

A.D.C No. 13/2008/NTC/PSF
National Tariff Commission

Notice of Preliminary Determination and levy of Provisional Antidumping Duty on Dumped import of Polyester Staple Fibre into Pakistan Originating in and/or Exported from the People's Republic of China

The National Tariff Commission (the "Commission") initiated an antidumping investigation on July 29, 2008 under Section 23 of the Anti-Dumping Duties Ordinance, 2000 (the "Ordinance") after establishing that the application lodged by Messrs. Dewan Salman Fibres Limited, Karachi; Ibrahim Fibres Limited, Faisalabad; and ICI Pakistan Limited, Lahore (hereinafter collectively referred to as the "Applicants") on behalf of the domestic industry manufacturing Polyester Staple Fibre not exceeding 2 denier ("PSF") was in accordance with Sections 20 and 24 of the Ordinance. The investigation concerns dumping of PSF, originating in and/or exported from the People's Republic of China ("China") into Pakistan and material injury to the domestic industry manufacturing PSF. In accordance with the provisions of the Ordinance and the Anti-Dumping Duties Rules, 2001 (the "Rules"), the Commission has, after investigation, determined the following on a preliminary basis:

Exporters and Foreign Producers: The Applicants identified 54 exporters/foreign producers involved in alleged dumping of PSF from China and provided the Commission complete addresses of 30 exporters/foreign producers. In terms of Sections 27 and 35 of the Ordinance, the Commission upon initiation of the investigation sent a copy of the notice of initiation of investigation and questionnaire to all exporters/foreign producers whose complete addresses were available with the Commission. The Commission also forwarded notice of initiation and the questionnaire to the Embassy of China in Islamabad with a request to forward the same to all exporters/foreign producers of PSF based in China in order to respond to the Commission.

In response to the questionnaire, two exporters/foreign producers namely Jiangyin Huahong Chemical Fiber Co. Ltd. and Zhangjiagang Chengxin Chemical Fiber Co. Ltd. responded to the Commission and furnished necessary information for the purposes of this investigation.

Product Under Investigation: PSF not exceeding 2 denier exported by the Chinese exporters/foreign producers from China is the product under investigation ("investigated product"). It is classified under Pakistan Customs Tariff ("PCT") No. 5503.2010.

Like Product: The Commission's investigation has established that the investigated product and PSF produced by the domestic industry are produced with similar manufacturing process, and with the same/similar raw materials. Both products have the same physical characteristics, usage, and tariff classification. Thus it is provisionally established that the investigated product and PSF produced by the domestic industry are "like products".

Period of Investigation ("POI"):

For investigation of dumping: From April 01, 2007 to March 31, 2008
For investigation of injury: From April 01, 2005 to March 31, 2008

Determination of Dumping: Normal value and export price of the investigated product for the exporters/foreign producers who cooperated and furnished necessary information have been determined in accordance with Sections 5, 6 and 10 (1) of the Ordinance, respectively on the basis of the information provided by these exporters/foreign producers in response to the Commission's questionnaire. A dumping margin for all other exporters from China, who did not cooperate, is determined on the basis of best information available in terms of Section 32 of the Ordinance.

Dumping Margin: Dumping margins have been calculated in accordance with Section 12(1) of the Ordinance by comparing the weighted average normal value at ex-factory level with the weighted average export price at ex-factory level. The provisional dumping margins expressed as percentage of weighted average adjusted export price and weighted average C&F export price thus work out as follows:

<u>Exporter/Foreign Producer Name</u>	<u>Dumping margin as percentage of</u>	
	<u>Adjusted export price</u>	<u>C&F export price</u>
i. Jiangyin Huahong Chemical Fiber Co. Ltd. China	1.56%	1.42%
ii. Zhangjiagang Chengxin Chemical Fiber Co. Ltd. China	-0.17%	-0.14%
iii. All Others from China	11.47%	10.44%

Injury to the Domestic Industry: Injury to the domestic industry has been determined in accordance with Part VI of the Ordinance. The Commission has on preliminary basis established that the domestic industry suffered material injury on account of significant increase in dumped imports in absolute terms as well as relative to the domestic production of

PSF; significant price suppression; loss in market share; significant decrease in sales; decrease in profits and profitability, and negative effects on cash flows, production and capacity utilization, and employment and wages.

Dumped Imports: Dumped imports of the investigated product increased by 232.09 percent in the year 2007-08 (the POI for dumping) over the imports of PSF during the year 2006-07 from China. While domestic production increased only by 2.62 percent in the same period.

Injury Factors other than Dumped Imports: The Commission has also examined factors other than dumped imports, which were causing injury to the domestic industry. Analysis showed that the domestic industry also suffered some injury due to non-dumped imports of the investigated product and imports of PSF from sources other than the dumped source during the POI. However, injury caused by such other factors is not significant.

Imposition of Provisional Anti-dumping 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 domestic industry during the POI. In order to prevent material injury during the course of this investigation, the Commission, pursuant to the powers conferred upon it under Section 43 of the Ordinance, has decided to impose provisional anti-dumping duty at the rate of 10.44% on C&F value in *ad val.* terms on all imports of PSF not exceeding 2 denier importable from China for a period of four months effective from February 6, 2009 except two exporters/foreign producers mentioned below as these exporters/foreign producers were found either not to have dumped or the dumping margin was found to be *de minimis* (less than 2%) in terms of Section 41 of the Ordinance during the POI:

- i. Jiangyin Huahong Chemical Fiber Co. Ltd., Huahong Industrial Park, Zhouzhuang Town, Jiangin, Jingsu, China
- ii. Zhangjiagang Chengxin Chemical Fiber Co. Ltd., Houcheng Industrial Development Zone, Jingang Town, Zhangjiagang City, Jiangsu Province, China.

Provisional anti-dumping duties shall take the form of security by way of cash deposit in Commission's Non-lapsable PLD Account No. 187 with Federal Treasury Office Islamabad. Provisional anti-dumping duties would be collected in the same manner as customs duty under the Customs Act, 1969 (IV of 1969).

Disclosure meeting: Pursuant to Rule 11 of the Rules, the exporters/foreign producers of the investigated product may request for a disclosure meeting within 15 days of the date of publication of this notice.

Hearing: Any party registered as an interested party in this case may, if it so wishes, request a hearing in accordance with Rule 14 of the Rules within 30 days of the publication of this notice by contacting Secretary, National Tariff Commission, State Life Building No.5, Blue Area, Islamabad. Telephone No. +92-51-9205944, Fax No.+92-51-9221205.

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

Statutory Time Limit to make Preliminary Determination: The Commission was obliged to make this preliminary determination not later than January 25, 2009 in terms of Section 37(1) of the Ordinance. However, All Pakistan Textile Mills Association filed a writ petition (No. WP. 1086) in the Lahore High Court, Lahore on August 22, 2008. The honourable Lahore High Court passed following injunctive order on September 02, 2008: "The respondent may proceed with the investigation but shall not pass any final order till the next date of hearing".

Last hearing in this case was held on January 12, 2009. Representative of the Commission submitted in the Court that statutory time period for the purposes of preliminary determination shall lapse on January 25, 2009. After hearing of detailed arguments from the parties, the honourable Court reserved its judgment and informed the parties to wait for order of the Court. The Commission withheld its preliminary determination till issuance of order of the Court. The Court has issued its Order on February 03, 2009. Consequently, the Commission has made this preliminary determination.

Authority under Law: This notice is published pursuant to Section 37 of the Ordinance by order of the Commission.

(Omer Moin Chaudhry)
Secretary
February 06, 2009