

A.D.C No. 07/2005/NTC/PFY
National Tariff Commission

Final Determination and levy of Definitive Anti-dumping Duty on Imports of PFY into Pakistan Originating in and/or Exported from the Republic of Indonesia, the Republic of Korea, Malaysia and the Kingdom of Thailand.

The National Tariff Commission (the "Commission") initiated an anti-dumping investigation on May 12, 2005 under Section 23 of the Anti-Dumping Duties Ordinance, 2000 (the "Ordinance") after establishing that the application lodged by Pakistan Filament Yarn Manufacturers Association, Karachi (the "Applicant") on behalf of the domestic industry manufacturing Polyester Filament Yarn ("PFY") was in accordance with Sections 20 and 24 of the Ordinance. The investigation was to determine whether PFY originating in and/or exported from the Republic of Indonesia ("Indonesia"), the Republic of Korea ("Korea"), Malaysia, and the Kingdom of Thailand ("Thailand") (hereinafter collectively referred to as the "Exporting Countries") is being dumped into Pakistan and whether such dumping has caused and/or was causing material injury to the domestic industry producing PFY. In accordance with the Ordinance and the Anti-Dumping Duties Rules, 2001 (the "Rules"), the Commission has made its final determination in this investigation` as follows:

2. Exporters and Foreign Producers: All exporters/foreign producers of PFY from the Exporting Countries.

3. Investigated Product: PFY exported by the exporters/foreign producers from the Exporting Countries into Pakistan was the product under investigation (the "investigated product"). It is classified under Pakistan Customs Tariff (PCT) Nos. 5402.3300 and 5402.4300 (PCT heading in Pakistan is equivalent to Harmonized Commodity Description and Coding System under Brussels nomenclature upto six digit level).

4. Like Product: In terms of Section 2 of the Ordinance, the examination revealed that the investigated product and PFY produced by the domestic industry are produced with similar manufacturing process, and with the same raw materials. Both have the same physical characteristics, usage, and tariff classification. Thus the Commission determined that both the products are "like products".

5. Period of Investigation ("POI"):

Investigation of dumping	From January 1, 2004 to December 31, 2004
Investigation of injury	From July 1, 2001 to December 31, 2004

6. Sampling: In view of the apparent large number of exporters/foreign producers involved in this investigation, it was impracticable to determine individual margin of dumping for each exporter or foreign producer of PFY from the Exporting Countries. Therefore, the Commission resorted to sampling in accordance with Section 14(2) of the Ordinance. On the basis of the criteria set out in Section 14 (2) of the Ordinance and the information provided by the exporters/foreign producers and other information available to the Commission, the following thirteen exporters/foreign producers of PFY from the Exporting Countries were selected on the basis of the largest percentage of volume of exports of PFY from each country in question to be investigated in this investigation:

<u>S. No.</u>	<u>Exporter/ Foreign Producer</u>	<u>Exporting Country</u>
1.	P.T S.K Keris	Indonesia
2.	P.T. Indorama Synthetics Tbk	Indonesia
3.	P.T PanAsia Indosyntec Tbk	Indonesia
4.	P.T. Sulindafin	Indonesia
5.	Tongkook Corporation	Korea
6.	Hyosung Corporation	Korea
7.	Hualon Corporation Sdn	Korea
8.	Hualon Corporation (M) Sdn Bhd.	Malaysia
9.	Global Trade Well P.T.E Ltd.	Malaysia
10.	Fotex Trading	Malaysia
11.	Jong Stit Co. Limited	Thailand
12.	Tuntex (Thailand) Public Company Ltd	Thailand
13.	Chiem Patana Synthetic Fibers Co. Ltd	Thailand

7. Preliminary Determination: The Commission made a preliminary determination in this investigation on November 11, 2005 and a notice of preliminary determination was published in the press as well as the official Gazette of Pakistan on November 12, 2005.

8. After the preliminary determination, the embassy of Korea in Islamabad approached the Commission and stated that Hualon Corporation does not exist in Korea and should be excluded from sampled exporters. The Commission took up this issue with Central Board of Revenue (“CBR”), Government of Pakistan and found that the name Hualon Corporation was inadvertently included in the Republic of Korea’s export of PFY by the Pakistan Revenue Automation Limited (“PRAL”) the data processing arm of the CBR, even though no such corporation or similar business entity existed in Korea. Thus the Commission excluded Hualon Corporation, Korea from sampled exporters.

8. The Commission, after the preliminary determination, afforded an opportunity to all other foreign producers, who were not selected in sampling and subsequently not investigated but desired an individual dumping margin in terms of Section 14(4) of the Ordinance, to voluntarily file a request along with the necessary information to the Commission. The following five exporters/foreign producers from countries stated against their names availed themselves of this opportunity:

- i. P.T. Mutu Gading Tekstil, Indonesia;
- ii. P.T. Sulindafin, Indonesia;
- iii. Saehan Industries Inc., Korea;
- iv. Capital Rayon Co. Ltd., Thailand; and
- v. Sunflag (Thailand) Limited, Thailand.

9. Since, P.T.Mutu Gading Tekstil, Indonesia had not exported the investigated product to Pakistan during the POI, it was informed by the Commission that the determination of individual dumping margin would not be possible. However, P.T.Mutu Gading Tekstil, Indonesia was informed of its right to request the Commission for a new shipper review under Section 60 of the Ordinance.

11. Determination of Dumping: The normal value and the export price of the investigated product in respect of the exporters/ foreign producers who were selected in sampling and who supplied the requisite information, and the exporters/foreign producers who requested for individual dumping margin have been determined in accordance with Sections 5(1) and 10 (1) of the Ordinance, respectively, on the basis of the information provided by them. Whereas, normal value and export price of the investigated product for the exporters who were selected in sampling but did not provide the requisite information (Hyosung Corporation, Korea, Global Trade Well P.T.E. Ltd., Malaysia, Fotex Trading, Malaysia, and Chiem Patana Synthetic Fibres Co. Ltd., Thailand) have been determined on the basis of “best information available” in terms of Section 32 and the Schedule to the Ordinance.

12. The rate of anti-dumping duties for “all other” exporters/foreign producers from the respective Exporting Countries have been determined in accordance with Sections 51(3) of the Ordinance on the basis of weighted average dumping margins established for the sampled exporters/foreign producers along with and the exporters/foreign producers who requested for individual dumping margin. Where the facts and circumstances required, the Commission has taken into account the requirements of Section 51(4) and 51(7) of the Ordinance, while determining dumping margins for all other exporters/foreign producers from the Exporting Countries.

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

S. No.	Exporter/Foreign Producer Name	Dumping margin as percentage of	
		Adjusted export price	C&F export price
1	P.T S.K Keris, Indonesia	2.53%	2.36%
2	P.T Indorama, Indonesia	- 0.36%	- 0.37%
3	P.T PanAsia, Indonesia	16.07%	14.64%
4	P.T Sulindafin, Indonesia	-4.61%	-4.31%
5	All Others from Indonesia	9.05%	8.27%
6	Tongkook Corporation, Korea	1.72%	1.52%
7	Hyosung Corporation, Korea	33.58%	29.07%
8	Saehan Industries Inc., Korea	-5.05%	-5.00%
9	All Others from Korea	7.97%	6.92%
10	Hualon Corporation (M) Sdn, Malaysia	1.03%	0.96%
11	Global Trade Well, Malaysia	25.15%	22.62%
12	Fotex Trading, Malaysia	23.06%	20.78%

13	All Others from Malaysia	4.05%	3.67%
14	Jong Stit Co., Thailand	- 0.31%	- 0.25%
15	Tuntex, Thailand	20.63%	18.93%
16	Chiem Patana, Thailand	32.79%	29.68%
17	Capital Rayon Company Ltd., Thailand	1.40%	1.30%
18	Sunflag (Thailand) Limited, Thailand	-2.86%	-2.63%
19	All Others from Thailand	20.63%	18.93%

13. Injury to the Domestic Industry: Injury to the domestic industry has been determined in accordance with Part VI of the Ordinance. The Commission has established that the domestic industry suffered material injury on account of significant increase in dumped imports in absolute as well as relative to the domestic production of PFY; significant price undercutting; significant price suppression; loss in market share; decrease in return on investment; losses on operations; negative effect on cash flow; negative effect on employment; and on account of negative effect on growth and investment.

14. Imports from Exporting Countries: Volume of imports from Exporting Countries increased by 25.46 percent in Fiscal Year (“FY”) 2003 over FY 2002, by 8.67 percent in FY 2004 over FY 2003, and by 9.89 percent (on annualized basis) during July to December 2004 over FY 2004. The production of domestic like product decreased by 6.52 percent in FY 2003 over the production of FY 2002. It increased by 10.48 percent in FY 2004 over FY 2003, and increased by 2.57 percent (on annualized basis) during July to December 2004 over FY 2004.

15. Injury Factors other than Imports from Exporting Countries: The Commission also examined factors other than dumped imports, which were causing injury to the domestic industry.

16. Imposition and Collection of Definitive Anti-dumping Duty: In reaching this final affirmative determination, the Commission is satisfied that the investigated product has been imported at dumped prices. This has caused material injury to the domestic industry during the POI. The Commission, pursuant to the powers conferred upon it under Section 50 of the Ordinance, has decided to impose definitive anti-dumping duties on PFY importable from the Exporting Countries as given in the following table for a period of five years effective from November 12, 2005. The anti-dumping duty rates are determined on C&F value in *ad val* terms.

Country	Exporter/Foreign Producer Name	Duty rate
Indonesia	P.T S.K Keris	2.36%
	P.T PanAsia	14.64%
	All others	8.27%
Korea	Hyosung Corporation	29.07%
	All others	6.92%
Malaysia	Global Trade Well	22.62%
	Fotex Trading	20.78%
	All others	3.67%
Thailand	Tuntex	18.93%
	Chiem Patana	29.68%
	All others	18.93%

17. The following exporters/foreign producers of the investigated product from the Exporting Countries are not be subject to the definitive anti-dumping duty as these exporters/foreign producers were either found not to be dumping or the dumping margins were found to be *de minimis* (less than 2%) in terms of Section 41 of the Ordinance during the POI:

- i. P.T Indorama, Indonesia;
- ii. P.T Sulindafin, Indonesia;
- iii. Tongkook Corporation; Korea
- iv. Saehan Industries Inc., Korea;
- v. Hualon Corporation (M) Sdn, Malaysia;
- vi. Jong Stit Company, Thailand;
- vii. Capital Rayon Company Ltd, Thailand; and
- viii. Sunflag (Thailand) Limited, Thailand.

18. The definitive anti-dumping duties shall take the form of *ad val* duty and will be held in a non-lapseable personal ledger account established and maintained by the Commission for this purpose. Release of the

investigated product for free circulation in Pakistan shall be subject to imposition of such anti-dumping duties. Definitive anti-dumping duties levied would be in addition to other taxes and duties leviable on import of the investigated product under any other law. The definitive anti-dumping duties would be collected in the same manner as customs duty is collected under the Customs Act, 1969 (IV of 1969).

19. Price Undertaking: After preliminary determination the following ten exporters/foreign producers have shown their intention to offer price undertakings under Section 46 of the Ordinance. This matter is under consideration. If, after due process, the Commission decides to accept the price undertakings offered, definitive anti-dumping duties levied on imports of the investigated product from these exporters/producers shall cease:

- i. P.T Polyfin Canggih, Indonesia;
- ii. PT. Mitra Lintas Internation, Indonesia;
- iii. P.T Mitra Dutanusa Sejati, Indonesia;
- iv. Hyosung Corporation, Korea;
- v. HK Corporation, Korea;
- vi. Hanswill Co. Ltd., Korea;
- vii. S.K Filament, Malaysia
- viii. Chiem Patana, Thailand;
- ix. Siam Moderntex Co., Thailand; and
- x. Tuntex (Thailand) Compay Limited, Thailand.

The Commission has suggested a similar price undertaking option in keeping with Section 46(1) of the Ordinance to other exporters/foreign producers, including those who are not known to the Commission.

20. Refund: In terms of section 55(2) of the Ordinance, if the definitive anti-dumping duty is lower than the amount of provisionally determined anti-dumping duty, the difference shall be refunded by the Commission within forty-five days of the final determination. The Commission, informs the importers of PFY to send their requests for refund of anti-dumping duty (if any) that may have been paid (under the Commission's Provisional Determination) on imports of the investigated product from Exporting Countries to the extent of the difference between the rate of definitive anti-dumping duty and the rate of Provisional anti-dumping duty, to the Secretary, National Tariff Commission, State Life Building No. 5, Blue Area, Islamabad within a period of *thirty* days of the publication of this notice.

21. Disclosure meeting: Pursuant to Rule 16 of the Rules, the exporters/foreign producers of the investigated product may request for a disclosure meeting within 15 days of the date of publication of this notice.

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

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

By order of the Commission.

(Batoool Iqbal Qureshi)
Secretary
March 17, 2006