(ADC No.002/2003/SB)

Government of Pakistan

(National Tariff Commission)

Notice of

FINAL DETERMINATION AND LEVY OF DEFINITIVE ANTIDUMPING DUTY ON SORBITOL 70% SOLUTION ORIGINATING IN AND EXPORTED FROM REPUBLIC OF INDONESIA AND REPUBLIC OF FRANCE

The National Tariff Commission (hereinafter referred to as the "Commission") initiated an investigation on March 6, 2002 under Section 23 of the Antidumping Duties Ordinance, 2000 (No. LXV of 2000) (hereinafter referred to as the "Ordinance") after an application was lodged by Habib Arkady Ltd., Al-Rehman Building, I.I Chundrigar Road, Karachi, in accordance with Sections 20 and 24 of the Ordinance. The investigation concerns the alleged dumping of Sorbitol 70% solution produced in the Republic of Indonesia and Republic of France into the commerce of Islamic Republic of Pakistan. The Commission had made a preliminary determination in this case in terms of Section 37 of the Ordinance and a provisional antidumping duty was levied from July 19, 2003.

Now, in accordance with the Ordinance and the Anti-Dumping Duties Rules, 2001 (hereinafter referred to as the "Rules"), the Commission has made its affirmative final determination as follows:-

1. Name and Address of Foreign Producers /Exporters

i) P.T Sorini Corporation TBK,
Desa Ngerong, Kecamatan, Gempol Kabupaten Pasuruan 67155, East Java, Indonesia. (the "Indonesian Producer/Exporter")

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

2. **Product Under Investigation ("Investigated Product")**

Sorbitol 70% Solution classified under Pakistan Customs Tariff ("PCT") No. 2905.4400 and 3824.6000. Its major input is Dextrose syrup (liquid glucose). It is used in food items, pharmaceuticals, cosmetics and textile industries.

3. **Like Product**

In terms of Section 2 of the Ordinance, the Commission examined whether the investigated product and the Sorbitol 70% Solution produced in Pakistan by the domestic industry were like products. The examination revealed that although the products are manufactured from different basic raw materials, they have the same physical characteristics, usage, and tariff classification. Thus it was established that 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 Indonesia and 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 Indonesia and France.

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 weighted average sales price of US$382.66/MT charged from the domestic customers on domestic sales in Indonesia during POI has been used for this final determination. The Indonesian Producer/Exporter claimed adjustments for trucking (inland freight) charges, credit cost and handling charges. After making adjustments, the weighted average ex-factory domestic sales price comes to US$355.29/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.

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

The weighted average export price of investigated product exported from Indonesia during POI works out to be US$325.47/MT. The Indonesian Producer/Exported claimed adjustments in export price for inland freight charges, ocean freight charges, commission, document fee, and credit cost. After making adjustments, the weighted average ex-factory export price works out to **US$ 282.84/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 dumping margin expressed as a percentage of average C&F export price works out to be 96.50 percent for French Producer/Exporter and 22.26 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 Indonesia and France are not less than negligible, and a cumulative assessment was considered appropriate in view of the conditions of competition both between imports from Indonesia and France and between these imports and the domestic like product.

9. **Injury to the Domestic Industry**

9.1 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. Furthermore, 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 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 even though it suffered large losses during the POI, because it could not afford to lay off any of the specialized work force.

n. Magnitude of Dumping Margin

As concerns the impact on the domestic industry of the magnitude of the 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.

9.2 The Commission has determined that the domestic industry suffered material injury on account of dumped imports of investigated product during POI, by way of price undercutting, price suppression, decline in capacity utilization, decline in market share, decline in profits/increase in losses, decline in productivity, negative effect on inventories, decline in return on investment, negative effect on cash flow, and negative effect on growth and ability to raise investment.

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 Indonesia and France and installed capacity of the domestic industry, which may be in excess of the present domestic demand. 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

As determined by the Commission, material injury 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. Comments Received from Interested Parties

The Commission received comments from various interested parties during the investigation. The Commission, throughout this investigation, has taken these comments into consideration.

13. Imposition and Collection of Definitive Antidumping Duty

In terms of Section 50 of the Ordinance, when the Commission has established the existence of dumping, injury and causal link, it shall, by notification in the official Gazette, impose an antidumping duty in an amount equal to the dumping margin established. Thus in view of the investigation and conclusions with regard to dumping, material injury and causation, imposition of definitive antidumping duty on investigated product is mandatory.

In terms of Section 55 of the Ordinance, a definitive antidumping duty is imposed on Sorbitol 70% Solution @ 22.26 percent ad val of C&F price importable from the Indonesian Producer/Exporter, and @ 96.50 percent ad val of C&F price importable from the French Producer/Exporter for a period of five years effective from July 19, 2003. The investigated product is importable under PCT No. 2905.4400 and 3824.6000. The definitive antidumping duties at the rate of 96.50 percent and 22.26 percent of C&F price are equivalent to the dumping margins determined at ex-factory price level.

In accordance with Section 51 of the Ordinance, the antidumping duty shall take the form of ad valorem duty and be held in a non-lapsable personal ledger account established and maintained by the Commission for the purpose.

Producers/Exporters of Sorbitol 70% Solution from Indonesia and France other than those specified in paragraph 1 above would not be subject to these definitive antidumping duties. Sorbitol Powder importable under PCT No. 2905.4400 shall not be subject to antidumping duties specified in this paragraph.

Definitive antidumping duty levied would be in addition to other taxes and duties leviable on import of investigated product under any other law.

The definitive antidumping duty would be collected in the same manner as customs duty is collected under Customs Act, 1969 (IV of 1969) and would be deposited under the head 3501003 – Civil Deposits, for further deposit in National Tariff Commission’s Non-lapsable A/C PLD No. 187 with Federal Treasury Office Islamabad.

It may be noted that the Commission had imposed a provisional antidumping duty on imports of Sorbitol 70% Solution @ 91.12 percent ad val of C&F price importable from the Indonesian Producer/Exporter (M/s P.T Sorini

Corporation) and @ 96.50 percent ad val of C&F price importable from the French Producer/Exporter (M/s Roquette Freres), for a period of four months effective from July 19, 2003.

14. **Refund**

In terms of Section 55(2) of the Ordinance, if the definitive antidumping duty is lower than the amount of provisionally determined dumping margin, the difference shall be refunded by the Commission within forty-five days of the final determination. The definitive antidumping duty imposed on Indonesian Producer/Exporter is lower than the amount of provisionally determined dumping margin, and therefore, the difference shall be refunded. The Commission, informs the importers of Sorbitol 70% Solution from the Indonesian Producer/Exporter to send their request for the refund of deferential to the Secretary, National Tariff Commission, State Life Building No.5, Blue Area, Islamabad within a period of *thirty* days.

15. **Disclosure Meetings**

Pursuant to Rule 16 of the Rules, the exporter and the producer of the investigated product may request for disclosure meeting within fifteen days of the date of publication of this notice.

16. **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 report of final 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.

17. **Authority Under Law**

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

By order of the Commission.

(Mrs. Batool Qureshi)
Secretary