Non-Confidential

N-2 (ADC No.002/2003/SB)

Government of Pakistan

National Tariff Commission

Notice of

PRELIMINARY DETERMINATION AND LEVY OF PROVISIONAL ANTIDUMPING DUTY ON SORBITOL 70% SOLUTION ORIGINATING IN AND EXPORTED FROM THE REPUBLIC OF INDONESIA AND THE REPUBLIC OF FRANCE

The National Tariff Commission (hereinafter referred to as the "Commission") initiated an investigation on March 6, 2003 under Section 23 of the Antidumping Duties Ordinance, 2000 (No. LXV of 2000) (hereinafter referred to as the "Ordinance") after establishing that the application lodged by Habib Arkady Ltd., Al-Rehman Building, I.I Chundrigar Road, Karachi (the "Applicant"), was in accordance with Sections 20 and 24 of the Ordinance. The investigation concerns dumping of Sorbitol 70% Solution produced in the Republic of Indonesia and the Republic of France and imported into the Islamic Republic of Pakistan.

In accordance with the Ordinance and the Anti-Dumping Duties Rules, 2001 (hereinafter referred to as the "Rules"), the Commission has determined the following on a preliminary basis:

1. **Name and Address of Foreign Producers /Exporters**

   i) P.T Sorini Corporation TBK, Desa Ngerong, Kecamatan Gempol, Kabupaten Pasuruan, East Java, Indonesia. (the "Indonesian Producer/Exporter")

   ii) Roquette Freres, 62136 Lestrem, France**.** (the "French Producer/Exporter")

2. **Product Under Investigation**

Sorbitol 70% Solution is classified under Pakistan Customs Tariff (PCT) Nos. 2905.4400 and 3824.6000 (hereinafter referred to as the "Investigated Product"). Sorbitol Powder importable under PCT No. 2905.4400 is not subject to this investigation, as there is no domestic producer of it in Pakistan.

3. **Domestic Like Product**

In terms of Section 2 of the Ordinance, the Commission examined whether the investigated product and Sorbitol 70% Solution produced in Pakistan by the domestic industry are like products. The examination revealed that both, the investigated product and the domestic like product have the same physical characteristics, usage, and tariff classification. Thus it is established that both the products are "like products".

4. **Period of Investigation ("POI")**

Investigation of dumping	from January 01, 2002 to December 31, 2002; and
Investigation of injury	from July 01, 1999 to December 31, 2002.

5. **Determination of Normal Value**

The normal value of the investigated product imported from France has been established in accordance with Section 5(1) of the Ordinance on the basis of comparable price paid or payable, in the ordinary course of trade, for sales of like product when destined for consumption in France. Whereas, the normal value of the investigated product imported from Indonesia has been established in accordance with Section 6(1) of the Ordinance on the basis of comparable price of the like product when exported to an appropriate third country.

The weighted average normal value of the investigated product imported from France during the POI is taken as Euro 634.01/MT (or US$ 623.47/MT), provided by the French Producer/Exporter. The French Producer/Exporter did not claim any adjustment in the normal value, the weighted average ex-factory normal value is, therefore, Euro 634.01/MT or US$ 623.47/MT.

The normal value of the investigated product imported from Indonesia has been determined on the basis of price at which the Indonesian Producer/Exporter exported the like product to the United States of America. The Applicant provided import statistics obtained from United States International Trade Commission, and these were verified by the Commission. The data for Indonesian Producer/Exporter's exports to the United States was used to establish normal value because the Indonesian Producer/Exporter did not provide data relating to its domestic sales of the investigated product. The weighted average normal value of the investigated product exported from Indonesia to USA during the POI is taken as US$790.88/MT. After deducting the ocean freight from Indonesia to the USA and the inland freight and handling charges, the weighted average ex-factory normal value of the Indonesian Producer/Exporter comes out to US$ 602.14/MT.

6. **Determination of Export Price**

Export price has been calculated in accordance with Section 10(1) of the Ordinance, which provides that an export price shall be a price actually paid or payable for an investigated product when sold for export from an exporting country to Pakistan. The weighted average export price of the investigated product exported from France during POI was US$ 337.59/MT; and from Indonesia, it comes out to US$343.77/MT.

To ensure a fair comparison between export price and normal value i.e., at ex-factory level, adjustments in C&F export price with respect to ocean freight, and inland freight, were made to arrive at the weighted average ex-factory export price of the investigated product. In addition, the French Producer/Exporter stated that the Government of France provides export refund of Euro 37.58/MT or US$ 36.96/MT on account of buying corn from EU market under the Common Agriculture Policy at a price higher than that which prevails in the world market. Such export refund has been added to the weighted average export price of the French Producer/Exporter. The weighted average ex-factory export price from France comes out to be US$ 297.71/MT and the weighted average ex-factory export price from Indonesia comes to US$ 288.89/MT.

7. **Determination of Dumping Margin**

The dumping margins for both, the Indonesian Producer/Exporter and the French Producer/Exporter have been calculated in accordance with Section 12(1) of the Ordinance by comparing the weighted average ex-factory normal value (as established above) with the weighted average ex-factory export price (as established above). The provisional dumping margin expressed as a percentage of average C&F export price works out to be 96.50 percent for French Producer/Exporter and 91.12 percent for Indonesian Producer/Exporter.

8. **Cumulative Assessment of the Effects of Dumped Imports on the Domestic Industry**

The Commission has, in accordance with Section 16 of the Ordinance, cumulatively assessed the effects of dumped imports on the domestic industry. The dumping margins found and the volume of dumped imports from both France and Indonesia are not less than negligible, and a cumulative assessment was considered appropriate in view of the conditions of competition both between imports from France and Indonesia and between these imports and the domestic like product.

9. **Injury to the domestic industry**

In accordance with Sections 15 and 17 of the Ordinance, the Commission examined all factors relevant to the determination of injury caused due to dumped imports. These include the following:

a. <u>Dumped Imports</u>

The share of dumped imports of the investigated product in total imports of like product was 92 percent, 87 percent, and 93 percent for financial year ("FY") 2000, FY 2001 and FY 2002 respectively. However, it decreased to 75 percent during first six months of FY 2003. The market share of dumped imports of the investigated product was 40 percent of total domestic market during FY 2002, whereas, it rose to around 48 percent during first six months of FY 2003.

b. <u>Price Undercutting</u>

The price undercutting margins on account of dumped imports from France, expressed as a percentage of the ex-factory prices of domestic like product, work out to 9.14 percent in FY 2000. There was no price undercutting during FY 2001, and FY 2002 as the landed cost of dumped imports from France was higher than the ex-factory sales price of the domestic industry. Price undercutting margin was 12.91 percent for first six months of FY 2003 on account of dumped imports from France. Whereas, the price undercutting margins, on account of dumped imports from Indonesia come to 15.19 percent in FY 2000, 8.68 percent in FY 2001, 0.01 percent in FY 2002 and 13.14 percent for first six months of FY 2003.

c. Price Suppression

The average cost of production of the domestic industry increased by 4.71 percent per MT in FY 2001, by 8.04 percent per MT in FY 2002 and by 2.27 percent per MT during first six months of FY 2003. However, the domestic industry was not able to fully recover the increase in its cost of production in FY 2001 and FY 2002 respectively. However, during first six months of FY 2003 the domestic industry instead of increasing its ex-factory price decreased its price by 1.57 percent per MT due to the dumped imports of investigated product, inspite of increase in cost of production by 2.27 percent per MT.

d. Production of Domestic Industry

The production of domestic industry increased by 65.82 percent in FY 2001 and by 16.18 percent in FY 2002. Though this increase in production during FY 2000 to FY 2002 prima facie seems quite reasonable, it is mainly because of low production volume in the initial year. During first six months of FY 2003 the production of the domestic industry decreased by 52.86 percent.

e. Capacity Utilization by the Domestic Industry

The installed production capacity of the domestic industry is 7,500MT per annum. The capacity utilization of the domestic industry increased by 65.82 percent in FY 2001 and increased by 16.18 percent in FY 2002, however, it decreased by 52.86 percent during first six months of FY 2003.

f. Market Share

Market share of the domestic industry increased from 37 percent in FY 2000, to 46 percent in FY 2001 and to 57 percent in FY 2002. However, the market share of the domestic industry decreased to 36 percent during first six months of FY 2003. Market share of dumped imports of the investigated product decreased from 58 percent in FY 2000, to 47 percent in FY 2001 and to 40 percent in FY 2002; however, it increased to 48 percent during first six months of FY 2003.

g. Sales

The sales of the domestic industry increased by 31.21 percent in FY 2001 and by 16.72 percent in FY 2002. The increase in sales of domestic like product is mainly due to:

low production and sales volume in initial year;

the domestic industry having increased its market share by incurring large losses; and

the domestic industry, with a view to remaining competitive and to gain market share, kept its prices at a level lower than the level where they should have been.

The sales of the domestic industry decreased by 17.89 percent during first six months of FY 2003

h. Stocks/Inventories

The inventory holdings of domestic like product were 6.88 percent of the total production of the domestic industry in FY 2000, the inventory holding increased to 11.45 percent of production in FY 2001 and to 16.73 percent of production in FY 2002. However, during first six months of FY 2003 the inventory decreased to 8.76 percent of production.

i. Profitability

The domestic industry has been operating at a loss during the POI.

j. Return on Investment

There was a negligible return on investment in FY 2000, and in FY 2001, and during the remaining period of POI there was "negative" return on investment to the domestic industry.

k. Cash Flow

Cash flow from the operations of the domestic industry was "negative" during the POI.

l. Investment and Growth

The domestic industry was not able to invest to carry out its plan to expand the existing plant to include production of Sorbitol Powder, as it was incurring losses continuously and those losses kept on accumulating during the POI.

m. Employment

Employment in the domestic industry remained static because it suffered large losses during the POI and could not afford to hire more employees.

n. Magnitude of Dumping Margin

As concerns the impact on the domestic industry of the magnitude of the provisional dumping margins set out in paragraph 7 above, given the volume and the prices of the imports from the countries concerned, this impact cannot be considered to be negligible.

10. **Injury Factors Other than Dumped Imports**

The Commission also examined factors other than dumped imports, which were causing injury to the domestic industry. These include imports from countries other than France and Indonesia and excess installed capacity of the domestic industry. However, where the share of these factors in overall material injury caused to the domestic industry has been established, it is comparatively small and has been excluded in calculating injury due to dumped imports.

11. **Causal Link**

After considering the injury factors set out in paragraphs 9 and 10 above, the Commission is of the view, for the purposes of this preliminary determination, that the injury caused and being caused to the domestic industry is mainly due to dumped imports of the investigated product from the French Producer/Exporter and the Indonesian Producer/Exporter.

12. **Imposition of Provisional Antidumping Duty**

In reaching this preliminary affirmative determination, the Commission is satisfied that the investigated product has been imported at dumped prices. This has caused material injury to the Pakistan domestic industry during the POI. In order to prevent material injury, while this investigation is completed, the Commission, pursuant to the powers under Section 43 of the Ordinance, has decided to impose on import of Sorbitol 70% Solution a provisional antidumping duty @ 96.50 percent ad val of C&F price importable from the French Producer/Exporter and @ 91.12 percent ad val of C&F price importable from the Indonesian Producer/Exporter, for a period of four months effective from July 19, 2003. The provisional antidumping duties at the rate of 96.50 percent and 91.12 percent of C&F price are equivalent to the provisional dumping margin determined at ex-factory price for French Producer/Exporter and Indonesian Producer/Exporter respectively. The provisional antidumping duty shall take the form of security by way of cash deposit in account under the head 3501003 – Civil Deposits for further deposit in National Tariff Commission Non-lapsable PLA No. 187 with Federal Treasury Officer Islamabad, established and maintained by the Commission. The provisional antidumping duty would be collected in the same manner as customs duty is collected under Customs Act, 1969 (IV of 1969).

Release of the investigated product for free circulation in Pakistan shall be subject to provision of such security. Provisional antidumping duty would be in addition to other import duties levied on import of investigated product.

13. **Disclosure meetings**

Pursuant to Rule 11 of the Rules, the exporter and the producer of the investigated product may request for disclosure meeting within 15 days of the date of publication of this notice.

14. **Hearings**

Any party registered as an interested party in this case may request for a hearing in accordance with Rule 14 of the Rules within 30 days of the publication of this notice. Interested party requesting for such hearing should contact Mr. Muhammad Saeed, Secretary, National Tariff Commission, State Life Building No.5, Blue Area, Islamabad. Telephone No. 0092-51-9202839, Fax No.0092-51-9221205.

15. **Further information/inquires**

For further information please contact Mr. Muhammad Abdul Khaliq (Chishty), Director General, National Tariff Commission, State Life Building NO.5, Blue Area, Islamabad Telephone No.0092-51-9218968, Fax No.092-51-9221205.

A non-confidential version of the preliminary determination has been placed on public file established and maintained by the Commission in accordance with Rule 7 of the Rules. 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.

16. **Authority Under Law**

This investigation is being conducted under the Ordinance (No. LXV of 2000). This notice is published pursuant to Section 37 of the Ordinance.

By order of the Commission.

(MUHAMMAD SAEED)

Secretary