

(NON-CONFIDENTIAL)



**Government of Pakistan  
National Tariff Commission**

**REPORT**

**ON**

**PRELIMINARY DETERMINATION AND LEVY OF PROVISIONAL  
ANTIDUMPING DUTY ON IMPORT OF POLYESTER STAPLE  
FIBRE ORIGINATING IN AND/OR EXPORTED FROM THE  
REPUBLIC OF INDONESIA, THE REPUBLIC OF KOREA  
AND THE KINGDOM OF THAILAND.**

**A.D.C No.12/2006/NTC/PSF**

February 06, 2007

Preliminary Determination and levy of Provisional Antidumping Duty on import of PSF into Pakistan Originating in and/or Exported from the Republic of Indonesia, the Republic of Korea, and the Kingdom of Thailand.

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The National Tariff Commission (hereinafter referred to as the "Commission") having regard to the Anti-Dumping Duties Ordinance, 2000 (LXV of 2000) (hereinafter referred to as the "Ordinance") and the Anti-Dumping Duties Rules, 2001 (hereinafter referred to as the "Rules") relating to investigation and determination of dumping of goods into the Islamic Republic of Pakistan (hereinafter referred to as "Pakistan"), material injury to the domestic industry caused by such imports, and imposition of antidumping duties to offset the impact of such injurious dumping, and to ensure fair competition thereof and to the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (hereinafter referred to as the "Agreement on Antidumping") has conducted an investigation and made a preliminary determination under the above mentioned Ordinance and Rules.

#### **A. PROCEDURE**

The procedure set out below has been followed with regard to this investigation.

##### **1. Receipt of Application**

The Commission received a written application from three domestic producers of Polyester Staple Fibre (hereinafter referred to as "PSF") namely Dewan Salman Fibres Limited, Islamabad, Ibrahim Fibres Limited, Faisalabad and ICI Pakistan Limited, Lahore (the "Applicants"), through their attorney, ORR DIGNAM & Co, Advocates, on June 30, 2006. The Applicants alleged that PSF produced in the Republic of Indonesia, (hereinafter referred to as "Indonesia"), the Republic of Korea (hereinafter referred to as "Korea"), and the Kingdom of Thailand (hereinafter referred to as "Thailand") (hereinafter collectively referred to as the "Exporting Countries") is exported to Pakistan at dumped prices, which has caused material injury to the domestic industry producing PSF. The Embassies of the Exporting Countries in Islamabad were informed through note verbales dated July 01, 2006, sent through the Ministry of Foreign Affairs, Pakistan, of the receipt of application in accordance with the requirements of Section 21 of the Ordinance.

##### **2. Evaluation and Examination of the Application**

The examination of the application showed that it met the requirements of Section 20 of the Ordinance as it contained sufficient evidence of dumping of PSF from the Exporting Countries and injury to the domestic industry caused therefrom. The requirements of Rule 3 of the Rules, which relate to the submission of information prescribed therein were also found to have been met.

##### **3. Domestic Industry**

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3.1 Domestic industry in terms of Section 2(d) of the Ordinance is defined as follows:

““domestic industry” means the domestic producers as a whole of the domestic like product or those of them whose collective output of that product constitutes a major proportion of the total domestic production of that product, except that when any such domestic producers are related to the exporters or importers, or are themselves importers of the allegedly dumped investigated product in such a case “domestic industry” shall mean the rest of the domestic producers.”

3.2 As per the information obtained by the Commission from different sources including the Polyester Fibres Manufacturers Group, Ministry of Industries and Production and the Statistics Division, PSF industry in Pakistan producing the domestic like product (see paragraph 8 infra) comprises of five units namely:

- i. Dewan Salman Fibre Limites, Islamabad;
- ii. Ibrahim Fibre Limited, Faisalabad;
- iii. ICI Pakistan Limited, Lahore;
- iv. Rupali Polyester Limited, Lahore; and
- v. Pakistan Synthetics Limited, Karachi

3.3 The Commission’s investigation also revealed that, during the POI (paragraph 9 infra), neither any of the Applicants was importer of the PSF itself nor was related to the exporters involved in alleged dumping of PSF into Pakistan.

3.4 Thus, for the purposes of this investigation, the Applicants are considered as the “domestic industry” in terms of Section 2(d) of the Ordinance as they constitute a major proportion of the total domestic production of the domestic like product (paragraph 4 infra).

#### **4. Standing of the Application**

4.1 In terms of Section 24(1) of the Ordinance, an application shall be considered to have been made by or on behalf of the domestic industry only if it is supported by those domestic producers whose collective output constitutes more than fifty percent of the total production of a domestic like product produced by that portion of the domestic industry expressing opinion either support for or opposition to the application. Furthermore, Section 24(2) of the Ordinance provides that no investigation shall be initiated when domestic producers expressly supporting an application account for less than twenty five percent of the total production of domestic like product produced by the domestic industry.

4.2 Three units mentioned at S. Nos. i., ii., and iii of paragraph 3.2 supra are the “Applicants”. The two other units that make up the total domestic industry in

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Pakistan namely Rupali Polyester Limited, Lahore and Pakistan Synthetics Limited, Karachi are indifferent, in that these two units have not responded in any manner with regard to this application. The information, to the extent possible, in case of these two units (Rupali Polyester Ltd. and Pakistan Synthetics Ltd.) has been obtained from their published annual reports and accounts, provided by the Applicants to the Commission. Details of the production during financial year (“FY”) 2003-04 and FY 2004-05 were as follows:

**Table-I**

| Unit Name                   | FY 2004-05                  | FY 2003-04                  |
|-----------------------------|-----------------------------|-----------------------------|
|                             | % share in total production | % share in total production |
| Dewan Salman Fibre Limited  | 37.56%                      | 41.11%                      |
| Ibrahim Fibre Limited       | 22.19%                      | 19.67%                      |
| ICI Pakistan Limited        | 31.35%                      | 31.10%                      |
| Rupali Polyester Limited    | 5.18%                       | 4.15%                       |
| Pakistan Synthetics Limited | 3.72%                       | 3.97%                       |
| <b>Total</b>                | <b>100.00%</b>              | <b>100.00%</b>              |

4.3 According to the above information, the Applicants produced 91.10 percent of the total domestic production of the domestic like product during FY 2004-05 and 91.88 percent during FY 2005-06.

4.4 On the basis of the above information and analysis it was determined that the application was made on behalf of domestic industry as it fulfils the requirements of Section 24 of the Ordinance. Section 24 requires the Commission to assess the standing of the domestic industry on the basis of the degree of support for or opposition to the application expressed by the domestic producers of the domestic like product.

**5. Exporters/Foreign Producers Involved in Alleged Dumping of the PSF**

5.1 The Applicants identified 12 exporters/foreign producers (Annexure I) involved in alleged dumping of PSF from the Exporting Countries with complete addresses of 10 exporters/foreign producers. However, Applicants have requested for imposition of antidumping duty on all imports of the investigated product originating in and/or exported from the Exporting Countries. According to the Applicants, “there is a risk that exports could be diverted through other exporters/traders and that producers/exporters could export under a different name”.

5.2 Upon initiation of the investigation copy of the notice of initiation was sent to all the exporters/foreign producers on August 09, 2006 identified by the Applicants.

**6. Applicants Views**

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The Applicants, *inter alia*, raised the following issues in its application regarding dumping of PSF and material injury to the domestic industry caused therefrom:

- i. PSF imported from the Exporting Countries into Pakistan and PSF produced in Pakistan by the domestic industry are like products;
- ii. the exporters from the Exporting Countries are exporting PSF to Pakistan at dumped prices; and
- iii. export of PSF by the exporters from the Exporting Countries to Pakistan at dumped prices has caused and is causing material injury to the domestic industry producing PSF, mainly through:
  - a) increased volume of imports;
  - b) price undercutting;
  - c) price suppression;
  - d) decline in market share;
  - e) negative effect on sales;
  - f) negative effect on inventories;
  - g) decline in gross profit margin and operating profit;
  - h) negative effect on cash flow;
  - i) negative effect on capacity utilization;
  - j) negative effect on productivity; and
  - k) negative effect on growth, investment and ability to raise capital.

## **7. Initiation of Investigation**

7.1 The Commission examined the accuracy and adequacy of the evidence and information provided in the application in terms of Section 23 of the Ordinance. For this purposes, on-the-spot investigations were conducted at the premises of the Applicants from July 06 to July 15, 2006.

7.2 Upon examining the accuracy and adequacy of the evidence provided in the application, the Commission established that there is sufficient evidence of alleged dumping and injury to justify initiation of an investigation. Consequently, the Commission decided to initiate an investigation on August 07, 2006. In terms of Section 27 of the Ordinance, the Commission issued a notice of initiation, which was published in the Official Gazette<sup>1</sup> of Pakistan and in two widely circulated national newspapers<sup>2</sup> (one in English language and one in Urdu Language) on August 09,

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<sup>1</sup> The official Gazette of Pakistan (Extraordinary) dated August 09, 2006.

<sup>2</sup> The 'Daily Business Recorder' and the 'Daily Asas' of August 09, 2006 issue.

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2006. Investigation concerning imports of PSF into Pakistan (classified under PCT<sup>3</sup> No. 5503.2010) contained in the First Schedule of Customs Act, 1969 (Act No. IV of 1969) originating in and/or exported from the Exporting Countries was thus initiated on August 09, 2006.

7.3 The Commission notified the embassies of the Exporting Countries in Pakistan (by sending a copy of the Notice of Initiation through Ministry of Foreign Affairs, Pakistan) on August 09, 2006. The embassies were also requested to forward notice of initiation to all the exporters/foreign producers of PSF based in the Exporting Countries as the Commission does not have addresses of all exporters/foreign producers. Copies of Notice of Initiation were also sent to the exporters/foreign producers of the Exporting Countries whose complete addresses were available with the Commission, the known Pakistani importers, and the Applicants on August 09, 2006, in accordance with the requirements of Section 27 of the Ordinance.

7.4 In accordance with Section 28 of the Ordinance, on August 10, 2005, the Commission also sent copies of full text of the written application (non-confidential version) to the exporters/foreign producers of the Exporting Countries whose complete addresses were available with the Commission and to the embassies of the Exporting Countries in Pakistan through the Ministry of Foreign Affairs, Pakistan. The embassies were also requested to forward non-confidential version of the application to the all exporters/foreign producers of PSF based in the Exporting Countries.

## **8. Investigated Product, Like Product and Domestic Like Product**

8.1 Section 2 of the Ordinance defines the “investigated product”, the “like product”, and the “domestic like product” as follows:

**i. Investigated Product:**

“a product, which is subject to an antidumping investigation as described in the notice of initiation of the investigation”.

**ii. Domestic Like Product:**

“the domestically produced product, which is a like product to an investigated product”.

**iii. Like Product:**

“a product which is alike in all respects to an investigated product or, in the absence of such a product, another product which, although not alike in all respects, has characteristics closely resembling those of the investigated product”.

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<sup>3</sup> “PCT” is the abbreviation for Pakistan Customs Tariff. PCT heading in Pakistan is equivalent to Harmonized Commodity Description and Coding System up to six-digit level.



8.2 For the purposes of this investigation and given the definitions set out above, the investigated product, domestic like product and the like product are identified as follows:

**i. Investigated Product:**

The investigated product is PSF not exceeding 2 denier, originating in and/or exported from the Exporting Countries into Pakistan. It is classified under PCT No. 5503.2010. It is generally used in woven and knit applications to produce textile and apparel products.

**ii. Domestic Like Product**

The domestic like product is PSF not exceeding 2 denier produced by the domestic industry in Pakistan. The domestic like product is also classified under PCT No. 5503.2010. The domestic like product is used in woven and knit applications to produce textile and apparel products. Major uses of the domestic like product are, therefore, identical to those of the investigated product.

**iii. Like Product:**

The like product is PSF not exceeding 2 denier sold by the exporters/foreign producers of the Exporting Countries in their domestic markets and PSF not exceeding 2 denier imported into Pakistan from the countries other than the Exporting Countries. The like product is classified under PCT/H.S No. 5503.2010. Major uses of the like product are identical to those of the investigated product.

8.3 In order to establish whether the investigated product, the domestic like product and the like product are alike products, as contended by the Applicants, the Commission reviewed all the relevant information received/obtained from various sources including the Applicants, and the exporters/foreign producers in the following terms:

- i. the basic raw materials used in the production of the investigated product, the domestic like product, and the like product are the same namely Purified Terephthalic Acid ("PTA") and Mono-Ethylene Glycol ("MEG");
- ii. all the three products (the investigated product, the domestic like product and the like product) are produced with a similar manufacturing process;
- iii. all the three products have similar appearance;

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- iv. all the three products are substitutable in use. They are mainly used in woven and knit applications to produce textile and apparel products; and
- v. all the three products are classified under the same PCT/HS No. 5503.2010.

In light of the above, the Commission has determined that the investigated product, the domestic like product and the like product are alike products.

## **9. Period of Investigation**

9.1 In terms of Section 36 of the Ordinance, period of investigation (hereinafter referred to as the "POI") is:

"a) for the purposes of an investigation of dumping, an investigation period shall normally cover twelve months preceding the month of initiation of the investigation for which data is available and in no case the investigation period shall be shorter than six months.

"b) for the purposes of an investigation of injury, the investigation period shall normally cover thirty-six months.

"Provided that the Commission may at its sole discretion, select a shorter or longer period if it deems it appropriate in view of the available information regarding domestic industry and an investigated product".

9.2 The POI selected for dumping and injury are, therefore, respectively, as follows:

|                                       |                                      |
|---------------------------------------|--------------------------------------|
| For determination of dumping:         | From April 1, 2005 to March 31, 2006 |
| For determination of material injury: | From April 1, 2003 to March 31, 2006 |

## **10. Information/Data Gathering**

10.1 The Commission sent questionnaires alongwith full text of the written application (non confidential version) on August 10, 2006 to ten exporters/foreign producers, whose complete addresses were available with the Commission (Annexure I), and were asked to respond within 37 days of the dispatch of the questionnaires i.e by September 16, 2006. (For response to the questionnaire please refer to paragraph 11 infra). Questionnaires were also sent to the Embassies of the Exporting Countries in Islamabad on August 10, 2006 with a request to forward it to all exporters/producers of the investigated product, including the two (Chemon

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Corporation, Indonesia, and Meiyo Corporation, Thailand), whose mailing addresses were not available, to submit information to the Commission.

10.2 Following six exporters/foreign producers responded to the Commission's letter and requested for an extension in time period for submission of response to the questionnaire:

- i. PT. Indorama Synthetics Tbk., Indonesia;
- ii. PT. Polysindo Eka Perkassa, Indonesia;
- iii. Thai Polyester Company Limited, Thailand;
- iv. Kangwal Polyester Company Limited, Thailand;
- v. Huvis Corporation, Korea; and
- vi. Saehan Industries Inc., Korea.

10.3 The Commission acceded to their requests for extension, after taking into account the reasons given by them in their requests. Five exporters/foreign producers mentioned at S. Nos i. to v. above submitted information/data in response to the questionnaire, which was accepted by the Commission for the purposes of this investigation. None of the other exporters/foreign producers from the Exporting Countries responded to the questionnaire including the one (Saehan Industries Inc., Korea) who requested for an extension in time period to submit information. Detail responses of the questionnaire's response by the exporters/foreign producers are listed at paragraph 11 infra.

10.4 On August 09, 2006, questionnaires were sent to two indifferent domestic producers to gather information on injury factors and were asked to respond to the Commission within 37 days of the dispatch of the questionnaires. None of them responded to the questionnaire.

10.5 On September 04, 2006 questionnaires were sent to thirty Pakistani importers known to the Commission. Those importers were asked to respond to the Commission within 37 days of the dispatch of the questionnaires. Following importers provided information on the importer's questionnaire;

- i. Salfi Textile Mills Limited, Karachi;
- ii. Island Textile Mills Limited, Karachi;
- iii. Sapphire Textile Mills Limited, Karachi;
- iv. Amin Textile Mills (Pvt) Limited Unit-2, Lahore;
- v. Taqees Private Limited, Karachi;
- vi. Sana Industries Limited, Karachi.

10.6 The Commission maintains a database of import statistics, obtained on quarterly basis, from Pakistan Revenue Automation Limited ("PRAL"), the data processing arm of the Central Board of Revenue, Government of Pakistan. For the purpose of this preliminary determination the Commission has also used import

data obtained from PRAL in addition to the information provided by the Applicants and the exporters/foreign producers.

10.7 In order to verify the information/data provided by the Applicants and to obtain further information (if any), on-the-spot investigations were conducted at the offices and plants of the domestic producers (three units who submitted information/data in application) from July 06 to July 15, 2006.

10.8 To verify information/data submitted by the five exporters/foreign producers in response to the questionnaire from the Exporting Countries (paragraph 10.3 supra) and to obtain further information (if any), on-the-spot investigations were conducted at the premises of the exporters/foreign producers in the Exporting Countries from 6<sup>th</sup> to 19<sup>th</sup> December 2006.

10.11 Thus the Commission has sought from all available sources the relevant data and information deemed necessary for the purposes of determination of dumping and injury caused therefrom. In terms of Rule 12 of the Rules, the Commission, during the course of the investigation, satisfied itself as to the accuracy of information supplied by the interested parties to the extent possible for the purposes of this preliminary determination.

## **11. Questionnaire(s) Response by the Exporters/Foreign Producers**

### **11.1 P.T Indorama Synthetics Tbk. ("Indorama"), Indonesia**

11.1.1 Questionnaire response from Indorama was received in the Commission on September 25, 2006. According to the information provided in response to the questionnaire by Indorama, it is a private limited company established under the framework of the Foreign Capital Investment Law No. 1 of 1967 of Indonesia. It has been involved in the manufacture, sale and export of PSF to Pakistan as well as to other countries and in its domestic market during the POI.

11.1.2 The information submitted by Indorama in response to the questionnaire was analyzed at the Commission and certain deficiencies were identified. Accordingly, those data deficiencies were communicated to Indorama vide Commission's letter dated October 06, 2006.

11.1.3 Indorama was asked to provide the deficient information/data no later than October 16, 2006, so as to enable the Commission to consider and analyze the same for the purposes of this investigation. Indorama responded to the deficiencies vide its letter dated October 16, 2006.

11.1.4 The Commission accepted the information supplied by Indorama, Indonesia for the purposes of this investigation and the dumping margin for Indorama is determined on the basis of that information.

## **11.2 PT. Polysindo Eka Perkassa (“Polysindo”), Indonesia**

11.2.1 Questionnaire response from Polysindo was received in the Commission on September 27, 2006. According to the information provided in response to the questionnaire by Polysindo, it is a private company in Indonesia. It has been involved in the manufacture, sale and export of PSF to Pakistan as well as to other countries and in its domestic market during the POI.

11.2.2 The information submitted by Polysindo in response to the questionnaire was analyzed at the Commission and certain deficiencies were identified. Accordingly, those data deficiencies were communicated to Polysindo vide Commission’s letter dated October 06, 2006.

11.2.3 Polysindo was asked to provide the deficient information/data no later than October 16, 2006, so as to enable the Commission to consider and analyze the same for the purposes of this investigation. Polysindo responded to the deficiencies vide its letter dated October 12, 2006.

11.2.4 The Commission accepted the information supplied by Polysindo, Indonesia for the purposes of this investigation and the dumping margin for Polysindo is determined on the basis of that information.

## **11.3 Huvis Corporation (“Huvis”), Korea**

11.3.1 Questionnaire response from Huvis was received in the Commission on September 25, 2006. According to the information provided in response to the questionnaire by Huvis, it is a corporation incorporated in Korea. It has been involved in the manufacture, sale and export of PSF to Pakistan as well as to other countries and in its domestic market during the POI.

11.3.2 The Commission accepted the information supplied by Huvis, Korea for the purposes of this investigation and the dumping margin for Huvis is determined on the basis of that information.

## **11.4 Saehan Industries Inc., (“Saehan”), Korea**

11.4.1 Saehan, Korea responded to the notice of initiation vide its letter dated September 18, 2006 and stated that it will cooperate in this investigation. The Commission sent questionnaire on August 10, 2006 with a request to respond within 37 days. Saehan asked for extension in time period to respond the exporter questionnaire on September 18, 2006, which was granted. However, it did not respond to the questionnaire.

11.4.2 The Commission, after expiry of the time period given to respond, informed Saehan, Korea through a letter of September 27, 2006 that in case of no response by

October 05, 2006, the Commission would be constrained to make its determination based on the 'Best Information Available' in terms of Section 32 of the Ordinance and Article 6.8 and Annex II of the Agreement on Antidumping.

#### **11.5 Thai Polyester Company Limited ("Thai Polyester"), Thailand**

11.5.1 Questionnaire response from Thai Polyester was received at the Commission on September 25, 2006. According to the information submitted by Thai Polyester, it is a private company. It has been involved in the manufacture, sale and export of PSF to Pakistan as well as to other countries and in its domestic market during the POI.

11.5.2 The information submitted by Thai polyester in response to the questionnaire was analyzed at the Commission and certain deficiencies were identified. Accordingly, those data deficiencies were communicated to Thai Polyester vide Commission's letter dated October 06, 2006.

11.5.3 Thai Polyester was asked to provide the deficient information/data no later than October 16, 2006, so as to enable the Commission to consider and analyze the same for the purposes of this investigation. Thai Polyester responded to the deficiencies vide its letter dated October 14, 2006.

11.5.4 The Commission accepted the information supplied by the Thai Polyester, Thailand for the purposes of this investigation and the dumping margin for Thai Polyester is determined on the basis of that information.

#### **11.6 Kangwal Polyester Company Limited ("Kangwal"), Thailand**

11.6.1 Questionnaire response from Kangwal was received in the Commission on September 25, 2006. According to the information submitted by Kangwal, it is a private limited company. It has been involved in the manufacture, sale and export of PSF to Pakistan as well as to other countries and in its domestic market during the POI.

11.6.2 The information submitted by Kangwal in response to the questionnaire was analyzed at the Commission and certain deficiencies were identified. Accordingly, those data deficiencies were communicated to Kangwal vide Commission's letter dated October 06, 2006.

11.6.3 Kangwal was asked to provide the deficient information/data no later than October 16, 2006, so as to enable the Commission to consider and analyze the same for the purposes of this investigation. Kangwal responded to the deficiencies vide its letter dated October 14, 2006.

11.6.4 The Commission accepted the information supplied by Kangwal, Thailand for the purposes of this investigation and the dumping margin for Kangwal is determined on the basis of that information.

**11.7 Chiem Patana Synthetic Fibers Co. Ltd (“Chiem Patana”), Thailand**

11.7.1 Chiem Patana, Thailand responded to the notice of initiation vide its letter dated August 15, 2006 and stated that it will cooperate in this investigation and will provide the required information. The Commission sent questionnaire on August 10, 2006 with a request to respond within 37 days. However, it did not respond to the questionnaire.

11.7.2 The Commission, after expiry of the time period given to respond, informed Chiem Patana, through a letter of September 27, 2006 that in case of no response by October 05, 2006, the Commission would be constrained to make its determination based on the ‘Best Information Available’ in terms of Section 32 of the Ordinance and Article 6.8 and Annex II of the Agreement on Antidumping.

**11.8 Teijin Polyester (Thailand) Limited (“Teijin”), Thailand**

11.8.1 Teijin, Thailand responded to the notice of initiation vide its letter dated August 24, 2006 and stated that it will cooperate in this investigation and will provide the required information. The Commission sent questionnaire on August 10, 2006 with a request to respond within 37 days. However, it did not respond to the questionnaire.

11.8.2 The Commission, after expiry of the time period given to respond, informed Teijin, Thailand through a letter of September 27, 2006 that in case of no response by October 05, 2006, the Commission would be constrained to make its determination based on the ‘Best Information Available’ in terms of Section 32 of the Ordinance and Article 6.8 and Annex II of the Agreement on Antidumping.

**11.9 Tuntex (Thailand) Public Company Limited (“Tuntex”), Thailand**

11.9.1 The Commission sent questionnaire to Tuntex, Thailand on August 10, 2006 with a request to respond within 37 days. However, Tuntex, Thailand did not respond to the questionnaire.

11.9.2 The Commission, after expiry of the time period given to respond, informed Tuntex, Thailand through a letter of September 27, 2006 that in case of no response by October 05, 2006, the Commission would be constrained to make its determination based on the ‘Best Information Available’ in terms of Section 32 of the Ordinance and Article 6.8 and Annex II of the Agreement on Antidumping.

**11.10 Itochu (Thailand) Limited, (“Itochu”), Thailand**

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11.10.1 The Commission sent questionnaire to Itochu, Thailand on August 10, 2006 with a request to respond within 37 days. However, Itochu, Thailand did not respond to the questionnaire.

11.10.2 The Commission, after expiry of the time period given to respond, informed Itochu, Thailand through a letter of September 27, 2006 that in case of no response by October 05, 2006, the Commission would be constrained to make its determination based on the 'Best Information Available' in terms of Section 32 of the Ordinance and Article 6.8 and Annex II of the Agreement on Antidumping.

**12. Public File**

The Commission, in accordance with Rule 7 of the Rules, has established and maintained a public file at its offices. This file remains available to the interested parties for review and copying from Monday to Thursday between 1100 hours to 1300 hours throughout the investigation. This file contains non-confidential versions of the application, response to the questionnaires, submissions, notices, correspondence, and other documents for disclosure to the interested parties.

**13. Confidentiality**

In terms of Section 31 of the Ordinance, any information, which is marked confidential by the interested parties in their submissions and considered confidential by the Commission, shall, during and after the investigation, be kept confidential.

**14. Negligible Volume of Dumped Imports**

14.1 In terms of Section 41(3) (b) of the Ordinance, the volume of dumped imports shall normally be regarded as negligible if the volume of imports of an investigated product is found to account for less than 3 percent of total imports of the like product unless imports of the investigated product from all countries under investigation which individually account for less than three percent of the total imports of a like product collectively account for more than seven percent of imports of a like product.

14.2 In this regard, data and information available with the Commission on volume of dumped imports of the investigated product during the POI (from April 01 2005 to March 31, 2006) is given in the table below:

**Table-II**  
**Volume of Imports of the Investigated/Like Product During POI (MT)**

| Country | Volume of imports from@ |             |       | Dumped imports as % of total imports |
|---------|-------------------------|-------------|-------|--------------------------------------|
|         | Dumped                  | Non-dumped* | Total |                                      |



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|               |          |         |          |        |
|---------------|----------|---------|----------|--------|
| Indonesia     | 6478.01  | 3490.94 | 9968.95  | 13.65% |
| Korea         | 12196.10 | 0.00    | 12196.10 | 25.69% |
| Thailand      | 24518.83 | 0.00    | 24518.83 | 51.65% |
| Other sources | -        | 783.19  | 783.19   | -      |
| Total         | 43192.94 | 4274.13 | 47467.07 | 91.00% |

@ Exports during the month of March 2006 from the exporters who supplied information have not been taken into account as these exports may not have been entered (reached) Pakistan during the POI.

\* Non- dumped also includes imports at negligible dumping margin (less than 2 percent of export price).

14.3 The above table shows that the volume of dumped imports of the investigated product from the Exporting Countries is well above the negligible threshold volume (less than three percent) of imports of the like product.

## **15 Views/Comments of the Interested Parties**

15.1 The Commission received views/comments on application from following interested parties:

- i. Thai Polyester Company Limited, Thailand;
- ii. Kangwal Polyester Company Limited, Thailand;
- iii. Department of Foreign Trade, Government of Thailand;
- iv. All Pakistan Textile Mills Association (“APTMA”);
- v. International Textile Limited, Karachi;
- vi. Gul Ahmed Textile Mills Limited, Karachi;
- vii. Gadoon Textile Mills Limited, Karachi;
- viii. Shams Textile Mills Limited, Lahore;
- ix. Olympia Textile Mills Limited, Lahore;
- x. Ashiana Cotton Products Limited, Lahore;
- xi. Shahzad Textile Mills Limited, Lahore;
- xii. Shaheen Cotton Mills Limited, Lahore;
- xiii. Khawaja Spinning Mills Limited, Lahore;
- xiv. Blessed Textiles Limited Unit No. 3, Lahore;
- xv. Gulistan Textile Mills Limited, Lahore; and
- xvi. Ahmed Fine Textiles Mills Limited, Multan.

15.2 The comments received on the application and initiation of the investigation received and germane to this investigation under the Ordinance are reproduced in Column A below and the Commission’s views/determination thereto are set out in Column B in the following table:

|    | <b><u>Column A</u></b>   | <b><u>Column B</u></b> |
|----|--|------------------------|
| i. | <b><u>Views/Comments of Thai Polyester Company Limited, Thailand and Kangwal Polyester Company Limited, Thailand</u></b> |                        |

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Legal counsel of the two Thai exporters/producers submitted following views/comments along with questionnaire response.

**“Sales**

“The domestic industry claimed that dumping had an immediate impact on its domestic sales. On page 14 of the Application, it pointed to a contraction in sales from 103,710 tons in the first quarter 2005 to 98,191 tons in the first quarter 2006. The domestic industry claimed that, if dumping had not occurred, the domestic sales would have been higher by 28,419 tons and would have resulted in additional Rupees (“Rs”) 2,382 million to the industry’s turnover. Our analysis of the domestic producers’ audited financial statements below will show that this claim of lost sales is highly unlikely. On the contrary, the financial statements of ICI and Ibrahim show robust growth in sales and production volumes in 2005 and the first half 2006 for both companies.”

Both the parties (Applicants and importers) have based the arguments on likelihood, which is subject to correction after actual happening. The Commission has examined and evaluated all injury factors listed at Sections 15 and 17 of the Ordinance including sales (paragraphs 26 to 38 infra). The investigation revealed that the sales of domestic like product decreased by 7.96 percent during the POI (from April 1, 2005 to March 31 2006). (Paragraph 29 infra).

**“Profits**

“On page 16 of the Summary, the domestic industry claimed a *“decline in gross profit margin and operating profit”*. Without any explicit figures to support its claim of lost profit, the domestic industry claimed - rather vaguely - that *“during POI, each domestic producer has lost a certain volume of customers to imports, which translate to a loss of sales volume and therefore lower gross margin and lower profits.”* As shown below in the domestic producers’ accounts and Reports of the Directors, each of the domestic producers was profitable during the POI. Therefore, Thai exporters respectfully request the Commission to completely disregard the domestic industry’s claim of negative impact on profits.

The Commission has examined and discussed profitability of the domestic industry at paragraph 32 infra. Investigation showed that domestic industry’s profits, absolute as well as in terms of sales value, decreased during the POI.

**“Market Share**

“The domestic industry alleged that it had lost market shares to imports from Korea, Indonesia and Thailand. Thai exporters are in a position to neither confirm nor deny this allegation. However, based on the data in Appendix 6 to the Application, it would appear that there was a sharp increase in volumes of imported PSF into Pakistan in 2005, coupled with a slight decline in the market share of domestic producers. Notwithstanding this, it is submitted that, in the end, imports from the three subject countries represented only 4.07 per cent of the total PSF market in Pakistan in 2005, a mere drop in the bucket when compared to the monopolistic market share held by the domestic producers.”

Investigation of the Commission showed that the domestic industry lost market share during the POI. Domestic industry’s market share decreased from 99.05 percent in the year 2003-04 to 89.57 percent in the year 2005-06 (the POI for dumping). Whereas, market share of the investigated product increased from 0.43 percent in the year 2003-04 to 10.26 percent in the year 2005-06. (Paragraph 28 infra).

**“Productivity**

“The domestic industry claimed that during the last three years, productivity – as measured by the ratio of number of employees to production – has decreased each year due to a large decrease in production rather than the increase in staff. Notwithstanding the aforementioned allegation, Thai exporters submit that, since the domestic producers failed to make any reference in the Application as to production (i.e. output) of the subject goods, the domestic producers have not provided a meaningful basis for Thai exporters to respond to the allegation of lost productivity. Accordingly, the Commission is requested to disregard this particular allegation.”

The Commission’s investigation showed that the employment in domestic industry remained in the same range during the POI. However, productivity in terms of production per employee decreased due to reduction in production (paragraph 34 infra).

**“Return on Investments**

“The domestic industry claimed that the net loss to the domestic industry during the POI is Rs 518.2 million as a result of the allegedly dumped imports. It further claimed that the return on investment would have been higher by 3.4 per cent. Thai exporters are not able to ascertain as to how the domestic industry arrived at the so-called “*net loss of Rs 518.2 million due to dumping*”, especially in light of the domestic producers’ profits and profitability, as demonstrated earlier. Thus, in Thai exporters’ opinion, this claim of negative effect on return on investment is highly questionable and has not been convincingly substantiated by the domestic industry. Accordingly, the Commission is requested to disregard this particular allegation.”

The Commission has examined and discussed the return on investment of the domestic industry at paragraph 35 infra. The Commission found that the domestic industry’s return on investment decreased from 2.81 percent in the year 2004-05 to 2.40 percent in the year 2005-06.

**“Utilization of Capacity**

“The domestic industry alleged that there had been a steady decline in the capacity utilization rate from 2003 through present, i.e., 86 per cent in 2003, 82 percent in 2004, 73 per cent in 2005 and 66 per cent in the first quarter 2006. Thai exporters submit that the Commission should carefully scrutinize this particular allegation before making its conclusion, for the following reasons. First, since imports had captured a sizeable market share beginning only in the second quarter 2005 (whereas its pre-second quarter 2005 market share were miniscule, being less than 0.1 per cent), it follows that the steady decline of domestic industry’s capacity utilization was caused by factors other than imports since there was no direct correlation between the surging imports which began in the second quarter 2005 and the gradually declining market share which took place much earlier. Second, this allegation should be viewed in the context of the statement made by ICI in its Report of Directors’ Review: “*Asset Modernization and Improvement Project was successfully completed during the second quarter 2006 and the production has also commenced. This project will increase production capacity by 12,000 tonnes per annum...*”.

The Commission’s investigation showed that the domestic industry’s capacity utilization decreased from 91.27 percent in the year 2003-04 to 71.82 percent in the year 2005-06. (Paragraph 30 infra). Investigation also showed that there was another reason, bumper cotton crop in the year 2005-06, for reduction in production of domestic like product and capacity utilization by the domestic industry. However, the investigation revealed that the domestic market of PSF declined by 5.21 percent in the years 2004-05 and increased by 1.72 percent in the year 2005-06. While capacity utilization by the domestic industry decreased by 7.28 percent during the year 2005-06 (the POI). Increase in ICI’s production capacity through “Asset Modernisation” is out side the POI for determination of material injury to domestic industry

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**“Cash Flow**

“Without providing any specific detail, the domestic industry claimed that its cash generation potential was affected by dumping, and similar to the claim made on capacity utilization, the industry was “deprived of cash flow of Rs 518.2 million”<sup>11</sup> as a result. Thai exporters submit that the domestic industry has grossly overstated the extent of a negative impact on its cash flow. It must be pointed out that, even though Dewan’s net cash generated in operating activities showed a decrease from Rs 1,103,786,000 in 2004 to Rs - 40,631,000 in 2005, it should be pointed out that Dewan’s cash flow position markedly improved in the first quarter 2006, which showed net cash generated in operating activities in the amount of Rs 240,213,000. In addition, Ibrahim’s cash flow generated from operating activities showed a sharp increase in 2005 from 2004, up from Rs -74,972,195 in 2004 to Rs 432,676,585.

Commission’s investigation revealed that domestic industry did not suffer injury on account of cash flows (paragraph 33 infra).

**“Inventories**

“On the basis of Appendix 7 to the Application, it is noted that the beginning and ending inventories of domestic producers in 2005 are higher in relative to those in 2004 and 2003.”

Commission’s investigation revealed that domestic industry did not suffer injury on account of increase in inventories (paragraph 31 infra).

**“Employment**

“Thai exporters submit that the domestic industry did not explain or provide evidence to support claims of injurious effect on employment in the Summary or the Application. The data presented by the domestic industry show mixed results, at best. For example, Ibrahim’s staff data in Table 16 of the Application shows an increase in staff cost in 2005 relative to the year 2004 (Rs 264.7 million in 2005 as compared to Rs 234.5 million in 2004). On the other hand, Dewan’s staff data in Table 17 shows a decrease in staff cost in 2005 relative to the year 2004 (Rs 377.4 million in 2005 as compared to Rs 400.3 million in 2004), in spite of the increase in the number of staff by Dewan (3,163 in 2005 vs. 3,113 in 2004). By its own admission, Dewan stated in the Application that “*staff costs have increased in line with market conditions and inflation*”.”

Commission’s investigation revealed that domestic industry did not suffer any injury on account of reduction in employment. However, investigation showed that domestic industry suffered on account of payment of salaries and wages (paragraph 34 infra).

**“Growth, Investment and Ability to Raise Capital**

“While it is conceded that there was a decline in the overall turnover of the domestic producers from 2003 to 2005 as indicated in Table 19 of the Application. Thai exporters submit that there was little or no evidence of any injurious effect on the domestic industry’s investment or ability to raise capital. The domestic industry claimed that “*given the excess capacity in the Export Countries and the real likelihood that these will be dumped in Pakistan which is a low tariff market, there is little likelihood of further growth and investment in the industry, which is unlikely to attract capital for the same reason.*” Thai exporters submit that such allegation without actual data to substantiate the

Commission’s investigation revealed that domestic industry did not suffer injury on account of ability to raise capital (paragraph 36 infra).

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allegations is purely speculative, and should not be taken seriously by the Commission. Besides, it has already been demonstrated earlier that the claim of excess PSF capacity in Thailand is groundless and not based on facts."

**"There was no evidence of significant price undercutting by imports during POI**

"The domestic industry claimed in the Application and the Summary that there was evidence of price undercutting in the second and third quarters 2005, by 2 per cent and 1 per cent respectively. The domestic industry claimed that this *"clearly demonstrating price undercutting in the domestic market within the meaning of Section 15 (3)(a) of the Ordinance."* On the basis of the price information provided in Appendix 8 to the Application, Thai exporters wish to counter that there is nothing clear or significant about the evidence, either by the magnitude of the undercutting margin or the duration of the alleged price undercutting. First, by the domestic industry's own admission, there were only "2% and 1%" undercutting during the POI. Based on the plain meaning of the term "significant", this margin can hardly be described as "significant price undercutting" within the meaning of Section 15 (3)(a) of the Ordinance. Second, even with the existence of this small price undercutting in the second and third quarters 2005, it must be pointed out to the Commission that there was neither price undercutting in the fourth quarter 2005 and first quarter 2006, nor in the periods preceding the POI."

The Commission's investigation revealed that the landed cost of the investigated product significantly undercut the price of domestic like product during the POI (paragraph 27.2 infra).

**"Methodology used to determine price suppression is misleading and results in artificially inflated price suppression margin:**

"There are several problems with this methodology. First, it ignores the fact that the fictitious target price is unrealistically high and not based on actual business practice. Second, in order to artificially inflate the price suppression margin, the domestic industry without justification included items such as commission and incidental cost of 3.5 per cent. Finally, and perhaps most importantly, the domestic industry knew that if it had used the actual landed prices of imports for the purpose of determining price suppression, then there would have been no price suppression margin (and therefore, no evidence of price effect) since the averaged landed prices during the POI were actually comparable to those of domestic producers."

The Commission has determined price suppression with a different methodology (paragraph 27.4 infra), which is a consistent practice of the Commission.

**"ALLEGATION OF THREAT OF INJURY IS GROUNDLESS AND NOT BASED ON KNOWN FACTS; THAILAND'S INSTALLED CAPACITY HAS BEEN SIGNIFICANTLY REDUCED IN 2006:**

"The domestic industry alleged that it faces a grave and imminent threat of material injury as a result of increased imports from Korea, Indonesia and Thailand in the near future. To substantiate its claim, the domestic industry asserted that the subject exporting countries, including

The Commission has not investigated threat of material injury to domestic industry.

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Thailand, have excess capacity and limited local demand for PSF. Specifically, it was alleged that the current PSF capacity in Thailand was 404,000 tons, as compared to 637,000 tons for Indonesia and 570,000 tons for Korea.”

**“Causation**

“• The records show that, overall, ICI and Ibrahim did not suffer from negative financial and operating results during the POI. Given that Dewan is only one of the three domestic producers, the claim of material injury is weak and untenable.

“• It cannot be disputed that the business environment was challenging in 2005 and remains a challenge for all producers of PSF on a worldwide basis, not only for Pakistan PSF producers.

“• The injury, if any, was caused by factors other than imports including oil price hike resulting in volatile PSF feedstock, Hurricane Katrina, the worldwide bumper cotton crop, among others.

“• If imports were the main cause of so-called injury (or even a contributing cause) as claimed by the domestic industry, then it should follow that all of the domestic producers’ financial results should have been much worse during the POI; even Dewan, which has the weakest- looking financial accounts of the three, still manages to show profit in the first quarter 2006.

“• As previously indicated, there appears to be no correlation between the initial surge in imports and the beginning of the so-called injury; the gradual decline in domestic producers’ market share actually began in 2003-4.

“• The so-called injury was the result of the Pakistan Government’s revisions of the tariff structure which came into effect in July 2005, specifically, the reduction of tariffs on PSF to 6.5 per cent from 20 per cent (including PSF imported under the DTRE program). As the ..... there was a 42 per cent surge in imported PSF in August 2005 from July 2005. There was also a 79 per cent jump in imports in June 2005. Clearly, there was a causal link between the tariff reduction and the increase in PSF imports.”

The Commission has examined all injury factors in terms of part VI of the Ordinance (paragraphs 26 to 38 infra). The Commission has also examined and analysed the factors other than dumped imports of the investigated product, which caused injury to domestic industry during the POI (paragraphs 39 to 40 infra).

**ii. Views/Comments of Department of Foreign Trade, Ministry of Commerce, Government of Thailand**

Views/comments received from Department of Foreign Trade, Government of Thailand are reproduced below:

**“The injury information provided in the non-confidential application was inconsistent with the publicly available information.**

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“Having reviewed the non-confidential application in comparison to other information made available to the public, including information published on the applicant’s website, it appeared to us that only few factors demonstrated that the applicant’s operation was affected negatively, i.e. sales, market share and inventory. However, there was no clear evidence of injury on other factors such as profits, output, cash flow, employment or wages.

The Commission has examined all injury factors in terms of part VI of the Ordinance (paragraphs 26 to 38 infra).

**“There was no clear causal link between allegedly dumped imports and the injury suffered by the applicant as claimed**

“Considering the above economic factors, we believe that the injury suffered by the applicants was not caused by the allegedly dumped imports. The financial and operation results of the applicants clearly indicated the existence of gross profit and profitability during the period of investigation. This is true even for Dewan Salman Limited, the applicant that claimed more negatively affected than the others.

The Commission has examined and analysed material injury suffered by the domestic industry by dumped imports and the injury caused by the factors other than dumped imports of the investigated product, during the POI (paragraphs 26 to 40 infra).

“Moreover, there appears to be some other factors which could have caused injury, such as increased price of raw material, the revision of the tariff structure, i.e. the reduction of tariff on PSF from 20 percent to 6.5 percent in July 2005.”

**“There was no clear evidence on price effect**

“In order to analyze and determine whether there was any price effects on the like products caused by allegedly dumped products, there should be clear evidence that the selling price of like products had been significantly undercut, suppressed or depressed for a continuous period of time prior to the initiation of the investigation. Based on the information shown in Appendix 8 of the application, price undercutting existing only for a short period of time, i.e. the second and third quarters 2005. Thus, it should not be determined as significant price undercutting.

The Commission has examined and analysed price effects in terms of Section 15(3) of the Ordinance and found that domestic industry suffered material injury on account of price under cutting and price suppression during the POI (paragraphs 27.2 and 27.4 infra)

“Regarding to price suppression, the methodology used by the applicants, to assess price suppression inflated the price suppression margin without justification. The average landed cost should be taken into account instead of the domestic prices in Thailand. Theoretically, price suppression occurs when dumping prevents price increase that would otherwise take place. For example, when the cost increased have not been recovered in price, which will reflect in decrease of gross profit. In this case, there was no impact on the gross profit of the applicants.”

The Commission has determined price suppression with a different methodology than the methodology used by the Applicants in application (paragraph 27.4 infra), which is a consistent practice of the Commission.

**“The increase of imports from Thailand resulted from the Pakistan Government’s policy to promote growth in its textile industry.**

“As mentioned above, the surge in imports of PSF into

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Pakistan occurred around the second quarter 2005 which coincided with the Pakistan Government's policy to revise the tariff structure, in particular, a reduction of the tariffs on PSF. Such reduction of tariffs was aimed to support local spinning factories and textile manufacturers in Pakistan and helped the country achieved its projected growth in the textile sector. Therefore, this factor should be taken into account when analyzing the effect of allegedly dumped imports towards the domestic industry of Pakistan."

The Government of Pakistan has rationalized tariffs on import of PSF as well as on its major inputs (PTA and MEG) with effect from 1<sup>st</sup> July 2005. The Commission has examined the impact of tariff changes and found that it was not the reason for material injury to domestic industry (paragraphs 40.5 to 40.8).

**iii. Views/Comments of APTMA**

Consultant of APTMA submitted following views/comments:

**"Product Identification (Para 3.1 & 3.2):**

"Under the head product identification the Applicants have mentioned that various grades like (Grade-A/Grade-1/Semi dull/bright/optical bright) are produced by the domestic industry and same grades are imported from alleged dumped sources. Obviously there is a difference in price and costing of these grades which has not been kept in view while constructing the normal value for domestic sales of Thailand as well as Indonesia, and while calculating the export price from the three alleged dumped sources. Even in case of Korea the average prices have been taken into account and the specific grade of PSF to which these relate were not mentioned. This does not allow cost and pricing adjustments for comparison of normal value with the export price and have thus distorted the dumping margin calculations to some extent."

The Commission has determined that the investigated product and the domestic like product are "like products" in terms of Section 2 of the Ordinance (paragraph 8 supra). The Commission has considered different types/grades and deniers of the investigated product and the provisional dumping have been determined keeping in view the types/grades and deniers of the investigated product (paragraphs 19 to 22 infra).

**"Dumping Margin (Para 9)**

"Based on the normal value submitted by the Applicants, dumping margins ranging from 22.76% to 25.62% have been established. In this field of PSF, competition is so enormous that the profits are minimum in terms of percentage of sales value. So with a profit margin of 1 to 2%, the foreign producers/exporters cannot afford to sell products in exports market with so high a price differential/dumping margin. As per page 8 of the questionnaire the major raw materials used in the manufacturing of PSF are PTA & MEG which contribute approximately 90% of the manufacturing cost of PSF. In such a position, how one can afford to export at 25.62% dumping margin as it will be difficult to recover even the variable cost under this scenario."

The Commission has calculated provisional dumping margins on the basis of the information provided by the exporters/foreign producers from the Exporting Countries (paragraphs 19 to 22 infra).

**"Volume of Imports (Para 10.2)**

"In table 11 of the questionnaire, exportable surplus of PSF in all the three countries alleged to be involved in dumping is given. It is understood that if these surplus stocks are true reflection of the actual situation, then there

The Commission's examination of showed that the volume of dumped imports of the investigated product increased significantly in absolute as well as in



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must be similar surplus stock position in previous year (2004) also, but at that time there was no dumping from these sources. Then in the subsequent paragraph the Applicants said that "Given this back drop the manufactures in 3 countries will continue to dump in low tariff market like Pakistan (India has 14% tariff on Polyester Staple Fibre vs 6.5% in Pakistan) that has a tangible volume requirement for PSF.....". Here the Applicants have admitted the main factor responsible for imports from these 3 countries that Customs Duty on import of PSF was reduced from 20% to 6.5% by the Government of Pakistan as a consequence of various tariff changes in the Polyester Chain. So when duty was 20% there were no meaningful imports from any source and when duty was reduced to 6.5% the obvious reason was to help the export oriented textile industry with lower input cost. So imports started coming in a small quantity and total import during the POI remained below 6% of the total domestic market.

**Sales & Output (Par 10.3)**

"Under sub para (iii) the Applicants claim that market share of imports from the 3 countries which was 1.26% of domestic market in 1<sup>st</sup> quarter of 2003 has surged to 7.73% in 1<sup>st</sup> quarter of 2006. This surge in import of 8% has seriously affected the operating (Capacity Utilization) rates of the 3 major domestic manufactures which was reduced from 85% in 2004 to 73% in 2005 as per table -15 of the questionnaire. Table-15 is showing production of 492,996MT of PSF in 2004 and production of 422,033MT of PSF in 2005. So there is a reduction of 70,963 MT PSF in 2005 over 2004 which is said to have been affected by import of just 19,398 MT (Appendix-6 of the questionnaire) of PSF during 2005 is not understandable. Hence reduction of 51,565 MT in the production of the Applicants is obviously due to other factors, which we hope would be considered by the Commission and this may not be attributed to alleged dumped imports"

"At another place under para 11.1 the Applicants have admitted that during 2005 total volume lost to cotton was 45,930 MT of PSF that amounts to 9% contraction in domestic market out of total contraction of 13%. So relating all the reduction in capacity utilization in 2005 to imports of 19,398 is therefore not justifiable"

**Details of Inventory & Sales Changes (Para 10.3 (iv))**

"With reference to Appendix-7 of the questionnaire it has been mentioned that the finished goods inventory for the Applicants stood at 25,268 MT at the end of March 31, 2003 as compared to 49,842 MT at the end of March 31, 2006. It has also been said that dumped imports have resulted in erratic inventory movement. From the same Appendix-7, it can be seen that the inventory was even at the level of 58,223 and 56,730 for the 4<sup>th</sup> quarter of 2004 and 1<sup>st</sup> quarter of 2004 respectively, which is the non-

relative to the production of domestic like product (paragraph 26 infra).

The Government of Pakistan has rationalized tariffs on import of PSF as well as on its major inputs (PTA and MEG) with effect from 1<sup>st</sup> July 2005. The Commission has examined the impact of tariff changes and found that it was not the reason for material injury to domestic industry (paragraphs 40.5 to 40.8).

The Commission has determined material injury to domestic industry in terms of Section VI of the Ordinance (paragraphs 26 to 38 infra). The Commission has also examined and analysed the factors other than dumped imports of the investigated product, which caused injury to domestic industry during the POI (paragraphs 40 infra)

The Commission's investigation revealed that domestic industry did not suffer material injury on account of inventories of the domestic like product during the POI (paragraph 31 infra).

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dumped period. Keeping in view this scenario into consideration the Applicants claim of injury on this account is not justified.”

**“Price Effects (Para 10.4)**

“While discussing price suppression the Panel Decision in “Korea – Certain Paper” case (WT/D5312/R) has been referred for taking the domestic price of exporting countries for comparison with the prices of domestic like product to establish price suppression. Firstly panel decisions are not binding and secondly as per practice followed by the Commission, price suppression has always been taken as, the situation where increase in cost of production cannot be recovered with the increase in sales price or the situation where COP is increasing whereas sales price of the Applicants is decreasing. In fact, the Applicants price and cost changes are not showing price suppression that is why the Applicants are trying to take the help of the Panel Decision.”

“The Applicants have claimed price undercutting during 2<sup>nd</sup> quarter 2005 and quarter 3<sup>rd</sup> of 2005 on the basis of weighted average landed cost of imports from dumped sources being lower than the domestic selling prices of PSF by 2% and 1% respectively. Here the Applicants have admitted that thereafter the price undercutting, if any, was eliminated as C&F prices of imported product increased subsequently. Moreover, 1-2% price-undercutting is not significant enough to cause material injury to the domestic industry. Mainly it was due to steep reduction of tariff from 20% to 6.5 on import of PSF as per budget announcement made in June 2005. This insignificant price undercutting stood rectified soon as there was no price undercutting during last two quarters of the POI.”

**“Profit & Loss (Para 10.5)**

“It will be easy to observe that as regards ICI Pakistan Limited loss inspite of profits by the other two units (Dewan & Ibrahim) is due to some peculiar reasons attached with ICI only. The average profits of Dewan Salman and Ibrahim Fibres are still more than 2% of sales price which are still better as compared to profits of the exporters/foreign producers. While calculating constructed normal value for Indonesia as per last sub-para of para 8.1 on page 21 of the questionnaire it has been mentioned that the profit margin has been assumed on the basis of financial statements of Indorama Synthetics Tbk as a result of Wright Report (Enclosure to the questionnaire as full reports regarding P.T. Indorama Synthetics Tbk prepared on the request of ICI Pakistan Ltd.). We understand that the overall profits of Indorama for PSF are around 1% of sales price. By comparing 2% average profits of Applicants with the 1% profitability of

The Commission has determined price suppression in accordance its past practice (paragraph 27.4 infra).

The Commission’s investigation revealed that the landed cost of the investigated product significantly undercut the price of domestic like product during the POI (paragraph 27.2 infra).

The Commission has examined and discussed profitability of the domestic industry at paragraph 32 infra. Investigation showed that profits, absolute as well as in terms of sales value, on production and sales of the domestic like product of all the three Applicants (ICI Pakistan, Dewan Salman Fibres and Ibrahim Fibres) decreased during the POI.

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Indorama Synthetic Tbk, it appears that it is already more than the industry norm. Therefore, 2% profit should not be any cause of concern for the Applicants specially Dewan Salman and Ibrahim Fibres.”

**“Utilization of Production Capacity (Para 10.6)**

“the reduction in capacity by 12% (from 85% to 73%) during the POI cannot be fully attributed to the imports from three countries. The Applicants have admitted that only 5% reduction is due to imports whereas the remaining 7% is due to contraction in demand. Even this 5% appears to have been estimated on the higher side as the Applicants have also admitted at another place (para 11.1) of the questionnaire that out of 13% contraction in market, imports are responsible for only 4% as balance 9% contraction is due to bumper cotton crop. So 4% out of 13% is still lower than 5% out of 12%. That is why it appears somewhat exegrated. Hence this reduction in capacity utilization should not be attributed to the alleged dumping.”

**“Other Adverse Effects (Para 10.7)**

“Cash flow loss has been worked out based on presumptive loss in profit as discussed at para 16 earlier. No loss has been mentioned on account of employment. Adverse effect on productivity has been claimed. But again its major portion is because of market contraction due to bumper cotton crop.

“It has been mentioned that owing to dumping or threat of dumping there is no likelihood of further growth and investment in the industry. In addition stagnant sales growth in 2005 does not augur well for any potential equity investor badly needed for undertaking any expansion. We are of the view that in the present scenario when there is sufficient existing unutilized capacity, considering small quantity of imports responsible for adverse effect on further growth at this stage seems illogical. Any future bumper cotton crop can be a real problem for the domestic industry, till such time that the domestic industry changes its prices with the change in cotton prices and try to be satisfied with the profitability as per industry norm in the field of PSF.”

**“ Causal Link (Para 11)**

**Negative effect on sales & market share**

“The Applicants have claimed that during POI domestic sales would have been higher by 28,419 MT which were taken over by dumped imports. As already discussed under the head volume of imports (Para 10.2) of the questionnaire, the imports during the POI were not the result of dumping rather it was due to lowering of customs duty by the Government from 20% to 6.5% with no sales tax on import of PSF. This fact has also been

The Commission’s investigation showed that the domestic industry’s capacity utilization decreased from 91.27 percent in the year 2003-04 to 71.82 percent in the year 2005-06. (Paragraph 30 infra). Investigation also showed that there was another reason, bumper cotton crop in the year 2005-06, for reduction in production of domestic like product and capacity utilization by the domestic industry. However, the investigation revealed that the domestic market of PSF declined by 5.21 percent in the year 2004-05 and increased by 1.72 percent in the year 2005-06. While capacity utilization by the domestic industry decreased by 7.28 percent during the year 2005-06.

The Commission has analysed all injury factors listed in Sections 15 and 17 of the Ordinance including cash flow, profits, employment and productivity and has determined material injury to domestic industry in terms of Part VI of the Ordinance.

The Commission has also examined and analysed the factors other than dumped imports of the investigated product, which caused injury to domestic industry during the POI (paragraphs 40 infra).

The Commission has not investigated for threat of material injury.

The Government of Pakistan has rationalized tariffs on import of PSF as well as on its major inputs (PTA and MEG) with effect from 1<sup>st</sup> July 2005. The Commission has examined the impact of tariff changes and found that it was not the reason for material injury to domestic industry (paragraphs 40.5 to 40.8)

admitted by the Applicants.

“In addition, imports shown by the Applicants also included imports under DTRE Scheme under which no duty no drawback is allowed for import of PSF for export of value added items. Inclusion of PSF in DTRE Scheme was announced in budget 2005-06 and total imports under this scheme were 6180 MT as per PRAL data. These imports were not made under normal circumstances, so these should have been excluded from the imports being discussed for alleged dumping. On persistent demand of the domestic industry, imports of PSF under DTRE Scheme already stand excluded as per current budget of 2006-07, so there are no such imports from 2006-07 onwards.

“Looking at the domestic market from angle of growth, it can easily be understood that textile exports registered sizeable increase during Apr 2005 to Mar 2006 over exports during Apr 2004 to Mar 2005. So part of growth during this period which should have gone to the PSF was also taken over by the bumper cotton crop. Thus cotton crop took over share of 45,930 MT of PSF of domestic market as admitted by the Applicants plus share of PSF which should have consumed in growth of textile exports was also taken over by the cotton crop. Resultantly the material injury sustained by the domestic industry was mainly due to other factors and not due to alleged dumped imports.”

**“Negative Effect on Cash Flow**

“The Applicants have not discussed the actual cash flow increase or decrease, but instead presumptive loss of Rs. 518.2 has been taken as loss in cash flow, which is not reflecting the true position. We would request the Commission that as per their general practice, kindly ask the Applicants to stick to historical data rather than making too many assumptions.

**“Negative Effect on Productivity**

“It has been claimed that decrease in production was mainly as a result of dumping. Although throughout the questionnaire the Applicants admitted that the contraction in demand and consequent reduction in production was mainly due to bumper cotton crop. Hence, no material injury can be claimed on this account.

**“Negative Effect on Growth, Investment and Capital**

“It has been stated that given the contraction in sales and market share as a result of dumping, coupled with the threat of further dumping there is little likelihood of growth and investment in the industry, which is unlikely to attract capital for the same reason. Here the Applicants have failed to mention that the already existing excess capacity coupled with contraction in demand of PSF mainly due to bumper cotton crop is responsible for likely

The Ordinance does not distinguish between imports under different schemes. Furthermore, the Commission has determined that the imports of the investigated product under DTRE scheme during the POI were part of total imports and domestic market (paragraphs 26 and 28 infra).

Commission’s investigation revealed that the domestic market of PSF declined by 5.93 percent in the years 2004-05 and increased by 2.71 percent in the year 2005-06 respectively. The sales of the domestic like product decreased by 5.28 percent in the year 2004-05, which shows a corresponding decline in total market. However in the year 2005-06 sales of the domestic like product declined by 7.96 percent while domestic market increased. This shows that the bumper cotton crop in the year 2005-06 was not the reason of decline in sales of the domestic like product. Furthermore, imports of the investigated product increased significantly (54.23 times) in the year 2005-06 despite bumper cotton crop. (Paragraphs 40.3 to 40.4 infra).

Commission’s investigation revealed that domestic industry did not suffer injury on account of cash flows (paragraph 33 infra).

The investigation has revealed that domestic industry suffered material injury on account of productivity with regard to the employment (paragraph 34 infra). The issue of bumper cotton crop has already been discussed above.

Commission’s investigation revealed that domestic industry did not suffer injury on account of ability to raise capital (paragraph 36 infra).

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negative effect if any on growth, investment and ability to raise capital.”

**“Threat of material injury**

“From the Director’s Review of the Ibrahim Firbers Limited, half yearly accounts for the period ending December 31, 2005 clearly indicates that surge in demand due to reduction in import duties, was temporary. Moreover, it also corroborates our point of view that the profitability of the Applicants has been effected due to hike in the international price of petrochemical based raw material on the back of increase in crude oil prices.

“In response to (b) above it is pertinent to mention that the Applicants have not discussed an imminent and substantial increase in capacity of an exporter from the three exporting countries.”

The Commission has not investigated for threat of material injury.

**“OTHER INJURY FACTORS:**

“Contraction in demand of PSF of 45,930 MT (from January to December) due to bumper cotton crop out of total contraction of 63,402 MT of PSF as admitted by the Applicants as per sub para (iv) of para 10.3 of the questionnaire.

“Competition amongst the domestic producers themselves as this average net sales prices as given in Appendix-9 differ with one another and thus creates competition. The Applicants have admitted that they keep the prices lower than the landed cost of imported product. This also proves creation of willful competition by the Applicants.

“Dewan Salman established a plant for the manufacturing of PSF initially with the capacity of 52,500 MT at a project cost of US\$ 100 million in 1991, which now stands expanded to annual capacity of 260,000 MT per annum.

“Ibrahim Fibre established its manufacturing facility of 70,000 MT per annum capacity at project a cost of US\$68,000 in 1996, which now stands expanded to 208,600 MT.

The Commission has also examined and analysed the factors other than dumped imports of the investigated product, which caused injury to domestic industry during the POI (paragraphs 40 infra).

“ICI Pakistan Limited established its plant in 1982 with initial capacity of only 12,000 Mt per annum which now stands expanded to 110,000 MT per annum. Initial project cost of ICI is not given in the questionnaire. So ICI plant established in 1982 appears to be with old technology and its overall capacity is still half of the installed capacity of other two plants. So losses incurred by the ICI throughout the three years period when others were earning profits should not be attributed to alleged dumped imports which started in June 2005 after reduction of customs duty.

“Increase in imports of PSF due to reduced customs duty from 20% to 6.5% in budget for 2005-06 announced in June 2006 may not be attributed to alleged dumped imports.

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“As per budget of 2005-06 deemed drawback facility was withdrawn by the Government which had subsequent negative effect on the sale and profitability of the PSF domestic industry which should also not be attributed to alleged dumped imports.

“Placement of PSF in DTRE Scheme during 2005-06 budget.

“Lopsided marketing by Applicants and poor export performance due to antidumping duty on Bedlinen by EU.

“Rise in crude oil prices and resultant sharp increase in prices of PTA & MEG.

“Trade restrictive practices including price mechanism of the Applicants.

“Low quality of locally produced PSF and limitation in production of special items like flame retardant fibre, micro fibre, dope dyed fibre etc.”

iv. APTMA also submitted views/comments on material injury to the domestic industry on January 22, 2007. Views/comments germane to this investigation under the Ordinance are reproduced hereunder:

“While evaluating each factor, the aspect of causation has been taken up simultaneously with injury. Care has been taken not to include volumes imported under the Duty and Tax Remission for Export (DTRE) Scheme in calculations at the appropriate places as quantities imported under DTRE are inadmissible for consideration of dumping according to the Ordinance. (The Applicants in building their case did not exclude the quantity of PSF imported under the DTRE Scheme.) Further, as the facility of duty drawback did not exist for local PSF purchases on the dates when DTRE imports were made and the Applicants could not sell any quantity of PSF during that period in the category wherein there was remission of duties and taxes, the volume of imports under the DTRE Scheme during the Period of Investigation for Dumping being non- substitutable for local purchases does not represent lost sales of the Applicants and does not constitute any cause for injury to them.”

“As price fixing & other trade restrictive practices of the Applicants and contraction in PSF demand & changes in the pattern of consumption, which are **“other” causal factors** mentioned in section 18, have an overwhelming impact on different economic factors and indices, that as per sections 15 and 17 of the Anti Dumping Duties Ordinance, 2000 (Ordinance) have to be considered for evaluating injury”

“The PSF domestic industry does not operate at par and there are **pronounced differences in their respective costs, sales and outputs**. However, prices move collectively and all five manufacturers that constitute the domestic industry alter their prices in tandem periodically and simultaneously, which evidences collusive price-fixing and the existence of a cartel.

The Commission is of the view that the Ordinance does not distinguish imports under different schemes. Furthermore, the imports of PSF under DTRE scheme entered into the commerce of Pakistan during the POI, which were used in production of textile products for exports. Similarly, a major part of sales of the domestic like product by the domestic industry, during the POI, was also used in production of textile products meant for exports. Investigation also showed that the exporters who used locally produced PSF in production of textile products for exports were allowed duty drawback on “deemed import basis” (paragraphs 26.4 to 26.8 infra).

The Commission has examined other factors in terms of Section 18 of the Ordinance (paragraph 40 infra). The Commission has determined material injury in accordance with Part VI of the Ordinance.

Investigation of the Commission has revealed that the prices charged by the Applicants units during the POI were different with each others prices. However, there was a price competition between the Applicants

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In competitive markets, a firm with lower costs maintains lower selling price to maximize its market share. Maintenance of the **same price level** by all five manufacturers (Chart 2) having different operating costs, sales and outputs (and different unit and operating costs) is evidence of collusive price fixing year after year, which includes the period of investigation.”

“An instance of profiteering-motivated price fixing by the Applicant domestic industry is that soon after imposition of 6.5% import duty following the 2005 budget, the domestic industry jacked up its prices by the same margin. This price increase was independent of operating costs and fixed monopolistically.”

**“Other Trade Restrictive Practices**

“Trade Restrictive Practices of Domestic Producers is a factor mandated for consideration under section 18(3)(c) of the Ordinance for causing injury to the domestic industry. In this regard it is submitted that the domestic producers *i.e.* the Applicants impose restrictive trading conditions with regard to the sale and distribution of PSF to local consumers. They do not enter into long-term sale contracts at a stated price. Quoted prices remain valid for short periods only and at times prices even change midway in a transaction. Price uncertainty in turn makes it difficult for the PSF industrial user textile mills to enter into commercially viable long-term predictable export commitments with their importers abroad. This makes purchase of PSF from the Applicants commercially unviable and not a prudent business decision specially in the presence of a better alternative.”

**“The PSF Demand Contraction and Change in Consumption Pattern:**

“The Pakistani Textile industry is dominated by spinning. The surplus availability of cotton following the bumper cotton crop displaced PSF usage for reasons of economic viability. In a period of cotton glut a sizable proportion of spinning mills shift from a blended manufacturing setting to a cotton one, as was the case following the 2004-05 bumper cotton crop. As weaving and subsequent value addition infrastructural facilities occupy only a limited slot in the textile industry value chain that would have ensured sustained PSF consumption, the usage of PSF bore a direct brunt when local production of cotton crossed the level 10-12 million bales. According to the data of the Pakistan Central Cotton Committee (Annex 3), the 2004-05 season saw a bumper cotton crop yielding 14.6 million bales of cotton (2,482,000 tons). It is common knowledge that in case of production of a cotton crop yielding more than 10-12 million bales, the substitutability of PSF for cotton is not viable. Thus the substitutability for cotton reached a vanishing point when the yield crossed the level of 10-12 million bales of cotton, and the consumption of cotton and PSF was unhinged and became independent of the otherwise stable National

and between the domestic like product and the investigated product.

The Government of Pakistan rationalized tariff structure of PSF industry with effect from 1<sup>st</sup> July 2005 and reduced customs duty on import of PSF from 20 percent to 6.50 percent. The Commission has analysed effects of tariff changes on this industry (paragraphs 40.5 to 40.8 infra).

The Commission has examined “other factors” in terms of Section 18 of the Ordinance (paragraph 40 infra).

The Commission has analysed the contraction in demand of PSF in Pakistan during the POI and effect of bumper cotton crop on sales of the domestic like product at paragraphs 40.3 and 40.4 infra.

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Fiber Mix Ratio. The viability of PSF as a substitute for cotton in seasons producing a cotton crop of 10-12 million bales is also recognised by the Applicants.”

**“Imports Under Question for Dumping Do Not Represent Lost Sales of the Applicants**

“..... imports of PSF in question for dumping, were made entirely without any relationship with its requirement (demand) for consumption which had contracted due to the bumper cotton crop. Acknowledgement of this apparently inexplicable increase in imports is implicit in the Application which repeatedly mentions that “*imports increased despite the bumper cotton crop*”. (Application, Pages 27 and 36). Where circumstances favour, opportunity purchases take place. Dewan Salman highlights this scenario when “*in anticipation of increase in [PSF] prices*” “*downstream consumers ... continued to procure PSF taking advantages of surplus, more than their requirements ...*”<sup>5</sup> (emphasis added) The reasons for imports explicit in the instant case were the reduced 6.5% tariff compared with the earlier 20%, import terms that suited local textile mills to make an opportunity purchase in the face of price fixing by the

Applicants, low quality of their produce and their unreasonable terms of sale and non- availability of duty drawbacks on local purchases. Thus PSF manufactured by the Applicants was not an alternative in the circumstances in which this import opportunity was availed by textile manufacturers. As such the imports in no way meant lost sales by the Applicants, and did not eat into their market share. In other words, had the alleged dumped imports not been made, an equivalent quantity of PSF would not have been purchased from the Applicants. Any injury suffered by the Applicants was exclusively due to factors other than the alleged dumped imports, the principal one being the contraction in demand for PSF as a result of the bumper cotton crop. The figures indicate that had the bumper cotton crop not been there, the Applicants performance notwithstanding the alleged dumped imports would have improved. “Applicants’ Arrogation of Imports as their Lost Sales Imports do not represent lost sales. Even otherwise, it is disingenuous of the Applicants to equate *perceived loss of opportunity* with *actual loss suffered* in making a claim of injury caused to their sales, market share, profitability, sales volume, gross margin, productivity, capacity utilization and growth & investments. Such claims are untenable and the Commission is called upon to reject them.”

**“Injury and Causation**

**“Price Suppression [Section 15(3)(b)]**

In accordance with the WTO Anti-Dumping Agreement, investigating authorities are invested with a great deal of discretion as to the analyses of the different aspects of injury to the domestic industry. Accordingly, the practice developed in the Pakistani jurisdiction with respect to the basis of assessing **price suppression**, defines it as *the extent to which increased cost of production could not be recovered by way of*

The Commission has analysed other factors in accordance with Section 18 of the Ordinance including the contraction in demand of PSF due to bumper cotton crop and tariff changes during the POI (paragraph 40 infra). Investigation of the Commission revealed that the domestic like product and the investigated product are “like product” in terms of Section 2 of the Ordinance (paragraph 8 supra).

The Commission has determined price suppression in accordance with its past practice. The investigation of the Commission has revealed that the domestic industry suffered material injury on account of price suppression during the POI (paragraph 27.4 infra).



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*increase in selling price of the domestic like product.* However, the Applicants have considered price suppression as “loss in price”.

“The cost and pricing data given in Appendix-8 of the Application indicates that there was no increase in the cost of domestic production necessitating an increase in price on this account. In such a situation there is no question of any price suppression. Price suppression indicates a decrease in the profitability of the domestic industry on per unit basis. On the basis of data provided by the Applicants it is amply clear that profitability of the Applicants has rather increased due to increased differential between price and costing level from Rs. 3.19/ kg to Rs. 4.20/kg.”

“Further, as the imports that are in question for being dumped were made by way of opportunity purchase, over and above the demand for PSF, ..... they did not have the capacity to affect prices under market conditions. It is also to be noted that the volume of imports under question for dumping is not big enough to cause any effect on prices of locally manufactured PSF in a free market price dynamics.

“Price effects could be discussed where they are sensitive and responsive to market dynamics. But where a free and open market is not operating and anti-competitive practices are in place, no price analysis is possible. The very precondition of a competitive economy and free market are absent for any price analysis to be undertaken and for anti-dumping proceedings to take place in particular. In the circumstance it would be inappropriate even to attempt any analysis with respect to price suppression or for that matter with respect to any other price effect including price depression or price undercutting.

**“Price Undercutting**

“Contrary to the Applicants claim of price undercutting of 2%, 1%, 0% and 0% during the successive quarters of the period of investigation for dumping, our information is to the effect that there was negative price undercutting during the last 2 quarters. Even proceeding arguendo on the basis of the percentages for price undercutting as claimed by the Applicants, it is submitted that the so-called price undercutting is indicated only for a limited period and at the minuscule level of 2% and 1% even during this period, and therefore is not significant enough to cause any injury. A receding 2%, 1%, 0% and 0% “price undercutting” cannot be termed “significant” to stand the scrutiny of section 15(3)(a).

“There is absence of concurrence between the “dumping period” and the duration of “price undercutting”, which is evidenced by no “price undercutting” having taken place during the last two quarters of the “dumping period”. The simultaneous incidence of diminishing price undercutting on the one hand and increasing imports on the other hand proves the absence of any direct relationship and hence the absence of causal link as well between price undercutting and imports. It is noteworthy that this price effect took place even in the period preceding “dumping” wherein it was visible in three out of nine quarters according to the Applicants.

Commission’s analysis showed that the domestic industry suffered on account of decline in profits and profitability (paragraph 32 infra).

The Commission has analysed the volume of dumped imports in accordance with the Section 15(2) of the Ordinance and has determined that the dumped imports of the investigated increased significantly in absolute as well as relative to the domestic production of the domestic like product during the POI (paragraph 26 infra).

The Commission has examined price effects in accordance with Section 15 of the Ordinance. Analysis of the Commission has revealed that the domestic industry has suffered material injury on account of price undercutting as dumped imports of the investigated product significantly undercut prices of the domestic like product during the POI (paragraph 27.2 infra).

The Commission has examined and analysed the casual relationship between dumping of the investigated product and material injury to the domestic industry in accordance with the Section 18 of the Ordinance. The Commission has determined that there was a causal relationship between dumping of the investigated

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“Thus within the meaning of section 15(3)(a) of the Ordinance price undercutting as revealed by the foregoing analysis cannot be linked to and said to be caused “by the dumped imports”, nor can be called “**significant price undercutting**” as elaborated above.

product and material injury to the domestic industry and dumped imports of PSF were the major cause of material injury during the POI (paragraphs 39 and 40 infra).

**“Price Depression**

“We would like to underline this effect (conveniently omitted by the Applicants) as recorded in the Initiation Memo (page 176 of the public file) on the basis of the Applicants’ data. The weighted average ex-factory price of PSF during the different periods of investigation indicates that the domestic industry did not face price depression during the period of investigation for dumping.”

The Commission has analysed price depression of the domestic like product and has determined that the domestic industry did not suffer material injury on account of price depression (paragraph 27.3 infra)

**“Volume Effect**

“The term “*increase in dumped imports*” means an increase in volume of “dumped” imports after the onset of alleged dumping *i.e.* it has to be seen whether there has been a significant increase in “dumped” imports within the Period of Investigation for Dumping. The stipulation in section 15(2) does not imply a comparison of volume of “dumped” imports with imports simpliciter that took place in the pre-“dumping” period. On this point, the WTO law and the jurisprudence that has developed are clear that it is trends within, rather than differences at the beginning of the Period of Investigation for Dumping, that are to be considered. Likewise, section 15(2) concerns itself with the increase in imports after the alleged onset of dumping, and is not concerned with the level at which the alleged dumping began. Dumping as per the Ordinance means import of a product “at a price which is less than its normal value” and has no reference to quantity as regards its establishment.”

The Commission has conducted an objective and unbiased examination of the volume of dumped imports in terms of Section 15(2) of the Ordinance and has determined that the dumped imports of the investigated product significantly increased in absolute terms and relative to the domestic production of the domestic like product during the POI (paragraph 26 infra).

**“Increase in Absolute Terms**

“..... “dumped” imports showed notable increase only once during the Period of Investigation for Dumping in Q3 when they increased **431.74%**. The increase for Q4–2005 was a miniscule **1.65%**. In Q1–2006 “dumped” imports **declined** by **12.55%**. These increases are insignificant compared with increases of imports simpliciter by **7900.00%** and **5218.75%** in the Period of Investigation for Injury during Q1–2004 and Q1–2005.

“On the whole imports during the full Period of Investigation for Dumping [a consideration not required by section 15(2)] increased less than not an unusual, **ten** times compared with imports during the 1st year of the Period of Investigation for Injury. (If at all made, a comparison with the 1st year of the Period of Investigation for Injury is objective and fair, in view of the 2nd year being a freakish year due to the bumper cotton crop factor and consequent change in the pattern of PSF consumption, when there was a 35-fold increase.)

Thus the totality of trends indicates that the alleged dumped imports show **no significant increase in absolute terms** during the Period of Investigation for Dumping.”

**“Increase Relative to Production**

“After the commencement of alleged dumping, the **increase**

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in “dumped” imports relative to production was **4.93%** and **0.51%** during Q3 and Q4—2005. A **decrease of 0.10%** took place in Q1—2006. The production figures of the Applicants as per their data (Appendix 7 of the Application) for these periods were 114115, 107324 and 95211 tons. The corresponding percentages for rise/fall in **production** were **15.36% rise, 5.95% fall** and a further **11.29% fall**.

“It is to be noted that an artificially **inflated figure** of **4.93%** for increase in imports relative to production is indicated as, unrelated to imports there were factors that brought about a decline in Applicants’ production. These factors disable any fair and objective assessment of increase in imports relative to production. The Commission is requested to discount the effect of these factors for bringing about a decline in the Applicants’ production as required by different provisions of the Ordinance mentioned hereunder. The factors include:-

“the change in PSF consumption pattern as a result of contraction in PSF demand [section 18(3)(b)], reduced/ zero PSF production by ICI in Q4—2005. ICI in its Report of the Directors (Annual Report 2005, page 9) mentions, “Overall, production volume at 94,412 tonnes was 16% lower than last year mainly because of a temporary reduction in production rates during first quarter in order to manage excessive inventory build-up due to lower demand and rescheduled plant shutdown (planned for 2006) in the fourth quarter for de-bottlenecking of the polymer plant”., the decline in exports of the Applicants during the Period of Investigation for Dumping over that for Injury [section 18(3)(e)] (see Item 21, page 43) the further reduction in operations resulting from announced impending change in tariff structure. ...., impact on PSF demand as a result of 13.1% Anti-Dumping Duty. According to ICI (Report of the Directors, Annual Report 2005, pages 8 & 9) “ ... in Pakistan the PSF demand contracted by 19%, primarily as a reason of bumper cotton crop in 2004-2005 that encouraged spinners to switch to cotton rich textiles. **Demand was further impacted** by a 13.1% anti-dumping duty imposed on bedlinen exports from Pakistan to the European Union.” (Emphasis added) the non-availability of duty drawbacks on purchases from the Applicants, disintitling them to compete with DTRE purchases and which even otherwise also impacted production.....”

#### **“Increase Relative to Consumption**

“After the commencement of alleged dumping, the **increase** in “dumped” imports relative to consumption was **3.62%** and **1.37%** during Q3 and Q4—2005. A **decrease of 0.92%** took place in Q1—2006. The corresponding percentages for rise/fall in consumption were **43.75%, minus 20.29%** and **2.27%**.

“It is to be noted that PSF consumption was inversely proportional to the increased volume of cotton consumption (see Item 6, page 7). Thus as a result of the bumper cotton crop there was a greatly reduced demand for PSF which calls for being considered under sections 18(2) and 18(3)(b).

“The Commission is urged to examine “other” factors pointed out including the “Contraction in Demand” for PSF enumerated

The Commission has examined other factors, including the factors identified by the APTMA, in accordance with Section 18 of the Ordinance and has determined that other factors were not the major cause of material injury to the domestic industry during the POI (paragraph 40 infra)

Section 15 (2) of the Ordinance requires the Commission to consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production of the domestic like product or consumption in the country. The Commission has determined volume of dumped imports with respect to the production of the domestic like product (paragraph 26 infra).

under section 18(3)(b) and the Applicants' price-fixing and other "Trade Restrictive Practices" enumerated under section 18(3)(c) as causative factors for injury to the Applicants and in terms of section 18(2) not to attribute to the imports under consideration, the resultant injury while reviewing volume and price effects under section 15 of the Ordinance."

**"Market Share**

"The Applicants have presumptuously arrogated imports made during the period, as their lost sales and market share and further claimed a loss of Rs.2382.3m as turnover (page 35 of the Application). The Applicants have based their above-mentioned claims on the basis of import figures wherein the inadmissible DTRE quantities have been included for considerations of dumping. In claiming lost sales, the Applicants have wrongly equated *loss of opportunity* with *actual loss*. As imports do not represent lost sales of the Applicants (see Item 7 on page 9) their claims of lost sales and market share based on this presumptuous logic, have no basis whatsoever and the Commission is requested to reject them."

**"Utilization of Production Capacity**

"The Applicants' presentation of data for the years 2003 to 2005 on a calendar year basis is deceptive and is not distinctively representative of the Periods of Investigation for injury and dumping. This fudging does not give the exact figure for the period of investigation for dumping nor does it permit correct comparisons of capacity utilization during the period of investigation for dumping with the capacity utilization during the preceding two years' reference period of investigation for injury. It very effectively conceals the fall in capacity utilization prior to the alleged dumping period and indicates a fall of only 1% during this period whereas the actual fall is a whopping 12.17%.

"The onset of under utilization of capacity preceded the alleged dumping and therefore on the basis of the "Principle of Concurrent Injury" this under-utilization cannot be attributed to alleged dumped imports. The incidence of alleged dumped imports does not coincide with the claimed negative development of the financial/economic situation of the Applicants as reflected by the fall in their capacity utilization and therefore a causal relationship between imports and injury cannot be considered for being examined as to its presence or absence.

"The Applicants have been unable to attribute the fall in utilization of production capacity to the meager amount of alleged dumped imports, and have explained that only "5% of the utilization would have been recovered if dumping had not occurred". The Applicants have acknowledged the "contraction in the market size caused by lower domestic demand" as a cause of under utilization of production capacity.

"The distinctive figures for capacity utilization given by the National Tariff Commission in its "Initiation Memo" for the Periods of Investigation for dumping and injury clearly illustrate that the onset of retardation in capacity utilization

The Commission has examined and analysed other factors including the contraction in demand during the POI in accordance with Section 18 of the Ordinance (paragraph 40 infra).

The Commission has determined market share of the domestic like product on the basis of its actual sales and the market share of the investigated product on the basis of its actual imports during the POI (paragraph 28 infra). The Commission has also addressed the issue of imports under DTRE scheme (paragraphs 26 and 28 infra).

The Commission has determined production of the domestic like product and the capacity utilization by the domestic industry on the basis of the actual production during the POI (paragraph 30 infra). The Commission has determined that the domestic industry suffered material injury on account of production and capacity utilization.

The Commission has also examined the contraction in demand of PSF during the POI. Investigation of the Commission revealed that domestic market of PSF contracted by 5.21 percent in the year 2004-05, however, in the year 2005-06 (the POI for dumping) domestic market increased by 1.72 percent over the market of the

commenced and assumed substantial proportion prior to the commencement of the alleged dumping in the second quarter of 2005. This data explicitly indicates that the causative factors for the continuous decline of the Applicants' industrial capacity were other than imports. It is pertinent to mention that the market share of the imported investigated product was less than 0.1% prior to the second quarter of 2005. The onset of imports assuming a sizable market share was only in the second quarter of 2005. Thus there was no link between the rising imports that commenced only in the second quarter of 2005 and the decline of the market share that as per the Applicants' claim began taking place a lot earlier, viz., 2003-04."

**"Sales**

"The Applicants while claiming that *"Dumping has had an immediate impact on the Applicants' domestic sales"* (page 14 of the Applicants' Summary), have not quantified or stated in monetary terms on the basis of the financial statements of their undertakings, the decline in sales suffered by them.

"The Applicants have arrogated as their lost sales the imports of 28,418,794 kgs made during the period of investigation for dumping which include DTRE imports that were proscribed from entering the domestic market and are inadmissible for considerations of dumping as per the terms of the Ordinance and the WTO Anti-Dumping Agreement. On the basis of this make believe quantity the Applicants have concocted *"a loss in sales revenue of Rs. 2,382.3m ..."*

"A look at the financial statements of the Applicants completely negates the Applicants' aforesaid claim that *"Dumping has had an immediate impact on the Applicants domestic sales"*.

"*"Other"* causal factors for reduced sales of the Applicants besides the bumper cotton crop include the non-availability of duty drawbacks on purchases from the Applicants,..... disintitling them to compete with DTRE purchases and which even otherwise also impacted the Applicants' sales. The well-performing 'indifferent industry' also contributed to the fall in sales of the Applicants. The decrease in market share of the 'indifferent industry' was only 0.03%, whereas the decrease in market share of the Applicants was 4.50%, indicating that the 'indifferent industry' held steady at the expense of the Applicants, which reflected on the Applicants' sales....."

**"Factors Affecting Domestic Prices [Section 17(1)(b)]**

**"Price fixing** has a multifarious effect on domestic prices. However, the one that distorts equilibrium the most is the fixing of PSF prices relative to availability in the market whereby prices of PSF are kept high when inventories of consumers/purchasers of PSF are low and purchasers have to take buying decisions. These high prices act as a deterrent for purchasers to give preference to purchases from the domestic industry. Likewise, when stocks arrive in ports and there is no dearth of PSF, the domestic industry price- fixers bring down the prices, but to no avail to them as there is greatly reduced

year 2004-05 (paragraph 40.4 infra). Capacity utilization by the domestic industry decreased by 12.17 percent 7.28 percent in the years 2004-05 and 2005-06 respectively (paragraph 30 infra). This shows that the decline in capacity utilization of the domestic industry during the POI was not only due to the contraction in market.

The Commission has determined sales of the domestic like product on the basis of actual domestic sales of the Applicants (paragraph 29 infra).

The Commission has analysed the imports under DTRE scheme in accordance with the provisions of the Ordinance (paragraphs 26 and 28 infra).

The Commission has examined and analysed other factors in accordance with Section 18 of the Ordinance (paragraph 40 infra). The indifferent units were requested for necessary information but it did not supply. Material injury to the domestic industry is determined on the basis of the information supplied by the Applicants (paragraph 24 infra).

No comments. The Commission has nothing to do with price fixation by the Applicants. However, the Commission's investigation has revealed that there was a price competition between Applicants units and between the domestic like product and the investigated product.

demand by then. Thus price fixing has a negative effect on the well-being of the Applicants.”

**“Inventories [Section 17(1)(d)]**

“The Applicant’s claim of erratic inventory movement is frivolous and at variance with facts.

“All the increase in inventory from 25,268,000 kgs to 52,689,000 kgs took place during the two years preceding the period of investigation for dumping. The Applicants’ cavil that inventory levels during the period of investigation for dumping were much higher than during 2003 and 2004 is misleading. The levels were higher but only at the commencement of the period of investigation for dumping because of the earlier accumulated stocks which were rather consumed during the period of investigation for dumping, at the end of which the inventory level fell to 49,842,000 kgs from the initial level of 52,680,000 kgs. It is clear that the inventory levels fell during the period of investigation for dumping.”

**“Profits**

“ICI’s gross profit (as per its Annual Report for the Year Ended 31 December 2005, page 90) for the year 2005 is higher than that for 2004. The figures are Rs. 396,271,000 and Rs. 355,169,000 respectively. Similarly, ICI’s gross profit for the six months ended 30 June 2006 is Rs. 288,556,000 Compared with a lower figure of Rs. 183,402,000 for the corresponding period of 2005. ICI’s operating result of Rs. 217m for 2005 was 38% higher than that for 2004. (ICI’s Annual Report 2005, page 9)

“Ibrahim Fibres’ gross profit for the nine months ended March 31, 2006 is Rs. 1,419,528,000 which is higher than the gross profit of Rs. 1,369,626,000 for the corresponding period of 2005. Thus it is clear beyond doubt that ICI’s and Ibrahim Fibres’ profits increased during the Period for Investigation for Dumping.

“Dewan Salman’s operating profit for the nine months ended March 31, 2006 is Rs. 600,861,000 which is higher than the figure of Rs. 569,060,000 for operating profit for the corresponding period for 2005. Dewan Salman’s gross profit declined from Rs. 967,312,000 to Rs. 908,827,000 in the above period during 2006 compared to the same period in 2005. As explained by Dewan Salman (on page 6 of its Annual Report 2005) this “Decreased (sic) in gross profit is due to increase in raw material prices and fuel oil prices”.

“The lone incidence of a small decline in Dewan Salman’s gross profit during the Period for Investigation for Dumping, admittedly “due to increase in raw material prices and fuel oil prices”, specially viewed in juxtaposition to an increase in its operating profit, is not an impediment in accordance with section 15(5) of the Ordinance, for a finding by the Commission of “no injury” with respect to profits to the applicant domestic industry as a whole.

“Based on the foregoing it is clear that the Applicants did not suffer any injury on account of profits.

The Commission’s investigation revealed that the domestic industry did not suffer material injury on account of inventories of the domestic like product (paragraph 31 infra).

The Commission has determined effect on profits for the domestic industry (the Applicant) on the basis of the basis of the information submitted by each Applicants unit for the sale and cost to make and sell of the domestic like product. Analysis of the information revealed that the domestic industry suffered material injury on account of profits and profitability (paragraph 32 infra).

**“Other Factors”**

“Even if flying in the face of facts the Applicants perceive any injury, the reasons could be found in their own statement (on page 31 of the Application) that *“The profitability of the PSF industry is dependent on a number of factors including the margins over the major raw materials PTA and MEG and level of sales in the domestic market”*. Further on the same page the Applicants have acknowledged lower sales as resulting in higher per unit fixed costs which in turn have restricted the profitability of the industry: *“...due to lower sales the plant operating rates were curtailed resulting in higher per unit fixed costs, further restricting the profitability of the industry.”* It is to be noted that the causative factor for higher per unit fixed cost which in the perception of the Applicants reduced its profitability, was “lower sales” according to the Applicants. In this regard it is to be borne in mind that “lower sales” were brought about by a change in consumption pattern of PSF on account of the bumper cotton factor which is acknowledged by the Applicants to be responsible for a 9% contraction out of a total of 13% contraction. Even assuming for the sake of argument the Applicants’ assessment, the admitted proportion of “lower sales” as a result of the bumper cotton crop comes to 69.23%. For the remaining 30% “lower sales” there are a host of contributory causes, principally the ones that have been admitted to be so by the Applicants.

“Speaking for the industry ICI has acknowledged a negative impact on industry profitability due to reduction in net effective protection available to the PSF manufacturers from 8.5% to 6.5% (ICI Report of the Directors, Annual Report 2005, page 9). ICI has also acknowledged the negative effect of the removal of drawback available on purchase of PSF from the Applicants.

“Dewan Salman has attributed decrease in gross profit to increase in raw material prices and fuel oil prices. (Annual Report 2005, page 6).

“Besides the bumper cotton crop factor that impacted on profits, the well-performing ‘indifferent industry’ operated to the detriment of the Applicants. The decrease in market share of the ‘indifferent industry’ was only 0.03%, whereas the decrease in market share of the Applicants was 4.50%, indicating that the ‘indifferent industry’ held steady at the expense of the Applicants, which reflected on the Applicants’ profitability.

“The impact on PSF demand as a result of 13.1% Anti-Dumping Duty reflected on the profitability of the Applicants.”

**“Cash Flow**

“The Applicants (on page 32 of the Application) have claimed that *“Cash flow of the industry lost out Rs. 518.2m calculated above due to loss of sales to the dumped imports”*.

“The Applicants have based their calculations of a loss of Rs. 518.2m on the basis of arrogating alleged dumped imports and imports inadmissible for considerations of dumping as their lost sales which is not the case ..... Actual negative impact on cash flow is entirely different from perceived loss.

The Commission has determined material injury to the domestic industry in accordance with Part VI of the Ordinance. Investigation revealed that the domestic industry suffered on account of volume of dumped imports of the investigated product, price undercutting, price suppression, loss in market share, decline in sales, decline in profits/profitability, negative effect on productivity and wages and decline in return on investment.

The Commission has also examined and analysed other factors, including the factors identified by the APTMA (paragraph 40 infra).

After investigation, the Commission has determined that, during the POI, the domestic industry suffered material injury due to dumped imports of the investigated product. Other factors were not the major cause of material injury to domestic industry during the POI.

The Commission requested the indifferent units for necessary information, which it did not supply. Material injury to the domestic industry in this investigation is determined on the basis of Applicants information (paragraph 24 infra).

The Commission has determined effect on cash flows of the domestic industry on the basis of actual cash inflows/ outflows on its operations for the purposes of production and sales the domestic like product during the POI. The Commission has determined that the domestic

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As far as actual cash generation is concerned, the alleged dumped imports did not have any negative impact on it. In the absence of any specific claim based on documented figures, any claim of loss with regard to cash flow is untenable and eludes an evaluation by the Commission in terms of section 17 of the Ordinance and does not qualify for being given any consideration under section 18 *ibid*.

**“Employment and Staff Cost**

“The data exhibited by the Applicants shows variations of staff cost relative to staff strength that are usual in commercial operations e.g. for the year 2005 over 2004, Dewan Salman’s data indicates a decrease in staff cost to Rs. 377.4m from Rs. 400.3m, while that of Ibrahim Fibres shows an increase to Rs. 264.7m from Rs. 234.5m. There are minor variations in staff cost which admittedly, “has grown both in line with market conditions and inflation”, (page 33 of the Application).”

**“Productivity**

“The Applicants (on page 33 of the Application) have claimed decrease in productivity (measured as ratio of number of employees to production) to have been “*mainly caused by dumping*”.

“The Applicants have not supported their claim with figures for output and other relevant data to enable an evaluation or consideration of their claim. The graph in the Application proffering to indicate productivity does not depict the variables and is vague and misleading.

“Falling productivity has not been a cause for concern to the Applicants. This is evidenced by the increase, as indicated on page 12 of the Initiation Memo, in the number of employees during the period of investigation for injury when productivity fell by almost 15 tons per worker. A fall in productivity of a lesser magnitude of 11.34 tons per worker that took place during the Period of Investigation for Dumping does not therefore entitle the Applicants to any cause for complaint of injury.”

**“Growth and Ability to Raise Capital/Investments**

“The Applicants have claimed as follows on page 18 of the Summary.

“Given the contraction in sales and market share as a result of dumping coupled with the threat of further dumping given the excess capacity in the Exporting Countries and the real likelihood that these will be dumped in Pakistan which is a low tariff market, there is little likelihood of further growth and investment in the industry, which is unlikely to attract capital for the same reason. It is pertinent (sic) that one of the Applicants, Ibrahim Fibres Limited, had planned a capacity expansion in 2008 of 210 KTPA costing USD 100m, which has now been postponed pending revival of the market and a complete end to dumping. The claim of negative effect with respect to “further growth and investment” under threat of “further dumping ... and the real likelihood that these will be dumped in Pakistan which is a low tariff market ..” makes it

industry did not suffer material injury on account of cash flows during the POI (paragraph 33 *infra*).

The Commission has examined and analysed effect on employment and salaries and wages and has determined that the domestic did not suffer injury on account of employment. However, it suffered material injury on account of payment of salaries and wages (paragraph 34 *infra*).

The Commission’s investigation has revealed that the domestic industry suffered injury on account of productivity (paragraph 34 *infra*).

The Commission has not investigated threat of material injury to the domestic industry. Investigation of the Commission has shown that the domestic industry did not suffer material injury on account of growth, investment and ability to raise capital during the POI (paragraphs 36 and 37 *infra*).



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clear that the Applicants concede 'no injury' with respect to at least **actual** negative effect on growth and ability to raise capital....."

**"Export Performance** [Section 18(2) read with section 18 (3)(e)]

"Performance of the Applicants in an area where no dumping factor was present is indicated by its export sales which have fallen by 16.66% during the period of investigation for dumping. During the same period the Applicants local sales fell only by 2.65%. Poor export performance has reflected on the Applicants' capacity utilization, profits, cash flow and productivity amongst others."

The Commission has analysed other factors including the export performance of the domestic industry and has determined that decline in exports of the domestic like product during the POI was not a major cause of injury to domestic industry (paragraphs 40.8 to 40.10 infra).

**"Causation** [Section 18]

"The Commission is urged to examine under section 18 each of the "other" injury factors given hereunder and apportion their effect on any injury suffered by the Applicants so that injuries caused by such other factors are as per the requirement of section 18(2) not attributed to alleged dumped imports.

The Commission has determined that there was a causal relationship between dumped imports of the investigated product and material injury suffered by the domestic industry during the POI (Section D infra).

"In this context it is pointed out that the Applicants have claimed that, *"The total volume lost to cotton in 2005 was 45,930,446 kgs, a 9% contraction. However, the domestic manufacturers lost out a total of 63,402,000 kgs in 2005, which is a 13% contraction, as the imports of PSF also increased significantly despite the bumper cotton crop"*. (page 28 of the Application.) Meaning thereby that the cause for the remaining 4% of the contraction complained of is to be apportioned at least as per the Applicants, between imports as well as other causes acknowledged by the Applicants....."

In accordance with Section 18 of the Ordinance, the Commission has also examined and analysed factors other than dumped imports of the investigated product, which at the same time were causing injury to the domestic industry during the POI (paragraph 40 infra).

**v. Views/Comments of Other Interested Parties (Importers/Users of PSF)**

Following twelve interested parties submitted same/similar views/ comments on the application. Views/comments which do not directly relate to this investigation, are reproduced below:

- i. Gadoon Textile Mills Limited, Karachi;
- ii. Gul Ahmed Textile Mills Limited, Karachi;
- iii. International Textile Limited, Karachi;
- iv. Olympia Textile Mills Limited, Lahore;
- v. Shams Textile Mills Limited, Lahore;
- vi. Ashiana Cotton Products Limited, Lahore;
- vii. Shahzad Textile Mills Limited, Lahore;
- viii. Shaheen Cotton Mills Limited, Lahore;
- ix. Khawaja Spinning Mills Limited, Lahore;
- x. Blessed Textiles Limited, Lahore;
- xi. Gulistan Textile Mills Limited, Lahore;
- xii. Ahmed Fine Textiles Mills Limited, Multan;

- "1. Use of man made Fiber in Pakistan Textile Industry is already very low as Pakistan is non-competitive in this field at the prices presently charged by domestic PSF manufacturing industry.

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- “2. Imposition of anti dumping duty will make Pakistan further non competitive and will further reduce use of PSF and will also reduce our textile exports.
- “3. The entire exercise of imposing antidumping duty is self defeating because it will reduce use of PSF reducing PSF production and therefore producer profitability thus, starting a negative spiral. (Already, there is an increasing trend of PSF blended Yarn imports because Yarn can be imported under DTRE scheme).
- “4. Reduced use of PSF will increase our dependence on cotton (which is already in short supply) increasing imports of cotton and further pressuring entire textile chain.”

## **B. DETERMINATION OF DUMPING**

### **16. Dumping**

16.1 In terms of Section 4 of the Ordinance dumping is defined as follows:

“an investigated product shall be considered to be dumped if it is introduced into the commerce of Pakistan at a price which is less than its normal value”.

### **17. Normal Value**

17.1 In terms of Section 5 of the Ordinance “normal value” is defined as follows:

“a comparable price paid or payable, in the ordinary course of trade, for sales of a like product when destined for consumption in an exporting country”.

17.2 However, Section 6 of the Ordinance states:

“(1) when there are no sales of like product in the ordinary course of trade in domestic market of an exporting country, or when such sales do not permit a proper comparison because of any particular market situation or low volume of the sales in the domestic market of the exporting country, the Commission shall establish normal value of an investigated product on the basis of either:

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- “a) the comparable price of the like product when exported to an appropriate third country provided that this price is representative; or
- “b) the cost of production in the exporting country plus a reasonable amount for administrative, selling and general costs and for profits.

“(2) Sales of a like product destined for consumption in domestic market of an exporting country or sales to an appropriate third country may be considered to be a sufficient quantity for the determination of normal value if such sales constitute five per cent or more of the sales of an investigated product to Pakistan:”.

17.3 Ordinary course of trade is defined in Section 7 of the Ordinance as follows:

“(1) The Commission may treat sales of a like product in domestic market of an exporting country or sales to a third country at prices below per unit, fixed and variable, cost of production plus administrative, selling and other costs as not being in the ordinary course of trade by reason of price and may disregard such sales in determining normal value only if the Commission determines that such sales were made -

- “(a) within an extended period of time which shall normally be a period of one year and in no case less than a period of six months;
- “(b) in substantial quantities; and
- “(c) at prices which do not provide for the recovery of all costs within a reasonable period of time.

“(2) For the purposes of sub-clause (b) of sub-section (1), sales below per unit cost shall be deemed to be in substantial quantities if the Commission establishes that -

- “(a) a weighted average selling price of transactions under consideration for the determination of normal value is below a weighted average cost; or
- “(b) the volume of sales below per unit cost represents twenty per cent or more of the volume sold in transactions under consideration for the determination of normal value.

“(3) If prices which are below per unit cost at the time of sale are above the weighted average cost for the period of investigation, the Commission shall consider such prices as providing for recovery of costs within a reasonable period of time.”

**18. Export Price**

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The “export price” is defined in Section 10 of the Ordinance as “a price actually paid or payable for an investigated product when sold for export from an exporting country to Pakistan”.

## **19. Dumping Determination**

19.1 As stated earlier (paragraph 5 supra) the Applicant identified twelve exporters/foreign producers from the Exporting Countries involved in alleged dumping of the investigated product. The Commission sent questionnaires to gather information from those ten exporters/foreign producers whose complete addresses were available with the Commission (paragraph 10.1 supra). Questionnaire was also provided to the Embassies of the Exporting Countries in Islamabad with a request to forward it to all exporters/foreign producers, based in the Exporting Countries, of the investigated product to submit information to the Commission.

19.2 Five exporters/foreign producers (Indorama and Polysindo from Indonesia, Huvis from Korea and Thai Polyester Co. Ltd., and Kangwal from Thailand) provided information in response to the questionnaire, (paragraph 10.2 supra). Dumping margins in this preliminary determination are determined on the basis of the information provided by the above mentioned exporters/foreign producers.

## **20. Determination of Normal Value**

20.1 The Commission received information on domestic sales and cost of production etc. of the like product from the five exporters/foreign producers (paragraph 10.3 supra) in responses to the questionnaire. Normal value in this preliminary determination has been determined on the basis of that information.

### **20.2 Determination of Normal Value for Indorama, Indonesia**

20.2.1 Normal value for Indorama is determined on the basis of the information provided by it on its domestic sales made during the POI (provided in Attachment D-3 of the questionnaire response).

20.2.2 According to the information, during the POI, Indorama sold different types (cotton type, rayon type and non-woven) and deniers (1.25, 1.30, 1.40) of PSF in its domestic market including the types, which were alike to the types of the investigated product (PSF 1.25 denier of cotton type and 1.25 denier rayon type). For the purposes of like to like comparison, normal value is determined separately for each type and denier to compare with the respective type of the investigated product.

20.2.3 During the POI, P.T Indorama produced and sold only semi-dull PSF in its domestic as well as in international market. All its sales of PSF in domestic market were to un-related parties.

20.2.4 Indorama sold \*\*\*\*4 kilograms (“Kg”) of PSF of different deniers and types in its domestic market during the POI. These sales are in sufficient quantities to determine normal value in terms of Section 6(2) of the Ordinance, as these are more than 5 percent of the export sales of the investigated product exported by it to Pakistan during the POI.

20.2.5 Indorama exported 1.25 denier cotton type and 1.25 denier rayon type of the investigated product to Pakistan during the POI. Analysis of Indorama’s domestic sales revealed that it did not sell PSF 1.25 denier rayon type in its domestic market during the POI. Normal value for the PSF 1.25 denier cotton type has been determined on the basis of the domestic sales, whereas normal value for the PSF 1.25 denier rayon type has been determined on the basis of its cost to make and sell (provided in Appendix 2 of the Questionnaire).

20.2.6 Section 7 of the Ordinance requires the Commission to determine ordinary course of trade for domestic sales. In determination of normal value for the above-mentioned type, the Commission has disregarded sales, which were not in the ordinary course of trade in terms of Section 7 of the Ordinance.

20.2.7 To arrive at the ex-factory price of domestic sales, Indorama has reported adjustments on account of credit cost, bank charges, discount, and freight. The Commission has accepted these adjustments and the normal value at ex-factory level is worked out by deducting values reported for these adjustments from the gross value of sales transactions. Calculations of normal value are placed at Annexure II (Annexure omitted due to confidentiality).

### **20.3 Determination of Normal Value for Polysindo, Indonesia**

20.3.1 Normal value for Polysindo is determined on the basis of the information provided by it on its domestic sales made during the POI (provided in Attachment D-3 of the questionnaire response).

20.3.2 According to the information, during the POI, Polysindo sold different types (grade A, B, C and off grade) and deniers (1.00, 1.20, 1.40, 2.50, 3.00, 6.00 and 7.00) of PSF in its domestic market including the type, which was alike to the type of the investigated product (PSF 1.20 denier grade A). For the purposes of like to like comparison, normal value is determined separately for each type and denier to compare with the respective type and denier of the investigated product.

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<sup>4</sup> Actual figures have been omitted to maintain confidentiality.

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20.3.3 During the POI, Polysindo produced and sold only semi-dull PSF in its domestic as well as in international market. All its sales of PSF in the domestic market were to un-related parties.

20.3.4 Polysindo sold \*\*\* Kg of PSF of different deniers and types in its domestic market during the POI. These sales are in sufficient quantities to determine normal value in terms of Section 6(2) of the Ordinance, as those are more than 5 percent of the export sales of the investigated product exported by it to Pakistan during the POI.

20.3.5 Polysindo exported only 1.20 denier grade A type of the investigated product to Pakistan during the POI. Normal value for PSF 1.20 denier grade A has been determined on the basis of the domestic sales. Section 7 of the Ordinance requires the Commission to determined ordinary course of trade for domestic sales. In determination of normal value for the PSF 1.20 denier grade A, the Commission has determined that all domestic sales of this type of PSF were in the ordinary course of trade in terms of Section 7 of the Ordinance.

20.3.6 To arrive at the ex-factory price of domestic sales, Polysindo has reported adjustments on account of credit cost and freight. The Commission has accepted these adjustments and the normal value at ex-factory level is worked out by deducting values reported for these adjustments from the gross value of sales transactions. Calculations of normal value are placed at Annexure III (Annexure omitted due to confidentiality).

#### **20.4 Determination of Normal Value for Huvis Corporation, Korea**

20.4.1 Normal value for Huvis is determined on the basis of the information provided by it on its domestic sales made during the POI (provided in Attachment D-3 of the questionnaire response).

20.4.2 According to the information, during the POI, Huvis sold different types (Dope dyed, Regular spinning, Thermal bonding, Anti-pilling, Cation dyable, Conjugate, Cool-ever, Flame retardent, Flat, Full dull, High shringkage, Hydrohillic, Low melting, Micro-mono, Miranave (bio-helth), Polytrimethylene terephthlate and Regular solid) and deniers (ranging between 0.70 to 2.00 denier) of PSF in its domestic market including the types, which were alike to the types of the investigated product (PSF Dope dyed 1.50 denier, Regular spinning bright 1.20 denier, Regular spinning optical bright 1.20 denier, Regular spinning semi-dull 1.20 denier and Regular spinning semi-dull 1.40 denier). For the purposes of like to like comparison, normal value is determined separately for each type and denier to compare with the respective type of the investigated product.

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20.4.3 During the POI, Huvis sold PSF in its domestic market to related and un-related customers. However, the PSF, which was alike to the investigated product, was sold only to the un-related customers.

20.4.4 Huvis sold \*\*\* Kg of PSF of different deniers and types in its domestic market during the POI. These sales are in sufficient quantities to determine normal value in terms of Section 6(2) of the Ordinance, as those are more than 5 percent of the export sales of the investigated product exported by it to Pakistan during the POI.

20.4.5 Huvis exported Dope dyed 1.50 denier, Regular spinning bright 1.20 denier, Regular spinning optical bright 1.20 denier, Regular spinning semi-dull 1.20 denier and Regular spinning semi-dull 1.40 denier types of the investigated product to Pakistan during the POI. Normal value for these types has been determined on the basis of the domestic sales. Section 7 of the Ordinance requires the Commission to determine ordinary course of trade for domestic sales. In determination of normal value for the above-mentioned types, the Commission has disregarded sales, which were not in the ordinary course of trade in terms of Section 7 of the Ordinance.

20.4.6 To arrive at the ex-factory price of domestic sales, Huvis has reported adjustments on account of credit cost, bank charges, and freight. The Commission has accepted these adjustments and the normal value at ex-factory level is worked out by deducting values reported for these adjustments from the gross value of sales transactions. Calculations of normal value are placed at Annexure IV (Annexure omitted due to confidentiality).

## **20.5 Determination of Normal Value for Thai Polyester Company, Thailand**

20.5.1 Normal value for Thai Polyester Company is determined on the basis of the information provided by it on its domestic sales made during the POI (provided in Attachment D-3 of the questionnaire response).

20.5.2 According to the information, during the POI, Thai Polyester Company sold different types (grade A1, A3, C0 and D0) and deniers (1.20 and 1.30) of PSF in its domestic market including the types, which were alike to the types of the investigated product (PSF 1.20 denier grade A1 and 1.30 denier grade A1). For the purposes of like to like comparison, normal value is determined separately for each type and denier to compare with the respective type of the investigated product.

20.5.3 During the POI, Thai Polyester Company produced and sold only semi-dull type of the PSF in different grades. It sold PSF in its domestic market to related and un-related customers. The investigation revealed that the PSF sold to related

customer was not at arms length, as it granted rebate during the POI to the related customer only. Thus, sales to related customer have not been taken into account in calculations of normal value.

20.5.4 Thai Polyester Company sold \*\*\* Kg of PSF of 1.20 and 1.30 deniers of different grades in its domestic market during the POI. These sales are in sufficient quantities to determine normal value in terms of Section 6(2) of the Ordinance, as those are more than 5 percent of the export sales of the investigated product exported by it to Pakistan during the POI.

20.5.5 Thai Polyester Company exported 1.20 denier grade A1 and 1.30 denier grade A1 types of the investigated product to Pakistan during the POI. Normal value for these has been determined on the basis of the domestic sales. Section 7 of the Ordinance requires the Commission to determined ordinary course of trade for domestic sales. In determination of normal value for the above-mentioned types, the Commission has disregarded sales, which were not in the ordinary course of trade in terms of Section 7 of the Ordinance.

20.5.6 To arrive at the ex-factory price of domestic sales, Thai Polyester Company has reported adjustments on account of credit cost, commission and freight. The Commission has accepted these adjustments and the normal value at ex-factory level is worked out by deducting values reported for these adjustments from the gross value of sales transactions. Calculations of normal value are placed at Annexure V (Annexure omitted due to confidentiality).

## **20.6 Determination of Normal Value for Kangwal, Thailand**

20.6.1 Normal value for Kangwal is determined on the basis of the information provided by it on its domestic sales made during the POI (provided in Attachment D-3 of the questionnaire response).

20.6.2 According to the information, during the POI, Kangwal sold different types (grade A, B and C) and deniers (0.85, 0.90, 1.00, 1.20, 1.30, 1.35 and 1.40) of PSF in its domestic market including the types, which were alike to the types of the investigated product (PSF 1.00 denier grade A, 1.20 denier grade A and 1.40 denier grade A). For the purposes of like to like comparison, normal value is determined separately for each type and denier to compare with respective type of the investigated product.

20.6.3 During the POI, Kangwal produced and sold only semi-dull type of the PSF in different grades. It sold PSF in its domestic market to related and un-related customers. However, the investigation revealed that the PSF sold to related customers was at arms length.



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20.6.4 Kangwal sold \*\*\* Kg of PSF of different deniers and different grades in its domestic market during the POI. These sales are in sufficient quantities to determine normal value in terms of Section 6(2) of the Ordinance, as those are more than 5 percent of the export sales of the investigated product exported by it to Pakistan during the POI.

20.6.5 Kangwal exported 1.00 denier grade A, 1.20 denier grade A and 1.40 denier grade A types of the investigated product to Pakistan during the POI. Normal value for 1.00 denier grade A and 1.20 denier grade A types has been determined on the basis of domestic sales and normal value for 1.4 denier grade A type has been determined on the basis of cost to make and sell plus profits.

20.6.6 Section 7 of the Ordinance requires the Commission to determine ordinary course of trade for domestic sales. The investigation revealed that all domestic sales of 1.40 denier grade A during the POI were not in ordinary course of trade in terms of Section 7 of the Ordinance. Normal value for this type has been determined on the basis of cost to make and sell plus profits (provided by Kangwal in Appendix 2 of the questionnaire). In determination of normal value for 1.00 denier grade A and 1.20 denier grade A types, the Commission has disregarded sales which were not in ordinary course of trade in terms of Section 7 of the Ordinance.

20.6.7 To arrive at the ex-factory price of domestic sales, Kangwal has reported adjustments on account of credit cost and freight. The Commission has accepted these adjustments and the normal value at ex-factory level is worked out by deducting values reported for these adjustments from the gross value of sales transactions. Calculations of normal value are placed at Annexure VI (Annexure omitted due to confidentiality).

## **21. Determination of Export Price**

21.1 The Commission received information on export sales of the investigated product from five exporters/foreign producers (paragraph 19.2 supra) in responses to the questionnaire. Export price for the investigated product in this preliminary determination has been determined on the basis of the information provided by the exporters/foreign producers.

### **21.2 Determination of Export Price for Indorama, Indonesia**

21.2.1 Export price for Indorama is determined on the basis of the information provided by it on its export sales to Pakistan made during the POI (provided in Attachment C-3 of the questionnaire response).

21.2.2 According to the information, Indorama exported PSF semi-dull of 1.25 denier cotton type and 1.25 denier rayon type of the investigated product to Pakistan during the POI. Its total exports of the investigated product to Pakistan

during the POI were \*\*\* Kg. All export sales to Pakistan, during the POI, were to un-related parties.

21.2.3 During the POI, Indorama exported investigated product on C&F basis. To arrive at the ex-factory level, Indorama has reported adjustments on account of credit cost, bank charges, commission, inland freight in Indonesia, and ocean freight. The Commission has accepted these adjustments and the export price at ex-factory level is worked out by deducting values reported for these adjustments from the gross value of sales transactions. Calculations of export price for the above mentioned types of the investigated product are placed at Annexure VII (Annexure omitted due to confidentiality).

### **21.3 Determination of Export Price for Polysindo, Indonesia**

21.3.1 Export price for Polysindo is determined on the basis of the information provided by it on its export sales to Pakistan made during the POI (provided in Attachment C-3 of the questionnaire response).

21.3.2 According to the information, Polysindo exported PSF semi-dull of 1.20 denier grade A type of the investigated product to Pakistan during the POI. Its total exports of the investigated product to Pakistan during the POI were \*\*\* Kg. All export sales to Pakistan, during the POI, were to un-related parties.

21.3.3 During the POI, Polysindo exported investigated product on C&F basis. To arrive at the ex-factory level, Polysindo has reported adjustments on account of credit cost, bank charges, commission, inland freight in Indonesia, and ocean freight. The Commission has accepted these adjustments and the export price at ex-factory level is worked out by deducting values reported for these adjustments from the gross value of sales transactions. Calculations of export price for the above mentioned types of the investigated product are placed at Annexure VIII (Annexure omitted due to confidentiality).

### **21.4 Determination of Export Price for Huvis Corporation, Korea**

21.4.1 Export price for Huvis is determined on the basis of the information provided by it on its export sales to Pakistan made during the POI (provided in Attachment C-3 of the questionnaire response).

21.4.2 According to the information, Huvis exported PSF dope dyed 150 denier, regular spinning bright 1.20 denier, regular spinning optical bright 1.20 denier, regular spinning semi-dull 1.20 denier and regular spinning semi-dull 1.40 denier types of the investigated product to Pakistan during the POI.

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21.4.3 As per the information provided by Huvis total exports of the investigated product to Pakistan during the POI were \*\*\* Kg. The investigation, however, revealed that the information also included exports of 236 MT of the investigated product, which were in April 2006, out side the POI. These exports have not been taken into account in calculations of export price. Its all export sales to Pakistan, during the POI, were to un-related parties.

21.4.4 During the POI, Huvis exported investigated product on C&F basis. To arrive at the ex-factory level, Huvis has reported adjustments on account of credit cost, bank charges, handling cost, duty draw-back inland freight in Korea, and ocean freight. The Commission has accepted these adjustments and the export price at ex-factory level is worked out by deducting values reported for these adjustments from the gross value of sales transactions. Calculations of export price for the above mentioned types of the investigated product are placed at Annexure IX (Annexure omitted due to confidentiality).

#### **21.5 Determination of Export Price for Thai Polyester Company, Thailand**

21.5.1 Export price for Thai Polyester Company is determined on the basis of the information provided by it on its export sales to Pakistan made during the POI (provided in Attachment C-3 of the questionnaire response).

21.5.2 According to the information, Thai Polyester Company exported PSF semi-dull of 1.20 denier grade A1 and 1.30 denier grade A1 types of the investigated product to Pakistan during the POI. Its total exports of the investigated product to Pakistan during the POI were \*\*\* Kg. All export sales to Pakistan, during the POI, were to un-related parties.

21.5.3 During the POI, Thai Polyester Company exported investigated product on C&F basis. To arrive at the ex-factory level, Thai Polyester Company has reported adjustments on account of duty draw-back, credit cost, bank charges, commission, handling cost, inland freight in Thailand, and ocean freight. The Commission has accepted these adjustments and the export price at ex-factory level is worked out by deducting values reported for these adjustments from the gross value of sales transactions. Calculations of export price for the above mentioned types of the investigated product are placed at Annexure X (Annexure omitted due to confidentiality).

#### **21.6 Determination of Export Price for Kangwal, Thailand**

21.6.1 Export price for Kangwal is determined on the basis of the information provided by it on its export sales to Pakistan made during the POI (provided in Attachment C-3 of the questionnaire response).

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21.6.2 According to the information, Kangwal exported PSF semi-dull of 1.00 denier grade A, 1.20 denier grade A and 1.40 denier grade A types of the investigated product to Pakistan during the POI.

21.6.3 As per the information provided by Kangwal total exports of the investigated product to Pakistan during the POI were \*\*\* Kg. The investigation revealed that the information also included exports of 99.13 MT of the investigated product, which were in April 2006, out side the POI. These exports have not been taken into account in calculations of export price. Its all export sales to Pakistan, during the POI, were to un-related parties.

21.6.4 During the POI, Kangwal exported investigated product on C&F basis. To arrive at the ex-factory level, Kangwal has reported adjustments on account of duty draw-back, credit cost, bank charges, commission, handling cost, inland freight in Thailand, and ocean freight. The Commission has accepted these adjustments and the export price at ex-factory level is worked out by deducting values reported for these adjustments from the gross value of sales transactions. Calculations of export price for the above mentioned types of the investigated product are placed at Annexure XI (Annexure omitted due to confidentiality).

## **22. Dumping Margin**

22.1 The Ordinance defines “dumping margin” in relation to a product as “the amount by which its normal value exceeds its export price”. In terms of Section 14(1) of the Ordinance the Commission shall determine an individual dumping margin for each known exporter or producer of an investigated product. However, Section 14(2) provides that if the Commission is satisfied that the number of exporters, producers or importers, or types of products involved is so large as to make it impracticable to determine an individual dumping margin for each known exporter or producer concerned of an investigated product, the Commission may limit its examination to a reasonable number of interested parties or investigated products by using samples which are statistically valid on the basis of information available to the Commission at the time of selection, or to the largest percentage of volume of exports from the country in question which can reasonably be investigated.

22.2 Section 12 of the Ordinance provides three methods for fair comparison of normal value and export price in order to establish dumping margin. The Commission has established dumping margin by comparing weighted average normal value with weighted average export price at ex-factory level.

22.3 The Commission has also complied with the requirements of Section 11 of the Ordinance which states that “the Commission shall, where possible, compare export price and normal value with the same characteristics in terms of level of

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trade, time of sale, quantities, taxes, physical characteristics, conditions and terms of sale and delivery at the same place”.

22.4 The Commission has investigated all exporters from the Exporting Countries who cooperated and responded to the Commission’s questionnaire. Individual dumping margins for them have been determined and the antidumping duty rate for those exporters is established on the basis of individual dumping margins determined for each exporter (paragraphs 22.6 and 46 infra).

22.5 A residual dumping margin and antidumping duty rate for all other exporters from the Exporting Countries, who did not cooperate, is determined on the basis of best available information in terms of Section 32 of the Ordinance.

22.6 Taking into account all requirements set out above, the dumping margins have been determined as follows. Calculations of dumping margin are placed at Annexure XII (Annexure omitted due to confidentiality):

**Table-III  
Dumping Margin**

| S. No | Exporter Name                | Dumping margin as % of |                  | Anti-dumping duty rate |
|-------|------------------------------|------------------------|------------------|------------------------|
|       |                              | Adjusted export price  | C&F export price |                        |
| 1     | Indorama, Indonesia          | 0.58%                  | 0.54%            | 0.00                   |
| 2     | Polysindo, Indonesia         | 3.64%                  | 3.36%            | 3.36%                  |
| 3     | All others from Indonesia    | 3.64%                  | 3.36%            | 3.36%                  |
| 4     | Huvis Corporation, Korea     | 2.30%                  | 2.09%            | 2.09%                  |
| 5     | All others from Korea        | 2.30%                  | 2.09%            | 2.09%                  |
| 6     | Thai Polyester Co., Thailand | 4.63%                  | 4.35%            | 4.35%                  |
| 7     | Kangwal, Thailand            | 8.93%                  | 8.33%            | 8.33%                  |
| 8     | All others from Thailand     | 8.93%                  | 8.33%            | 8.33%                  |

### C. MATERIAL INJURY TO DOMESTIC INDUSTRY

#### **23 Determination of Injury**

23.1 Section 15 of the Ordinance sets out the principles for determination of material injury to the domestic industry and provides as follows:

“A determination of injury shall be based on an objective examination of all relevant factors by the Commission which may include but shall not be limited to:

“a. volume of dumped imports;

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- “b. effect of dumped imports on prices in domestic market for like products; and
- “c. consequent impact of dumped imports on domestic producers of such products...”

23.2 Section 15 of the Ordinance further provides that:

“ No one or several of the factors identified ..... shall be deemed to necessarily give decisive guidance and the Commission may take into account such other factors as it considers relevant for the determination of injury”.

23.3 The Commission has taken into account all known and relevant factors in order to determine whether the domestic industry suffered material injury during the POI. Material injury to the domestic industry has been analyzed in the following paragraphs in accordance with Part VI of the Ordinance.

#### **24. Domestic Industry**

24.1 In terms of Section 2(d) of the Ordinance, domestic industry is defined as follows:

““domestic industry” means the domestic producers as a whole of a domestic like product or those of them whose collective output of that product constitutes a major proportion of the total domestic production of that product, except that when any such domestic producers are related to the exporters or importers, or are themselves importers of the allegedly dumped investigated product in such a case “domestic industry” shall mean the rest of the domestic producers.”

24.2 As stated earlier (paragraph 2.3 supra) the domestic industry manufacturing domestic like product consists of the following five units:

- i. Dewan Salman Fibre Limited, Islamabad;
- ii. Ibrahim Fibre Limited, Faisalabad;
- iii. ICI Pakistan Limited, Lahore;
- iv. Rupali Polyester Limited, Lahore; and
- v. Pakistan Synthetics Limited, Karachi

24.3 Three of these five constitute the “Applicants” (mentioned at S. Nos. i., ii., and iii., above). The two other units that make up the entire domestic industry in Pakistan namely Rupali Polyester Limited, Lahore and Pakistan Synthetics Limited, Karachi are indifferent in this investigation, in that these two units have not responded in any manner including the notice of initiation or to the questionnaires sent subsequently. The information in case of these two units has been obtained

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from their published annual reports and accounts, provided by the Applicants to the Commission. Details of the production during FY 2003-04 and FY 2004-05 were as follows:

**Table-IV**

| Unit Name                   | FY 2004-05                  | FY 2003-04                  |
|-----------------------------|-----------------------------|-----------------------------|
|                             | % share in total production | % share in total production |
| Dewan Salman Fibre Limited  | 37.56%                      | 41.11%                      |
| Ibrahim Fibre Limited       | 22.19%                      | 19.67%                      |
| ICI Pakistan Limited        | 31.35%                      | 31.10%                      |
| Rupali Polyester Limited    | 5.18%                       | 4.15%                       |
| Pakistan Synthetics Limited | 3.72%                       | 3.97%                       |
| <b>Total</b>                | <b>100.00%</b>              | <b>100.00%</b>              |

24.4 According to the above information, the Applicants produced 91.88 percent and 91.10 percent of the total domestic production of the domestic like product during FY 2003-04 and FY 2004-05 respectively. The Commission’s investigation also revealed that neither any of the Applicants unit was themselves importer of the investigated product nor was related to the exporters involved in dumping of the investigated product into Pakistan.

24.5 On the basis of the above information and analysis, for the purposes of this investigation, the Applicants are considered as the “domestic industry” in terms of Section 2(d) of the Ordinance as they constitute a major proportion of the total domestic production of the domestic like product.

24.6 The other two indifferent units in the domestic industry (Rupali Polyester Limited and Pakistan Synthetics Limited), which represent about 9 percent of the total domestic production of the domestic like product, were asked to provide information on injury factors for the POI, but neither of them provided the requisite information despite reminders. The Commission obtained published annual reports and account of these units to get necessary information on injury factors for these units but was unable to do so due to the following:

- i. Both the units are multi product units<sup>1</sup> and published annual reports and accounts are consolidated for all products; and
- ii. Both the units have different accounting period (from July to June) than the POI for injury (from April to March).

24.7 Therefore, the injury analysis carried out in this preliminary determination in the following paragraphs is based on the information provided by the

<sup>1</sup> Rupali produces PSF and polyester filament yarn and Pakistan Synthetics produces PSF and polyester chips (an intermediate product)

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Applicants. Any inference derived in this regard from the data of the Applicants would apply to the entire industry.

**25. Cumulation of Dumped Imports**

25.1 Section 16 of the Ordinance states that:

“where imports of a like product from more than one country are the subject of simultaneous investigation under this Ordinance, the Commission may cumulatively assess the effects of such imports on the domestic industry only if it determines that

“(a) dumping margin in relation to an investigated product from each country is more than the negligible amount as specified...., and volume of dumped imports from each investigated country is not less than the negligible quantity as specified.....; and

“(b) a cumulative assessment of the effects of the imports is appropriate in the light of

- (i) the conditions of competition between the imports; and
- (ii) the conditions of competition between the imports and a domestic like product”.

25.2 Preliminary investigation of the Commission has revealed that the volume of dumped imports during the POI from each Exporting Country individually was well above the negligible quantity (i.e. less than 3 percent of total imports of PSF). Furthermore, the weighted average dumping margin for each Exporting Country is also more than the negligible amount (i.e. less than 2 percent of export price). Following table shows the volume of dumped imports and weighted average dumping margin determined for the Exporting Countries. Calculations of volume of imports and weighted average dumping margin are placed at Annexure XIII (Annexure omitted due to confidentiality):

**Table-V**  
**Volume of Dumped Imports and Weighted Average Dumping Margin**

| Country       | Volume of imports during POI (MT)@ |             |          | Weighted average dumping margin |
|---------------|------------------------------------|-------------|----------|---------------------------------|
|               | Dumped                             | Non-dumped* | Total    |                                 |
| Indonesia     | 6478.01 (13.65%)                   | 3490.94     | 9968.95  | 2.64%                           |
| Korea         | 12196.10(25.69%)                   | 0.00        | 12196.10 | 2.43%                           |
| Thailand      | 24518.83(51.65%)                   | 0.00        | 24518.83 | 7.89%                           |
| Other sources | -                                  | 783.19      | 783.19   | -                               |
| Total         | 43192.94(91.00%)                   | 4274.13     | 47467.07 | -                               |



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- @ Exports during the month of March 2006 from the exporters who supplied information have not been taken into account as these exports may not have been entered (reached) Pakistan during the POI.
- \* Non- dumped also includes imports at negligible dumping margin (less than 2 percent of export price).

25.3 It is evident from the weighted average export price charged by the exporters from the Exporting Countries during the POI (from 1<sup>st</sup> April 2005 to 31<sup>st</sup> March 2006) that the export price of the investigated product from the Exporting Countries were in the same range and hence there was a price competition between the imports of the investigated product. Weighted average export price of the investigated product during the POI for dumping from the Exporting Countries is given in a table below. Calculations of weighted average C&F price of the investigated product are placed at Annexure XIV (Annexure omitted due to confidentiality):

**Table-VI**  
**Weighted Average Export Price**

| Country   | Weighted Average C&F Price (US\$/MT) |
|-----------|--------------------------------------|
| Indonesia | 1192.47                              |
| Korea     | 1206.64                              |
| Thailand  | 1015.59                              |

25.4 The investigation revealed that there was a competition between investigated product and the domestic like product. Conditions of competition between imports of the investigated product and the domestic like product are discussed in detail in paragraphs 26 to 28 infra.

25.5 For the reasons given above, the Commission has cumulatively assessed the effects of dumped imports from the Exporting Countries on the domestic industry in following paragraphs.

**26. Volume of Dumped Imports**

**Facts**

26.1 With regard to the volume of dumped imports, in terms of Section 15(2) of the Ordinance, the Commission considered whether there has been a significant increase in dumped imports, either in absolute terms or relative to the production of the domestic like product by the domestic industry.

26.2 In order to ascertain the volume of dumped imports of the investigated product ("IP") and production of the domestic like product, information submitted by the Applicants, exporters/foreign producers and obtained from PRAL is used. The following table shows imports of the PSF not exceeding 2 denier during the years 2003-04, 2004-05, dumped imports of the investigated product during the year

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2005-06 (POI for dumping) and production of the domestic like product by the Applicants for the above mentioned periods:

**Table-VII**  
**Volume of Imports and Domestic Production (MT)**

| Year/Period* | Imports from the Exporting Countries | Domestic Production@ |
|--------------|--------------------------------------|----------------------|
| 2003-04      | 100.00                               | 25824.75             |
| 2004-05      | 135.40                               | 22381.25             |
| 2005-06      | 2112.33**                            | 20323.50             |

Note: To maintain confidentiality, actual figures have been indexed with respect to the actual figures of imports in the year 2003-04 by taking it equal to 100.

\* Year/period is from 1<sup>st</sup> April to 31<sup>st</sup> March

@ Production of the Applicants only

\*\* Only dumped imports (total imports indexed to 2321.35 MT). Exports during the month of March 2006 from the exporters who supplied information have not been taken into account as these exports may not have been entered (reached) Pakistan during the POI.

### **Analysis**

26.3 It appears from the above table that the dumped imports increased by 15.60 times in the year 2005-06 (the POI for dumping) over the imports of PSF during the year 2004-05 from the Exporting Countries. While domestic production decreased by 9.19 percent in the same period. Thus volume of dumped imports increased absolute as well as relative to the production of domestic like product during the POI.

26.4 In its submissions dated January 22, 2007, the APTMA has raised the issue that the PSF imported during the POI under Duty and Tax Remission for Exports (“DTRE”) scheme should not be considered a part of the total imports for the purposes of this investigation. According to the APTMA “quantities imported under DTRE are inadmissible for consideration of dumping according to the Ordinance”. However, APTMA has not identified the relevant provisions of the Ordinance for this purpose.

26.5 The Commission is of the view that the Ordinance does not distinguish imports under different schemes. Section 15(1) of the Ordinance identifies only “dumped imports”. Furthermore, investigation of the Commission revealed that imports of PSF under DTRE scheme entered into the commerce of Pakistan during the POI, which were used in production of textile products for exports. Similarly, a major part of sales of the domestic like product by the domestic industry, during the POI, was also used in production of textile products meant for exports.

26.6 Investigation also showed that the exporters who used locally produced PSF in production of textile products for exports were allowed duty drawback on

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“deemed import basis”. The relevant provision of the DTRE scheme is reproduced hereunder:

“(4) The duty drawback on locally manufactured polyester staple fibre procured on deemed import basis shall be admissible without ceiling”.

This shows that the imports under DTRE scheme had a direct competition with the sales of the domestic like product.

26.7 Arguendo, if claim of the APTMA is accepted and the imports of PSF under DTRE scheme are considered not a part of the total imports of the investigated product for the purposes of this investigation, even then imports of the investigated product have increased significantly in absolute terms as well as relative to the domestic production. Following table shows the volume of imports of PSF under DTRE scheme and otherwise, and domestic production of the domestic like product. Information on volume of imports is obtained from PRAL, the exporters from Exporting Countries (who provided information) and the Applicants. Information on imports under DTRE scheme has been provided by the APTMA:

**Table-VIII**  
**Volume of Imports of and Domestic Production (MT)**

| Year/Period* | Imports from the Exporting Countries | Imports under DTRE scheme | Domestic production@ |
|--------------|--------------------------------------|---------------------------|----------------------|
| 2003-04      | 100.00                               | 0.00                      | 25824.75             |
| 2004-05      | 135.40                               | 0.00                      | 22381.25             |
| 2005-06      | 2112.33**                            | 302.18                    | 20323.50             |

Note: To maintain confidentiality, actual figures have been indexed with respect to the actual figures of imports in the year 2003-04 by taking it equal to 100.

\* Year/period is from 1<sup>st</sup> April to 31<sup>st</sup> March @ Production of the Applicants only

\*\* Exports from the Exporting Countries only. Exports during the month of March 2006 from the exporters who supplied information have not been taken into account as these exports may not have been entered (reached) Pakistan during the POI.

26.8 The above table shows that imports of the investigated product increased by 14.63 times in the year 2005-06 over the imports of PSF in the year 2004-05 from the Exporting Countries even without taking into account the imports under DTRE scheme. Whereas, production of the domestic like product decreased by 9.19 percent in the year 2005-06 over the production of the year 2004-05.

### **Conclusion**

26.9 On the basis of the above analysis, the Commission has concluded that the dumped imports of the investigated product significantly increased in absolute as well as in relative to production of the domestic like product during POI.

### **27. Price Effects**

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27.1 The effect of dumped imports on the sales price of the domestic like product in the domestic market has been examined to establish whether there has been significant price undercutting (the extent to which the price of the investigated product was lower than the price of the domestic like product), price depression (the extent to which the domestic industry experienced a decrease in its selling prices of domestic like product over time), and price suppression (the extent to which increased cost of production could not be recovered by way of increase in selling price of the domestic like product).

27.2 **Price undercutting**

**Facts**

27.2.1 Weighted average ex-factory price of the domestic like product has been calculated from the information submitted by the Applicants on quantity and value of sales during the POI. Landed cost of the PSF imported from the Exporting Countries has been calculated from the information supplied by the Applicants obtained from PRAL. Landed cost for the dumped imports of the investigated product has been calculated from the information supplied by the exporters on their export sales to Pakistan in response to the questionnaire. Calculations of domestic sales price of the domestic like product and landed cost of the investigated product are placed at Annexure XV and XVI (Annexures omitted due to confidentiality) respectively. Comparison of weighted average ex-factory price of the domestic like product with the weighted average landed cost of the imported PSF and dumped imports of the investigated product during the POI is given in following table:

**Table-IX**  
**Calculations of Price Under-cutting (Rs./MT)**

| Year/<br>Period* | Ex-factory sales<br>price of domestic<br>like product | Landed cost of<br>imported PSF | Price under-<br>cutting |
|------------------|---|--------------------------------|-------------------------|
| 2003-04          | 100.00  | 98.60                          | 1.42%                   |
| 2004-05          | 123.52  | 134.25                         | -                       |
| 2005-06          | 114.67  | 102.29**                       | 16.99%                  |

Note: To maintain confidentiality, actual figures have been indexed with respect to the actual figures of sales price in the year 2003-04 by taking it equal to 100.

\* Year/period is from 1<sup>st</sup> April to 31<sup>st</sup> March

\*\* Landed cost of dumped imports of the investigated product

**Analysis**

27.2.2 The above table shows that the prices of the dumped imports of the investigated product decreased by Rs.24431.65/MT in the year 2005-06 as compared to the prices of the imported PSF from the Exporting Countries during the year 2004-05. Dumped imports of the investigated product undercut prices of the domestic like product during the year 2005-06 by 16.99 percent, whereas, there was no price undercutting in the year 2004-05.

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27.2.3 The Government of Pakistan revised tariff structure on imported PSF, its inputs and locally produced PSF with effect from 1<sup>st</sup> July 2005. One reason of decline in prices of the domestic like product and the landed cost of the dumped imports of the investigated product during the year 2005-06 was change in tariff structure. Following table shows the effect of tariff changes during the year 2005-06.

**Table-X  
Incidence of Taxes and Duties (Rs./MT)**

| Year/Period* | Sales tax on domestic like product | Customs duty and sales tax on imported/dumped PSF |
|--------------|------------------------------------|---|
| 2003-04      | 9972.10                            | 20030.98  |
| 2004-05      | 12317.27                           | 27274.69  |
| 2005-06      | 2917.97                            | 9417.64   |

\* Year/period is from 1<sup>st</sup> April to 31<sup>st</sup> March

27.2.4 The above table shows that the weighted average incidence of sales tax on sales of the domestic like product decreased by Rs. 9399.30/MT (76.31 percent). Weighted average incidence of customs duty and sales tax on import of the dumped PSF decreased by Rs. 17857.05/MT (65.47 percent) in the year 2005-06 over the incidence of taxes and duties of the year 2004-05, whereas landed cost of the dumped imports decreased by Rs. 24431.65/MT (paragraph 27.2.2 supra), more than the decline in taxes and duties. Thus price undercutting by the dumped imports was not only due to the change in tariff structure.

**Conclusion**

27.2.5 On the basis of the above, the Commission has concluded that the domestic industry suffered material injury on account of price undercutting as the dumped imports of the investigated product undercut prices of the domestic like product during POI.

**27.3 Price Depression**

**Facts**

27.3.1 The weighted average ex-factory price of the domestic like product during the POI is given in the table below:

**Table-XI  
Calculation of Price Depression (Rs./MT)**

| Year/Period* | Weighted Average ex-factory price of domestic like product** | Price depression |
|--------------|--|------------------|
| 2003-04      | 100.00   | -                |
| 2004-05      | 123.52   | -                |

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|         |        |   |
|---------|--------|---|
| 2005-06 | 127.48 | - |
|---------|--------|---|

Note: Actual figures have been indexed by taking figures of 2003-04 equal to 100.

\* Year/period is from 1<sup>st</sup> April to 31<sup>st</sup> March

\*\* Prices exclusive of sales tax

**Analysis**

27.3.2 Analysis of the above facts shows that domestic industry increased weighted average ex-factory price of domestic like product throughout the POI.

**Conclusion**

27.3.3 The Commission has concluded on the basis of the above analysis that the domestic industry did not face any price depression during the POI.

**27.4 Price Suppression**

**Facts**

27.4.1 Weighted average cost to make and sell of the domestic like product has been calculated from the information submitted by the Applicants on cost to make and sell during the POI. Calculations of cost to make and sell are placed at Annexure XVII (Annexure omitted due to confidentiality). The following table shows the weighted average cost to make and sell and the weighted average ex-factory sales price of the domestic like product during the POI:

**Table-XII  
Calculations of Price Suppression**

(Rs./MT)

| Year/<br>Period* | Average cost to<br>make & sell of<br>domestic like<br>product | Average ex-<br>factory price of<br>domestic like<br>product** | Price Suppression                                 |                                     |
|------------------|---|---|---|-------------------------------------|
|                  |   |   | Increase/<br>(decrease) in cost<br>to make & sell | Increase/<br>(decrease)<br>in price |
| 2003-04          | 100.00  | 103.70  | -   | -                                   |
| 2004-05          | 124.22  | 128.08  | 24.22   | 24.38                               |
| 2005-06          | 129.68  | 132.19  | 5.46  | 4.11                                |

Note: Actual figures have been indexed by taking figures of 2003-04 equal to 100.

\* Year/period is from 1<sup>st</sup> April to 31<sup>st</sup> March

\*\* Prices exclusive of sales tax

**Analysis**

27.4.2 The above table reveals that the domestic industry did not experience price suppression in the year 2004-05 as it was able to recover increased cost to make and sell by way of increase in its selling price. However, the domestic industry faced price suppression during the year 2005-06 (the POI for dumping) as the increase in price was less than the increase in cost of production.

**Conclusion**

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27.4.3 On the basis of the above analysis, the Commission has concluded that the domestic industry suffered material injury on account of price suppression during the POI, as it was not able to recover increased cost to make and sell by way of an increase in selling price of domestic like product. Thus the dumped imports of the investigated product significantly suppressed the prices of the domestic like product during the POI.

**28. Effects on Market Share**

**Facts**

28.1 During the POI, domestic demand for PSF not exceeding 2 denier in Pakistan was met through sales by the domestic industry and by imports. The domestic consumption of PSF not exceeding 2 denier is ascertained by combining the domestic industry’s sales and total imports, and this is referred to here as the total domestic market. As stated earlier (paragraph 24.6 supra) the two indifferent units of the domestic industry (Rupali Polyester Ltd., and Pakistan Synthetics Ltd.) have not supplied information, sales of the domestic like product is the sales by the Applicants. Information on imports of PSF is obtained from PRAL and from the information provided by the exporters/foreign producers in response to the questionnaire. The total domestic market for the PSF during the POI is given in following table:

**Table -XIII**  
Market Share (MT)

| Year/Period* | Sales by domestic industry | Imports from        |                 | Total domestic market |
|--------------|----------------------------|---------------------|-----------------|-----------------------|
|              |                            | Exporting Countries | Other Countries |                       |
| 2003-04      | 99.05%                     | 0.43%               | 0.52%           | 100.00                |
| 2004-05      | 98.98%                     | 0.62%               | 0.40%           | 100.00                |
| 2005-06      | 89.57%                     | 10.26%              | 0.17%           | 100.00                |

\* Year/period is from 1<sup>st</sup> April to 31<sup>st</sup> March

@ Exports during the month of March 2006 from the exporters who supplied information have not been taken into account as these exports may not have been entered (reached) Pakistan during the POI.

**Analysis**

28.2 The above table shows that the domestic industry lost its market share from 99.05 percent and 98.98 percent in the years 2003-04 and 2004-05 respectively to 89.57 percent in the year 2005-06. Market share of the imports of PSF from the Exporting Countries increased 0.62 percent in the year 2004-05 to 10.26 percent in the year 2005-06. Market share of the imports from other sources also decreased. Domestic industry’s market share was taken by the imports of the investigated product, 92.52 percent of which are dumped imports.

28.3 APTMA in its submissions dated January 22, 2007 has stated that the imports of PSF under DTRE scheme during the POI may not be considered as a part

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of the total domestic demand because, according to the APTMA, “..... it was barred from entering the domestic market and does not invite considerations of dumping”

28.4 The Commission has analysed the views/comments and arguments of the APTMA on this issue and has determined that the imports of the investigated product under DTRE scheme were a part of domestic demand and the domestic market because:

- i. the Ordinance does not distinguish between imports under different schemes (paragraph 26.5 supra);
- ii. Imports under the DTRE scheme of the investigated product entered into the commerce of Pakistan during the POI, as these were used in production of textile products which were meant for exports (paragraph 26.6 supra); and
- iii. imports under the DTRE scheme of the investigated product was directly competing with the domestic like product during the POI, as both have the same/similar market and uses. Furthermore, the Pakistani exporters of textile products were allowed to claim duty drawback on the PSF procured from the domestic producers on “deemed imports” basis in DTRE scheme (paragraph 26.6 supra).

**Conclusion**

28.3 On the basis of above analysis, the Commission has concluded that the domestic industry lost significant share in domestic market and experienced significant decrease in its sales of the domestic like product due to dumped imports of the investigated product during POI, and suffered material injury on this account.

**29. Effects on Sales**

**Facts**

29.1 Sales of the domestic like product by the Applicants in domestic market during the POI was as follows:

**Table -XIV**  
Sales of the Domestic Like Product (MT)

| Period* | Sales by domestic industry | Change in sales |
|---------|----------------------------|-----------------|
| 2003-04 | 100.00                     | -               |
| 2004-05 | 94.72                      | -5.27%          |
| 2005-06 | 87.19                      | -7.96%          |

Note: Actual figures have been indexed by taking figures of 2003-04 equal to 100.

\* Year/ period is from 1<sup>st</sup> April to 31<sup>st</sup> March

**Analysis**



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29.2 The above table shows that the sales of the domestic like product by the domestic industry decreased by 5.27 percent and 7.96 percent in years 2004-05 and 2005-06 respectively.

**Conclusion**

29.3 On the basis of above analysis, the Commission has concluded that the domestic industry experienced significant decrease in its sales of the domestic like product due to imports of the investigated product during POI, and suffered material injury on this account.

**30. Effects on Production and Capacity Utilization**

**Facts**

30.1 The installed production capacity of the Applicants to produce domestic like product was 578600 MT per annum. Quantity produced and the capacity utilized by the domestic industry during the POI were as follows:

**Table-XV  
Capacity Utilization (MT)**

| Year/<br>Period* | Capacity Utilization |
|------------------|----------------------|
| 2003-04          | 91.27%               |
| 2004-05          | 79.10%               |
| 2005-06          | 71.82%               |

\* Year/period is from 1<sup>st</sup> April to 31<sup>st</sup> March

**Analysis**

30.2 It may be noted from the table above that the production of domestic like product decreased in years 2004-05 and 2005-06. Resultantly the capacity utilization decreased from 91.27 percent to 79.10 percent in the year 2004-05 and 71.82 percent in the year 2005-06.

30.3 Investigation of the Commission revealed that the decline in production and capacity utilization in the year 2004-05 was due to contraction in demand, decline in exports by the Applicants and movement in inventory level. However, decline in production and capacity utilization in the year 2005-06 was mainly due to imports of the investigated product from the Exporting Countries (paragraph 40 infra).

**Conclusion**

30.4 On the basis of the above analysis, the Commission has concluded that the domestic industry suffered material injury on account of production and capacity utilization during the POI.

**31. Effects on Inventories**

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**Facts**

31.1 The Applicants had provided data relating to accumulation of inventories of the domestic like product during the POI. Unit-wise inventories position of the domestic industry is placed at Annexure XVIII (Annexure omitted due to confidentiality). The data for opening and closing inventories for the domestic like product is given in the following table:

**Table-XVI**  
**Inventories of Domestic Like Product (MT)**

| Year/Period* | Opening Inventory | Closing Inventory |
|--------------|-------------------|-------------------|
| 2003-04      | 100.00            | 230.42            |
| 2004-05      | 230.42            | 214.40            |
| 2005-06      | 214.40            | 203.17            |

Note: Actual figures have been indexed by taking figures of 2003-04 equal to 100.

\* Year/period is from 1<sup>st</sup> April to 31<sup>st</sup> March

**Analysis**

31.2 The data given in the table above shows that the inventory level of the domestic like product decreased throughout the POI.

**Conclusion**

31.3 On the basis of the above facts, the Commission has concluded that the domestic industry did not suffer material injury on account of increase in inventories during the POI.

**32. Effects on Profits/Loss**

**Facts**

32.1 Profit and loss position for the domestic industry was determined on the basis of the information supplied by the Applicants in their Profit and Loss Account Statements for the domestic like product. Calculations of the profit/loss are at Annexure IXX (Annexure omitted due to confidentiality). The table below shows the profit and loss position of the domestic industry during the POI:

**Table -XVII**  
**Profit/(Loss) of Domestic Industry**

| Year/Period* | Profit/(loss)<br>(Rs.) | Profit as % of<br>sales value |
|--------------|------------------------|-------------------------------|
| 2003-04      | 100.00                 | 2.58%                         |
| 2004-05      | 112.74                 | 2.52%                         |
| 2005-06      | 63.59                  | 1.57%                         |

Note: Actual figures have been indexed by taking figures of 2003-04 equal to 100.

\* Year/period is from 1<sup>st</sup> April to 31<sup>st</sup> March

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**Analysis**

32.2 The above table shows that the domestic industry earned profits on sales of domestic like product during the POI. However, profits of the domestic industry decreased in the year 2005-06. Profits as percentage of sales value decreased during the POI.

**Conclusion:**

32.3 On the basis of the above facts, the Commission has concluded that the domestic industry has suffered material injury on account of profits.

**33. Effects on Cash Flow**

**Facts**

33.1 The cash flow position through operating activities of the domestic industry was determined on the basis of the information provided by the Applicants. Calculations of cash flow are at Annexure XX (Annexure omitted due to confidentiality). Net cash flow position of the domestic industry during the POI is given in table below:

**Table -XVIII**  
**Cash Flow Position**  
(Million Rs.)

| Year/Period* | Net cash inflow/<br>(outflow) from<br>operations |
|--------------|--|
| 2003-04      | 100.00   |
| 2004-05      | 51.96  |
| 2005-06      | 53.99  |

Note: Actual figures have been indexed by taking figures of 2003-04 equal to 100.

\* Year/period is from 1<sup>st</sup> April to 31<sup>st</sup> March

**Analysis**

33.2 The above table the net cash inflow of the domestic industry from sales of the domestic like product decreased in the year 2004-05. However it increased in the year 2005-06.

**Conclusion**

33.3 On the basis of the above, the Commission has concluded that the domestic industry did not suffer material injury on account of cash flows.

**34. Effects on Employment and Productivity**

**Facts**

34.1 The number of employees in the domestic industry remained in the same range during the POI. Calculations of employment, salaries and wages and productivity are placed at Annexure XXI (Annexure omitted due to confidentiality).

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The employment, productivity, salaries and wages of the domestic industry were as follows:

**Table -XIX  
Employment and Productivity**

| <b>Year/ Period*</b> | <b>Number of Employees</b> | <b>Productivity per worker in MT</b> | <b>Salaries &amp; wages Rs. per MT</b> |
|----------------------|----------------------------|--------------------------------------|--|
| 2003-04              | 100.00                     | 115.54                               | 1722.34                                |
| 2004-05              | 100.52                     | 100.59                               | 2056.57                                |
| 2005-06              | 100.45                     | 89.25                                | 2356.79                                |

Note: Actual figures have been indexed by taking figures of 2003-04 equal to 100.

\* Year/period is from 1<sup>st</sup> April to 31<sup>st</sup> March

**Analysis**

34.2 The above table shows that the productivity per worker decreased from 115.54 MT in the year 2003-04 to 100.59 MT per worker in year 2004-05 and 89.25 MT per worker in the year 2005-06 due to decrease in production.

34.3 Salaries and wages per MT for production of the domestic like product increased from Rs. 1722.34 in the year 2003-04 to Rs. 2056.57 and Rs. 2356.79 in the years 2004-05 and 2005-06 respectively. The Commission considered that there should have been an increase in salaries and wages of the domestic industry inline with the inflation and Government policy for increase in salaries and wages during the POI. However, increase in salaries and wages for production of per MT of the domestic like product was more than the increase it should have been. This is due to decrease in production of the domestic like product. If production of the domestic like product remained at the same level in the year 2005-06 (the POI for dumping), which it was in the year 2004-05, salaries and wages for production of the like product should have been Rs. 2151/MT instead of Rs. 2356.79/MT.

**Conclusion**

34.3 Based on the above analysis, the Commission has concluded that the domestic industry suffered material injury on account of productivity and wages during the POI as productivity decreased and wages for production of domestic like product increased significantly.

**35. Effects on Return on Investment**

**Facts**

35.1 Return on investment realized by the domestic industry during the POI is given in following table. Unit-wise calculations of the Applicants for return on investment are at Annexure XXII (Annexure omitted due to confidentiality).

**Table -XX  
Investment and Return on Investment**

| <b>Year*</b> | <b>Total Investment</b> | <b>Return on</b> |
|--------------|-------------------------|------------------|
|--------------|-------------------------|------------------|

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|         | (million Rs.) | Investment |
|---------|---------------|------------|
| 2003-04 | 100.00        | 2.57%      |
| 2004-05 | 92.24         | 2.81%      |
| 2005-06 | 85.49         | 2.40%      |

Note: Actual figures have been indexed by taking figures of 2003-04 equal to 100.

\* Year/period is from 1<sup>st</sup> April to 31<sup>st</sup> March

**Analysis**

35.3 The above table shows that the return on investment of the domestic industry decreased in the year 2005-06

**Conclusion**

35.4 On the basis of the above, the Commission has concluded that the domestic industry suffered material injury on account of return on investment.

**36. Effects on Growth and Investment**

**Facts/analysis**

36.1 According to the Applicants, one of the Applicants unit (Ibrahim Fibres Ltd.) had the plans to enhance its capacities but due to dumping of the investigated product it has postponed its plans of expansion. However, the Applicants have not submitted any evidence in support of this claim.

36.2 During the POI total installed production capacities of the domestic industry for production of the domestic like product were more than the domestic demand. In this situation no further investment in the industry can be expected.

**Conclusion**

36.2 On the basis of the above, the Commission has concluded that the domestic industry did not suffer material injury on account of growth and investment due to dumped imports.

**37. Ability to Raise Capital**

**Facts/analysis**

37.1 The Applicants alleged difficulties in raising capital due to dumping of the investigated product. However, it did not submit any documentary evidence in support there of.

**Conclusion**

37.2 The Commission has concluded that the domestic industry did not suffer material injury in respect of its ability to raise capital.

**38. Summing up of Material Injury**

Preliminary Determination and levy of Provisional Antidumping Duty on import of PSF into Pakistan Originating in and/or Exported from the Republic of Indonesia, the Republic of Korea, and the Kingdom of Thailand.

38.1 The facts and analysis in the preceding paragraphs (paragraphs 26 to 37 supra) shows that the domestic industry has suffered material injury during the POI on account of: -

- i. significant increase in volume of dumped imports of the investigated product (both in absolute as well as relative to domestic production);
- ii. significant price undercutting;
- iii. significant price suppression;
- iv. loss in market share;
- v. significant decrease in sales;
- vi. decrease in return on investment;
- vii. decrease in profits;
- viii. negative effect on production and capacity utilization; and
- ix. negative effect on productivity.

38.2 During the POI, dumped imports of the investigated product increased sharply while productions of the domestic like product decreased (paragraph 26 supra).

38.3 The Applicants could not increase its prices of the domestic like product to accommodate the rising cost of production in during the POI and, therefore, the Applicants' profitability suffered. The Applicants' profits decreased in the year 2005-06. This fall in profitability directly affected the return on investment, which fell from 2.81% in the year 2004-05 to 2.40% in the year 2005-06. The landed cost of investigated product undercut the ex-factory sales price of domestic industry during the POI.

38.4 The domestic industry lost its sales and market share during the POI. Although there was a contraction in demand and market size of the PSF during the POI but dumped imports of the investigated product increased sharply while sales by the domestic industry declined.

38.5 Employment in the domestic industry remained almost same during the POI but production of the domestic like product decreased, which resulted in reduction in productivity and increase in salaries and wages to produce domestic like product.

38.6 It may, therefore, be concluded that the domestic industry suffered material injury due to dumped imports as evident, *inter alia*, in the reduced market share, low capacity utilization, falling productivity, reduced profit and a fall in return on investment.

#### **D. CAUSATION**

#### **39. Effect of Dumped Imports**

Preliminary Determination and levy of Provisional Antidumping Duty on import of PSF into Pakistan Originating in and/or Exported from the Republic of Indonesia, the Republic of Korea, and the Kingdom of Thailand.

On the basis of the analysis and conclusions, the Commission has concluded that there was a causal link between dumped imports of the investigated product from the Exporting Countries and the material injury suffered by the domestic industry. The investigation revealed that the following happened simultaneously during the POI:

- i. volume of dumped imports of the investigated product increased significantly while production and sales of the domestic like product decreased;
- ii. dumped imports of the investigated product undercut prices of the domestic like product significantly. The domestic industry experienced price suppression as it was not able to recover its increased costs by increasing prices because of lower landed cost of the investigated product;
- iii. domestic industry lost significant market share while market share of dumped imports increased significantly;
- iv. profits and profitability of the domestic industry decreased during the POI, which resulted in decline in return on investment; and
- v. domestic industry faced decrease in productivity.

**40. Other Factors**

40.1 In accordance with Section 18(2) of the Ordinance, the Commission also examined factors, other than dumped imports of the investigated product, which could at the same time cause injury to the domestic industry, in order to ensure that possible injury caused by other factors is not attributed to the dumped imports.

40.2 The investigation of the Commission revealed that the domestic industry also suffered some injury due to non-dumped imports of the investigated product and the like product from sources other than the Exporting Countries during the POI. However, injury caused by these imports cannot be considered significant as its volume was far less than the volume of dumped imports and its weighted average C&F price was above the weighted average C&F price of the investigated product. Following table shows the volume and weighted average C&F prices of non-dumped and other imports, and dumped imports during the POI (from 1<sup>st</sup> April 2005 to 31<sup>st</sup> March 2006):

**Table -XXI**  
**Volume and C&F Prices of Imported PSF**

|  | Quantity | C&F Price |
|--|----------|-----------|
|--|----------|-----------|

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|   | (MT)     | (US\$/MT) |
|---|----------|-----------|
| Dumped Imports from the Exporting Countries     | 43192.94 | 1095.46   |
| Non-dumped Imports from the Exporting Countries | 3490.94  | 1200.00   |
| Imports from other sources                      | 783.19   | 1050.00   |

\* Non- dumped also includes imports at negligible dumping margin (less than 2 percent of export price).

40.3 PSF is blended with cotton, viscose, acrylic and spun into a blended yarn for the manufacturing of knitted or woven fabrics. In the year 2005, due to a worldwide bumper cotton crop, there was a PSF market contraction. The cotton crop also had an adverse impact on the Pakistan PSF market with a number of spinning mills shifting to either cotton or cotton rich blends. Following table shows the effect of contraction in demand on sales of the domestic like product:

**Table -XXII**  
**Volume of Sales by Domestic Industry and Imported PSF**

| Year/<br>Period* | Domestic industry     |                       | Volume of<br>PSF Imports<br>(MT) | Total market     |                       |
|------------------|-----------------------|-----------------------|----------------------------------|------------------|-----------------------|
|                  | Quantity<br>sold (MT) | % Decline<br>in sales |                                  | Quantity<br>(MT) | Percentage<br>decline |
| 2003-04          | 99.05                 | -                     | 0.95                             | 100.00           | -                     |
| 2004-05          | 93.83                 | 5.27%                 | 0.96                             | 94.79            | 5.21%                 |
| 2005-06          | 86.36                 | 7.96%                 | 10.06@                           | 96.42            | -                     |

Note: To maintain confidentiality, actual figures have been indexed with respect to the actual figures total market in the year 2003-04 by taking it equal to 100.

\* Year/period is from 1<sup>st</sup> April to 31<sup>st</sup> March

@ Exports during the month of March 2006 from the exporters who supplied information have not been taken into account as these exports may not have been entered (reached) Pakistan during the POI.

40.4 The above table revealed that the domestic market of PSF declined by 5.21 percent in the years 2004-05 and increased by 1.72 percent in the year 2005-06. The sales of the domestic like product decreased by 5.28 percent in the year 2004-05, which shows a corresponding decline in total market. However in the year 2005-06 sales of the domestic like product declined by 7.96 percent as compared to the increase in domestic market by 1.72 percent. This shows the shifting to cotton by the spinning mills in the year 2005-06 was not the reason of decline in sales of the domestic like product. Furthermore, dumped imports of the investigated product increased significantly (15.60 times) (paragraph 26.3 supra) in the year 2005-06 despite bumper cotton crop.



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40.5 The Government of Pakistan reduced customs tariff rates on import of PSF and its major inputs (PTA and MEG) with effect from 1<sup>st</sup> July 2005. Following table shows the tariff changes on PSF:

**Table XXIII**  
**Tariff Structure**

|                               | 2004-05      |           | 2005-06      |           |
|-------------------------------|--------------|-----------|--------------|-----------|
|                               | Customs duty | Sales Tax | Customs duty | Sales Tax |
| <u>On import of</u>           |              |           |              |           |
| PSF                           | 20.00%       | 15.00%    | 6.50%        | 0.00%     |
| PTA                           | 15.00%       | 15.00%    | 0.00%        | 0.00%     |
| MEG                           | 10.00%       | 15.00%    | 0.00%        | 0.00%     |
| On domestic production of PSF | -            | 15.00%    | -            | 0.00%     |

Year : From 1<sup>st</sup> July to 30<sup>th</sup> June

40.6 The Commission examined and analysed the impact of tariff changes on imported PSF and domestically produced PSF and found that incidence of taxes and duties on imported PSF declined by 81.43 percent while incidence of taxes and duties on domestic production of PSF decreased by 100.00 percent. Calculations of incidence of taxes and duties are given in the following table:

**Table XXIV**  
**Incidence of Taxes and Duties on Imported PSF**

| Description               | 2004-05  | 2005-06  |
|---------------------------|----------|----------|
| Average C&F price         | 65981.66 | 65981.66 |
| Customs Duty              | 13196.33 | 4288.81  |
| Sales Tax                 | 9897.25  | 0.00     |
| Total duty & tax          | 23093.58 | 4288.81  |
| % reduction in duty & tax |          | 81.43%   |

**Table XXV**  
**Incidence of Taxes and Duties on Domestic Production of PSF**

| Description                   | 2004-05  | 2005-06 |
|-------------------------------|----------|---------|
| Customs Duty on PTA           | 5896.88  | 0.00    |
| Customs Duty on MEG           | 1955.45  | 0.00    |
| Sales Tax on local production | 12317.27 | 0.00    |
| Total duty & tax              | 20169.60 | 0.00    |
| % reduction in duty & tax     |          | 100.00% |

40.7 The above tables revealed that the Government has rationalized tariff structure of the PSF industry as the similar reduction in tariffs have been made on finished product (PSF) and on its inputs (PTA and MEG). The analysis showed that the customs duty and sales tax on imported PSF have been reduced by Rs.18804.77/MT, which is 81.43 percent of the taxes and duties levied before this

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tariff rationalization. The customs duty on major inputs (PTA and MEG) and sales tax on locally produced PSF, which was Rs. 20169.60/MT, have been completely abolished. Thus the Government has provided level playing field to domestic industry in areas of taxes and duties. During the POI, the domestic industry had the equal opportunities to sell domestic like product at a reduced price.

40.8 It is concluded from the above analysis that the change in tariff of the investigated product during the POI was not the cause for material injury to the domestic industry.

40.8 Exports of the PSF by the Applicants declined during the POI. Domestic sales and export sales of the domestic like product by the Applicants during the POI are given in the following table:

**Table -XXVI**  
**Sales by the Applicants (MT)**

| Year/Period* | Domestic sales | Export sales | Total Sales |
|--------------|----------------|--------------|-------------|
| 2003-04      | 94.38%         | 5.62%        | 100.00      |
| 2004-05      | 95.87%         | 4.13%        | 100.00      |
| 2005-06      | 97.37%         | 2.63%        | 100.00      |

Note: Actual figures have been indexed by taking figures of 2003-04 equal to 100.

\* Year/period is from 1<sup>st</sup> April to 31<sup>st</sup> March

40.9 The above table shows that the export sales of the domestic like product declined 31.46 percent and 42.25 percent in the years 2004-05 and 2005-06 respectively. However, volume of export sales was insignificant during the POI (5.62 percent, 4.13 percent and 2.63 percent of the total sales in the years 2003-04, 2004-05 and 2005-06 respectively). Furthermore, export sales declined by 1.50 percent only in the year 2005-06 (the POI for dumping).

40.10 On the basis of the above analysis, the Commission has determined that decline in export sales of the domestic like product during the POI was not a cause of material injury to the domestic industry.

40.11 The factors mentioned in Section 18(3) of the Ordinance were also analyzed and it was found that:

- i. There was no change in trade restrictive practices and competition between foreign producers other than producers from the Exporting Countries and domestic producers; and
- ii. There was no considerable change in technology;

**E. CONCLUSIONS**

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41. The conclusions, after taking into account all considerations for this preliminary determination, are as follows:

- i. the application was filed on behalf of domestic industry as the Applicants represent major proportion of the production of domestic like product;
- ii. the investigated product and the domestic like product are alike products;
- iii. during the POI, the investigated product was exported to Pakistan by the exporters/foreign producers, from the Exporting Countries, at prices below its normal value;
- iv. the volume of dumped imports of the investigated product and the dumping margins established for the Exporting Countries on the basis of the foregoing analysis, are above the negligible and *de minimis* levels respectively;
- v. the dumping margins expressed as a percentage of weighted average adjusted export is ranging between -0.20 percent to 19.62 percent for exporters/foreign producers from the Exporting Countries;
- vi. the domestic industry suffered material injury during the POI on account of, volume of dumped imports, price undercutting, price suppression, loss in market share, decrease in sales, decline in return on investment, decrease in profits, decline in production and capacity utilization and decline in productivity (in terms of Section 15 and 17 of the Ordinance); and
- vii. there is a causal relationship between dumped imports and the material injury suffered by the domestic industry.

**F. IMPOSITION OF PROVISIONAL ANTIDUMPING DUTY**

42. In view of the analysis and conclusions with regard to dumping, material injury, and causation, imposition of provisional antidumping duty on the investigated product is needed to offset injury to the domestic industry by dumped imports.

43. Individual dumping margins have been determined for the five exporters/foreign from the Exporting Countries who supplied the information necessary for this investigation and the provisional rate for antidumping duty for these exporters is determined on the basis of individual dumping margins.

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44. A residual dumping margin and antidumping duty rate for all other exporters from the Exporting Countries, who did not cooperate, is determined on the basis of best available information in terms of Section 32 of the Ordinance.

45. In terms of Section 43 of the Ordinance, provisional antidumping duties given in the following table are hereby imposed on the dumped imports of the investigated product importable from the Exporting Countries (except for the exporters/foreign producers mentioned at paragraph 47 infra) for a period of four months effective from February 09, 2007. The provisional antidumping duty rates are determined on C&F value in *ad val.* terms. The provisional antidumping duties at C&F value are equivalent to the preliminary dumping margins determined at ex-factory price level. The dumped investigated product is classified under PCT heading No. 5503.2010:

**Table-XXVII**  
**Provisional Antidumping Duty Rates**

| S. No. | Exporter Name                | Anti-dumping duty rate |
|--------|------------------------------|------------------------|
| 1      | Polysindo, Indonesia         | 3.36%                  |
| 2      | All others from Indonesia    | 3.36%                  |
|        | Huvis Corporation, Korea     | 2.09%                  |
| 3      | All others from Korea        | 2.09%                  |
| 4      | Thai Polyester Co., Thailand | 4.35%                  |
| 5      | Kangwal, Thailand            | 8.33%                  |
| 6      | All others from Thailand     | 8.33%                  |

46. Provisional anti-dumping duty has not been imposed on following exporters/foreign producers of the investigated product from the Exporting Countries as these exporters/foreign producers were found either not to be dumping 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. P.T Indorama Synthetics Tbk. Limited, Jakarta, Indonesia

47. PSF imported from sources, other than the Exporting Countries shall not be subject to provisional antidumping duties.

48. In accordance with Section 51 of the Ordinance, the provisional antidumping duty shall take the form of *ad valorm* duty and be held in a non-lapsable personal ledger account established and maintained by the Commission for the purpose. Release of the investigated product for free circulation in Pakistan shall be subject to imposition of such antidumping duty.

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

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50. The provisional antidumping duties would be collected in the same manner as customs duty is collected under the Customs Act, 1969 (IV of 1969) and would be deposited in Commission's Non-lapsable PLD account No. 187 with Federal Treasury Office, Islamabad.

(Muhammad Ikram Arif)  
Member  
February 06, 2007

(Faizullah Khilji)  
Chairman  
February 06, 2007

**Annexure-I**

**List of Exporters/Foreign Producers identified by the Applicants**

| S.No | Name                                     | Country   | Address  |
|------|--|-----------|--|
| 1.   | P.T Indorama Synthetics Tbk. Limited     | Indonesia | Graha Irama, 17 <sup>th</sup> Floor, Jl. H.R. Rasuna Said, Blok X-1, Kav 1-2 Post Box No 3375, Jakarta-12950 |
| 2.   | PT Polysindo Eka Perkasa Terbuka         | Indonesia | Desa Kiara Payung Kecamatan Klari, Karawang Timur 41300, Indonesia   |
| 3.   | Chemon Corporation                       | Indonesia | Not available  |
| 4.   | Huvis Corporation                        | Korea     | 151-7 Samsung-Dong, Gangnam-GU, Seoul 135-878.   |
| 5.   | Saehen Industries                        | Korea     | 254-8, Kongduk-dong, Mapo-ku, Seoul, Korea   |
| 6.   | Thai Polyester Company, Ltd.             | Thailand  | 34 Moo 1 Bangkuntien-Chaitalay Road, Samaedum, Bangkuntien, Bangkok 10150                                    |
| 7.   | Kangwal Polyester Company Ltd.           | Thailand  | Bangkok Office 1426/18 - 20 Krungkasem Rd. Soi Yossae, Pomprab Bangkok 10100.                                |
| 8.   | Teijin Polyester Thailand Limited        | Thailand  | 19 <sup>th</sup> floor, Ploenchit Tower, 898 Ploenchit Road, Bangkok, Thailand                               |
| 9.   | Tuntex (Thailand) Public Company Limited | Thailand  | B.B Building, 20 <sup>th</sup> Floor, 54 Sukhumvit Road, Bangkok, Thailand                                   |
| 10.  | Chiem Patana Synthetic Fibres Co. Ltd.   | Thailand  | 23/3, Mutee 3, KM33, Petkaseam Road, Tombon Yiacha, Nakornpathom-73110 Thailand.                             |
| 11.  | Itochu (Thailand) Ltd.                   | Thailand  | 5 <sup>th</sup> Floor, Harindhorn Tower, 54 North Sathron Road, Bangkok, Thailand                            |
| 12.  | Meiyo Corporation                        | Thailand  | Not available  |