.

The decline in production and sales is directly attributable to the increasing imports starting in 2002 and to its significant increase in 2005.

Due to a very low sales volume in 2005, the industry stopped STPP production in October and declared a temporary shutdown in November to December resulting to a huge reduction in production volume.

Plant utilization was on a steady decline during the POI. CAWC's lowest capacity utilization was registered at 23% in 2005. The increased importation in 2005 contributed to the underutilization of capacity resulting in serious impairment of the industry's overall condition.

During the first year of the POI, CAWC generated an operating income from its STPP operations.

The increasing imports starting in 2002 and their significant increase in 2005 forced the domestic industry to adopt an import parity pricing scheme and to sell at a price which did not allow the industry to recover its cost and expenses.

The increased imports led to the significant impairment in the domestic industry's profitability as manifested by negative earnings from operations in 2002 to 2005.

Due to substantial losses from operations, negative returns on sales were registered from 2002 to 2005. It was in 2005 when the negative return on sales hit the highest point as STPP imports increased significantly.

Increased imports seriously impaired and affected CAWC's productivity.

Safeguard Action

Imposition of safeguard measure is justified in terms of R.A. 8800 and the WTO Agreement on Safeguards.

The existence of a causal link between the increased imports of STPP-TG and the serious injury to the domestic industry having been established, the Commission recommends the tariff-rate quota as the form of definitive safeguard measure to be imposed on importations of STPP-TG.

The measure shall be effective for three (3) years counting from 06 July 2006, i.e., the date the provisional measure took effect.

For purposes of setting the import in-quota allocations by country, the Commission ascertained that the first three (3) years of the POI (2001-2003) would serve as the reasonable base period for computing the beginning in-quota volume.

Based on the market growth of 6% in 2003 (the only positive growth during the POI), allocation of in-quota volumes for the succeeding years is proportionately increased by such rate (6%).

For imports exceeding the in-quota allocation, the definitive safeguard measure shall be a specific duty of ₱12,700/MT or ₱12.70/kg.