

(NON-CONFIDENTIAL)



**Government of Pakistan
National Tariff Commission**

REPORT

ON

**FINAL DETERMINATION AND LEVY OF DEFINITIVE
ANTIDUMPING DUTY ON IMPORT OF PHTHALIC
ANHYDRIDE ORIGINATING IN AND/OR EXPORTED FROM
THE REPUBLIC OF INDIA**

A.D.C No.08/2005/NTC/PA

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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 final 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 Nimir Chemicals Pakistan Limited, 51-N, Industrial Area, Gulberg-II, Lahore (the "Applicant") on behalf of the domestic industry producing Phthalic Anhydride (hereinafter referred to as "PA") on July 14, 2005. The Applicant alleged that PA produced in the Republic of India, (hereinafter referred to as "India") is exported to Pakistan at dumped prices. The High Commission of India in Islamabad was informed through note verbale dated July 19, 2005, sent through the Ministry of Foreign Affairs, Pakistan, of the receipt of application in accordance with the requirements of Section 21 of the Ordinance and Article 5.5 of the Agreement on Antidumping.

2. Evaluation and Examination of the Application

2.1 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 PA from India 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.

2.2 The application fulfils the requirements of Section 24 of the Ordinance which enjoins upon 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 like product. 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 the domestic like product produced by that portion of the domestic industry expressing either support

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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 the domestic like product produced by the domestic industry.

2.3 The Applicant is the only domestic producer of PA and thereby represents 100 percent of the total domestic production. Therefore, the application is considered to have been made by the domestic industry as it is supported by 100 percent of the total domestic production of the like product produced by that portion of the domestic industry expressing its opinion. Thus the application fulfils the requirement of Section 24 of the Ordinance.

3. Exporters/Foreign Producers Involved in Alleged Dumping of the PA

3.1 The Applicant identified thirteen exporters/foreign producers involved in alleged dumping of PA and requested that anti-dumping duty may be imposed on all imports of PA from India. However, complete postal addresses were available for following companies:

- i. IG Petrochemical Limited, Nariman Point, Mumbai ;
- ii. Thirumalai Chemicals Limited, Thirumalai House, Mumbai;
- iii. Herdillia Chemicals Limited, Nariman Point, Mumbai;
- iv. Mysore Petrochemicals Limited, Infantry Road, Bangalore;
- v. Key Bioactives Corporation, Tamil Nadu;
- vi. Globechem International, Tamil Nadu; and
- vii. Rubex Corporation (Pvt) Ltd, Gujrat.

3.2 Upon initiation of the investigation copy of the notice of initiation was sent to the exporters/foreign producers on August 11, 2005, whose complete postal addresses were available. For the other exporters/foreign producers from India the Commission requested to the High Commission of India to forward notice of initiation to all exporters/foreign producers of PA in India.

4. Applicant's Views

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

- i. PA imported from India into Pakistan and PA produced by the domestic industry in Pakistan are like products;
- ii. the exporters from India are exporting PA to Pakistan at dumped prices; and

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- iii. export of PA by the exporters from India to Pakistan at dumped prices has caused and is causing material injury to the domestic industry producing PA, mainly through:
 - a. increase in volume of alleged dumped imports (both in absolute as well as relative to domestic production);
 - b. loss in market share;
 - c. price undercutting;
 - d. price suppression;
 - e. increase in inventories; and
 - f. decrease in return on investment.

5. Initiation of Investigation

5.1 The Commission upon examining the accuracy and adequacy of the evidence provided in the application 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 09, 2005. In terms of Section 27 of the Ordinance, the Commission issued a notice of initiation, which was published in the Official Gazette¹ of Pakistan and in two widely circulated national newspapers² (one in English language and one in Urdu Language) on August 11, 2005. Investigation concerning imports of PA into Pakistan (classified under PCT³ No. 2917.3500) contained in the First Schedule of Customs Act, 1969 (IV of 1969) originating in and/or exported from India was thus initiated on August 11, 2005.

5.2 The Commission notified the High Commission of India in Pakistan (by sending a copy of the Notice of Initiation through Ministry of Foreign Affairs, Pakistan) on August 11, 2005 with a request to forward Notice of Initiation to all exporters/producers of PA in India. Copies of Notice of Initiation were also sent to the exporters/foreign producers of India whose complete addresses were available with the Commission, the known Pakistani importers, and the Applicant on August 11, 2005, in accordance with the requirements of Section 27 of the Ordinance.

5.3 In accordance with Section 28 of the Ordinance, on August 12, 2005, the Commission sent copies of full text of the written application (non-confidential version) to the High Commission of India in Pakistan through the Ministry of Foreign Affairs, Pakistan.

6. Investigated Product and Domestic Like Product

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

¹ The official Gazette of Pakistan (Extraordinary) dated August 11, 2005.

² The ‘Daily DAWN’ and the ‘Daily Express’ of August 11, 2005 issue.

³ “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.

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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”.

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

i. Investigated Product:

The investigated product is PA originating in and/or exported from India into Pakistan. It is classified under PCT No. 2917.3500. The investigated product is used in the production of plasticizers, alkyd resins, polyester resins, dyes and pigments.

ii. Domestic Like Product

The domestic like product is PA produced by the domestic industry in Pakistan. The domestic like product is also classified under PCT No. 2917.3500. The domestic like product is mainly used in the production of plasticizers, alkyd resins, polyester resins, dyes and pigments.

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

- i. the basic raw material used in the production of the investigated product and the domestic like product is identical i.e ortho. xylene.
- ii. the two products (the investigated product and the domestic like product) are produced with a similar manufacturing process;
- iii. both the products have same/similar colour and appearance;
- iv. the two products are substitutable in use. They are mainly used in the production of plasticizers, alkyd resins, polyester resins, dyes and pigments etc.; and
- iv. both the products are classified under the same PCT/HS No. 2917.3500

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

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7. Period of Investigation

7.1 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 so deems appropriate in view of the available information regarding domestic industry and an investigated product".

7.2 The POI selected for dumping and injury were, therefore, respectively, as follows:

Investigation of dumping from April 1, 2004 to March 31, 2005;

Investigation of injury from January 1, 2002 to March 31, 2005.

8. Information/Data Gathering

8.1 In order to enable the Commission to decide whether sampling would be necessary, and if so, to select a sample, all exporters/foreign producers of the investigated product from India were requested, through the notice of initiation, to make themselves known to the Commission and to provide the requisite information within 15 days of the publication of notice of initiation in the press in Pakistan.

8.2 Following three exporters/foreign producers from India responded to the notice of initiation within the given time period of fifteen days:

- i. IG Petrochemicals Ltd, Mumbai, India;
- ii. Thirumalai Chemicals Ltd., Mumbai, India; and
- iii. Suraj Impex (Pvt) Ltd. Indore, India

8.3 Thirumalai Chemicals Ltd., Mumbai stated that it did not export PA to Pakistan during the POI (from 1st April 2004 to 31st March 2005). However, import statistics obtained from Customs Department of Pakistan shows imports of PA from Thirumalai Chemicals Ltd., Mumbai to Pakistan during the POI. Suraj Impex (Pvt) Ltd. Indore, India stated that, "we are not exporter of any product like Phthalic Anhydride (PA) which is the subject matter of your investigation." The Commission

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accepted the claim of Suraj Impex Ltd., based on the information obtained from Customs Department of Pakistan and thereafter was excluded from investigation.

8.4 The Commission sent questionnaires on September 2, 2005 to IG Petrochemicals Ltd, Mumbai, and Thirumalai Chemicals Ltd., Mumbai for submission of data and information and asked them to respond to the Commission within 37 days of the dispatch of the questionnaires.

8.5 IG Petrochemicals Ltd, Mumbai did not respond to the questionnaire. The Commission, after expiry of the time period given to respond, informed IG Petrochemicals Ltd through a letter of October 20, 2005 that in case of a non response by October 24, 2005, 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.

8.6 The Commission received a response from Thirumalai Chemicals Limited, Mumbai on September 30, 2005 stating once again that it had not exported any quantity of the investigated product into Pakistan during POI. On October 05, 2005, Thirumalai Chemicals Limited, Mumbai was informed that the information obtained by the Commission from Customs Department of Pakistan showed imports of PA from Thirumalai during the POI and therefore was asked to provide requisite information latest by October 17, 2005. Thirumalai Chemicals Limited, Mumbai, in its email of October 11, 2005 maintained the same position and did not provide requisite information. The Commission, after expiry of the time period given to respond, informed Thirumalai Chemicals Limited through a letter of October 20, 2005 that in case of a non response by October 24, 2005, 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.

8.7 High Commission of India in Pakistan was also informed on October 20, 2005 accordingly of the use of 'Best Information Available' for determination of dumping in this investigation.

8.8 Questionnaires were also sent on August 16, 2005 to eleven Pakistani importers of the investigated product, known to the Commission at the time of initiation of the investigation, and they were asked to respond to the Commission within 37 days of the dispatch of the questionnaires.

8.9 Only two importers, namely (i) A.T.S Synthetic (Pvt) Ltd and (ii) Basfa Industries (Pvt) Ltd., submitted partial information in response to the questionnaire.

8.10 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 final determination the Commission has also used import data obtained from PRAL in addition to the information provided by the Applicant.

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8.11 In order to verify the information/data provided by the Applicant and to obtain further information (if any), on-the-spot investigation was conducted at the offices and plant of the Applicant from 5th to 7th September, 2005.

8.12 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 final determination.

9. Public File

The Commission, in accordance with Rule 7 of the Rules, has established and maintained a public file at its offices. This file remained 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.

10. 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.

11. Negligible Volume of Imports

In terms of Section 41(3) (b) of the Ordinance, the volume of 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. The data and information received from PRAL reveals that the volume of the investigated product accounts for 59.49 percent of the total imports of PA during the POI. Thus this percentage is well above the negligible volume (less than three percent) of imports of the like product.

12. Preliminary Determination and Levy of Provisional Antidumping Duty

12.1 The Commission made its preliminary determination in this case on February 06, 2006 and in terms of Section 37 of the Ordinance, the Commission issued a notice of preliminary determination, which was published in the official Gazette of

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Pakistan¹ and in two widely circulated national newspapers² (one in English language and one in Urdu Language) on February 13, 2006 notifying the imposition of provisional antidumping duty on the investigated product @ 10.94 percent ad val of C&F price importable from India for a period of four months effective from February 13, 2006. The Commission besides sending the notice of preliminary determination to the High Commission of India in Islamabad also sent the notice of preliminary determination to the known exporters/foreign producers of India, the Applicant, and the known Pakistani importers in accordance with the requirements of Section 37(4) of the Ordinance.

12.2 The findings of the Commission in the preliminary determination were as follows:

- i. the application was filed by the domestic industry as the Applicant represents 100 percent of the production of domestic like product;
- ii. the investigated product and the domestic like product are like products;
- iii. during the POI, the investigated product was exported to Pakistan by the exporters/foreign producers of India at prices below its normal value;
- iv. the volume of dumped imports of the investigated product and the dumping margins established, were above the negligible and *de minimis* levels respectively;
- v. the dumping margin expressed as a percentage of weighted average CIF export was calculated to be 10.94 percent for exporters/foreign producers from India.
- 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, loss in sales, and significant decrease in production and capacity utilization (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.

13. Disclosure after Preliminary Determination

¹ The official Gazette of Pakistan (Extraordinary) of February 13, 2006 issue.

² 'Daily Dawn' and 'Daily Express' of February 13, 2006 issues.

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In terms of Rule 11 of the Rules, the Commission, upon request made by a foreign producer/exporter within fifteen days of the publication of notice of preliminary determination, shall hold disclosure meeting with the foreign producer or exporter to explain dumping calculation methodology applied for that exporter/producer. The Commission shall also provide an opportunity to exporter/producer or their legal representatives to examine and receive copies of the dumping calculations done by the Commission for their exports. None of the exporters/foreign producers requested for disclosure meeting/disclosure documents in this investigation.

14. Hearing

In terms of Rule 14 of the Rules, the Commission shall, upon request by an interested party made not later than thirty days after publication of notice of preliminary determination, hold a hearing at which all interested parties may present information and arguments. The Commission did not receive request for hearing from any of the interested parties registered in this investigation.

15. Written Submissions by the Interested Parties on the Preliminary Determination

The Commission did not receive written submissions/comments from any of the interested parties on its preliminary determination made in this investigation.

16. Disclosure of Essential Facts

16.1 In terms of Rule 14(8) of the Rules and Article 6.9 of Agreement on Antidumping, the Commission disclosed the essential facts, and in this context dispatched Statement of Essential Facts (hereinafter referred to as the "SEF") on April 20, 2006 to all interested parties including the known exporters/foreign producers, the Applicant, the known Pakistani importers, and to the High Commission of India in Pakistan.

16.2 Under Rule 14(9) of the Rules, the interested parties were required to submit their comments (if any) on the facts disclosed in SEF, in writing, not later than fifteen days of such disclosure. However, the Commission did not receive submissions/comments from any of the interested parties on the facts disclosed in the SEF.

B. DETERMINATION OF DUMPING

17. Dumping

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".

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18. Normal Value

18.1 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”.

However Section 32 of the Ordinance provides as follows:

“If, at any time during an investigation, any interested party

“(a) refuses access to, or otherwise does not provide, necessary information within the period of time as may be prescribed; or

“(b) otherwise significantly impedes the investigation, the Commission may reach preliminary and final determinations, whether affirmative or negative, on the basis of the best information available”.

18.2 As stated in paragraphs 8.5 and 8.6 supra, none of the exporters/producers of the investigated product from India provided requisite information, therefore, normal value for the purposes of this final determination for the investigated product is determined on the basis of the best information available in terms of Section 32 of the Ordinance and Article 6.8 and Annex II of the Agreement on Antidumping.

18.3 It is important to identify here that the Commission informed the exporters/foreign producers as well as the High Commission of India in Islamabad of reliance on the Best Information Available in its letters of October 20, 2005.

18.4 Normal value for the investigated product in this investigation is determined on the basis of cost of production plus administrative, selling and general expenses of the Applicant. The raw material (Ortho-Xylene) cost has been adjusted for customs duty @ 5% and incidentals @ 5%¹. The actual cost incurred by the Applicant on: packing material, manufacturing salaries and wages, other factory overheads, administrative expenses, and selling and distribution expenses for production of the domestic like product in the year 2004 have been used for construction of the normal value. Normal profits @ 5² percent of cost to make and sell has been added to arrive at a constructed normal value.

18.5 On the basis of above, the weighted average normal value for the investigated product works out to ****³ per metric ton (“MT”).

¹ Incidentals @ 5% are estimated for customs clearance and other charges at port. It is the Commission’s practice to take 5% as incidentals in calculation of landed cost of imported products.

² The Applicant’s profit for the year 2004 was 15.81% of cost to make and sell. However, the Commission considered 5% of cost to make and sell as normal profit.

³ Actual figure has been omitted to maintain confidentiality.

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19. Export Price

19.1 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”.

19.2 As stated earlier, none of the exporters/producers of the investigated product provided requisite information (paragraphs 8.5 and 8.6 supra). Thus, the export price for investigated product is determined on the basis of the best information available to the Commission in terms of Section 32 of the Ordinance, and Article 6.8 and Annex II of the Agreement on Antidumping.

19.3 To determine export price for the investigated product for the purposes of this final determination, the Commission has used import data obtained from PRAL (paragraph 8.10 supra).

19.4 To arrive at the ex-factory level, weighted average CIF export price has been adjusted on account of ocean freight, inland freight, and insurance. The Applicant has assumed 3 percent of the CIF price as ocean freight and 1 percent as insurance to arrive at FOB export price. The export price has been adjusted accordingly. The Commission has assumed 1 percent of CIF export price as inland freight to reach at ex-factory level. After making the above mentioned adjustments, the Commission arrived at weighted average export price at ex-factory level.

20. Dumping Margin

20.1 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.

20.2 As stated earlier (paragraphs 8.5 and 8.6) none of the exporters/producers of the investigated product from India provided requisite information, therefore, individual dumping margin has not been determined for any exporter/producer.

20.3 Section 12 of the Ordinance provides three methods for fair comparison of normal value and export price in order to establish dumping margin. The

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Commission has established dumping margin by comparing weighted average normal value with weighted average export price at ex-factory level.

20.4 Taking into account all requirements set out above, a single dumping margin has been calculated @ 10.94% ad valorem of C&F export price for all exporters/producers from India.

C. INJURY TO DOMESTIC INDUSTRY

21. Determination of Injury

21.1 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
- 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...”

Section 15 further provides

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

21.2 The Commission has taken into account all relevant factors in order to determine whether the domestic industry suffered material injury during the POI.

21.3 Material injury to the domestic industry has been analyzed in the following paragraphs in accordance with part VI of the Ordinance.

22. Domestic Industry

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

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“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.”

22.2 The Applicant being the only producer of PA in Pakistan, represents 100 percent of the domestic production of the domestic like product and hence the entire domestic industry.

22.3 The Applicant is a public limited company incorporated in Pakistan on November 30, 1989 under the Companies Ordinance, 1984. It is not listed at any stock exchange of the country. Its authorized capital is Rs. 1,850 million and paid up capital is Rs. 850 million.

22.4 The Applicant manufactures, markets and sells PA in Pakistan. During the POI present the installed production capacity of the Applicant was 16,000 MT per annum. However, the installed production capacity is being increased up to 24,000 MT per annum with an investment of Rs. 390 million. This extension of the existing plant will be completed by June 2006.

23. Volume of Dumped Imports

Facts

23.1 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.

23.2 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 Applicant and obtained from PRAL is used. The following table shows imports of the investigated product and production of the domestic like product during the POI:

Table-I
Dumped Imports and Domestic Production

Year/Period	Imports of IP*	Domestic Production*
2002	0.53	109.61
2003	100.00	100.00
2004	81.74	112.98
Jan-March 2005	20.21	21.29

*Actual figures are indexed by taking figures of 2003 equal to 100

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Analysis

23.3 It appears from the above table that the imports of the investigated product increased over 188 times in the year 2003 over 2002. However imports of the investigated product decreased by 18.26 percent and 1.10 percent (on annualized basis) in the year 2004 and during the period from January to March 2005 respectively.

23.4 The production of domestic like product decreased by 8.76 percent in the year 2003 over the production of the year 2002 and increased by 12.98 percent in the year 2004 over the year 2003. However, it decreased by 24.62 percent (on annualized basis) during January to March 2005 over the production of the year 2004.

Conclusion

23.5 On the basis of the above analysis, the Commission has concluded that the domestic industry suffered material injury as dumped imports of the investigated product significantly increased relative to production of the domestic like product during POI.

24. Price Effects

24.1 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 price 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).

24.2 Price undercutting

Facts

24.2.1 Weighted average ex-factory price of the domestic like product has been calculated from the information submitted by the Applicant on quantity and value of sales during the POI. Landed cost of the investigated product has been calculated from the import data obtained from PRAL. Comparison of weighted average ex-factory price of the domestic like product with the weighted average landed cost of the investigated product during the POI is given in following table:

**Table-II
Calculation of Price Under-cutting**

Year/Period	Weighted Average ex-factory price of domestic like product*	Weighted Average landed cost of investigated product*	Price under-cutting in	
			Absolute terms	Percentage terms
2002	100.00	81.87	18.13	18.13
2003	107.70	95.15	12.55	11.65

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2004	142.65	120.56	22.09	15.48
Jan - March 05	162.63	144.96	17.67	10.86

* Actual figures are indexed by taking average price in the year 2002 equal to 100

Analysis

24.2.2 It appears from the above table that the landed cost of the investigated product significantly undercut the prices of the domestic like product through out the POI.

Conclusion

24.2.3 On the basis of the above, the Commission has concluded that the domestic industry suffered injury on account of price undercutting as the investigated product significantly undercut the price of the domestic like product during the POI.

24.3 **Price Depression**

Facts

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

**Table-III
Calculation of Price Depression**

Period	Weighted Average ex-factory price of domestic like product*	Price depression
FY 2002	100.00	--
FY 2003	107.70	--
FY 2004	142.65	--
Jan - March 05	162.63	--

* Actual figures are indexed by taking 2002 as base year

Analysis

24.3.2 Analysis of the above facts shows that weighted average ex-factory price of domestic like product increased every successive year during the POI.

Conclusion

24.3.3 The Commission has concluded on the basis of the above analysis that the domestic industry did not suffer material injury on account of price depression, as it did not experience any price depression during the POI.

24.4 **Price Suppression**

Facts

24.4.1 The following table shows the weighted average cost of production ("COP") and the weighted average ex-factory sales price of the domestic like product during the POI:

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Table-IV
Calculation of Price Suppression

Year/Period	Weighted Average COP*	Weighted Average ex-factory price*	Increase in COP	Increase in price	Price Suppression
2002	100.00	100.00	--	--	--
2003	107.46	107.70	7.46	7.70	--
2004	130.53	142.65	23.07	34.95	--
Jan - March 05	171.68	162.63	41.15	19.98	21.17

* Actual figures are indexed by taking figures of 2002 equal to 100

Analysis

24.4.2 The above table shows that the domestic industry was able to recover increased COP during the years 2003 and 2004, as increase in weighted average ex-factory price of the domestic like product was more than the increase in weighted average COP. However, during the period from January to March 2005 domestic industry faced price suppression as increase in COP was more than the increase in price of the domestic like product.

Conclusion

24.4.3 On the basis of the above facts and analysis, the Commission has concluded that the domestic industry suffered material injury on account of price suppression during the period January to March 2005, as it was not able to recover increased COP by way of an increase in selling price of domestic like product.

25. Effects on Market Share

Facts

25.1 During the POI, domestic demand for PA in Pakistan was met through sales by the domestic industry and by imports. The domestic consumption of PA is ascertained by combining the domestic industry's sales and total imports, and this is referred to here as the total domestic market. The total domestic market for PA during the POI is given in following table:

Table - V
Market Share

Year/Period	Sales and internal consumption by domestic industry	Imports from		Total domestic market
		Dumped source (India)	Other sources	
2002	91.22%	0.15%	8.63%	100%
2003	65.14%	22.98%	11.88%	100%
2004	72.69%	18.17%	9.14%	100%
Jan-Mar 2005	67.88%	21.94%	10.18%	100%

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Analysis

25.2 The above table shows that the market share of domestic industry decreased from 91.22 percent in the year 2002 to 65.14 percent in the year 2003. However its market share increased to 72.69% in the year 2004. During the period January to March 2005 its market share decreased to 67.88% from 72.69% in the year 2004.

25.3 Market share of dumped imports increased from 0.15 percent in the year 2002 to 22.98 percent in the year 2003. However, it decreased to 18.17 percent in the year 2004. The share of dumped imports increased to 21.94 percent during the period from January to March 2005.

25.4 The market share of imports from all sources other than dumped source increased from 8.63 percent in the year 2002 to 11.88 percent in the year 2003. It decreased to 9.14 percent in the year 2004. However, it increased to 10.18 percent during the period from January to March 2005.

Conclusion

25.5 On the basis of above analysis, the Commission has concluded that the domestic industry suffered material injury on account of market share, as it lost significant market share in domestic market during the POI due to dumped imports.

26. Effects on Sales

Facts

26.1 Sales of the domestic like product by the domestic industry during the POI were as follows:

Table-VI
Sales of domestic like product (MT)

Period	Sales of domestic like product*
2002	100.00
2003	85.79
2004	102.30
Jan - Mar 05	77.12**

*Actual figures are indexed by taking figures of the year 2002 equal to 100

** On annualized basis

Analysis

26.2 The above table shows that the sale of domestic like product decreased by 14.21 percent in the year 2003 and increased by 19.24 percent in the year 2004 over the sales of the year 2002 and 2003 respectively. However, sales of domestic like product decreased by 24.61 percent during the period from January to March 2005 (on annualized basis) over the sales in the year 2004.

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26.3 Imports of the investigated product increased 188.33 times in the year 2003, decreased by 18.26 percent in the year 2004 and decreased by 1.10 percent during the period from January to March 2005 (on annualized basis) over the imports in the years 2002, 2003 and 2004, respectively.

Conclusion

26.4 On the basis of the above analysis, the Commission has concluded that the domestic industry suffered material injury on account of sales of domestic like product during the POI, as its sales decreased significantly due to dumped imports.

27. Effects on Production and Capacity Utilization

Facts

27.1 The installed production capacity of the Applicant to produce domestic like product during the POI was 12000 to 16,000 MT per annum. Quantity produced and the capacity utilization during the POI were as follows:

**Table- VII
Production and Capacity Utilization**

Period	Capacity Utilization
2002	104.13%
2003	95.00%
2004	107.33%
Jan-Mar 2005	60.68%

Analysis

27.2 It may be noted that the production of domestic like product decreased in the year 2003 and resultantly the capacity utilization decreased from 104.13 percent in the year 2002 to 95.00 percent in the year 2003. The production increased again in the year 2004 and the capacity utilization peaked at 107.33 percent in that year. The production, however, decreased during the period from January to March 2005 (on annualized basis) and hence capacity utilization reduced to 60.68 percent.

Conclusion

27.3 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 due to dumped imports during the POI.

28. Effects on Inventories

Facts

28.1 The Applicant has provided data relating to accumulation of inventories during the POI. The data for opening and closing inventories for the domestic like product is given in the following table:

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Table-VIII
Inventories of Domestic Like Product

Year/Period	Opening Inventory*	Closing Inventory*
2002	100.00	60.00
2003	60.00	403.64
2004	403.64	309.09
Jan-Mar 2005	309.09	221.82

*Actual figures are indexed by taking figures of opening inventory of the year 2002 equal to 100

Analysis

28.2 The data given in the above table shows that the inventory level of the domestic like product decreased during the POI, except in the year 2003.

Conclusion

28.3 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.

29. Effects on Profits/Loss

Facts

29.1 Profit and loss position of the domestic industry is determined on the basis of the information supplied by the Applicant in its Profit and Loss Account Statements for the domestic like product. The table below shows the profit and loss position of the domestic industry during the POI:

Table - IX
Profit/(Loss) of Domestic Industry

Year/Period	Profit/(loss)*
2002	100.00
2003	(57.89)
2004	648.99
Jan-Mar, 2005	58.77

*Actual figures are indexed by taking 2002 as base year

Analysis

29.2 The domestic industry has suffered losses in the year 2003. However, it earned profits in the year 2004 and during the period from January to March 2005 profits decreased considerably.

Conclusion:

29.3 On the basis of the above facts, the Commission has concluded that the domestic industry did not suffer material injury on account of profits, except during 2003 and the period from January to March 2005.

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30. Effects on Cash Flow

Facts

30.1 The cash flow position through operating activities of the domestic industry is determined on the basis of the information provided by the Applicant. Cash flow position of the domestic industry during the POI is given in the table below:

Table -X
Cash Flow Position

Year/Period	Cash Flow*
2002	100.00
2003	122.49
2004	131.55

*Actual figures are indexed by taking 2002 as base year

Analysis

30.2 The above table shows that cash flows from operations of the domestic industry continued to improve during the POI. It increased by 22.49 percent and by 7.40 percent in the year 2003 and 2004, respectively.

Conclusion

30.3 On the basis of the above, the Commission has concluded that the domestic industry did not suffer material injury on account of cash flow during the POI.

31. Effects on Employment and Productivity

Facts

31.1 The number of direct employees in the domestic industry remained the same during the POI. The employment, productivity, salaries and wages of the domestic industry, as provided by the Applicant, were as follows:

Table -XI
Employment, wages and Productivity

Year/Period	Number of Employees (Direct)**	Total salaries and wages **	Domestic production **	Productivity per worker**	Salaries & wages**
2002	100.00	100.00	100.00	100.00	100.00
2003	94.74	108.53	91.23	96.30	118.96
2004	94.74	134.81	103.07	108.80	130.79
Jan-Mar, 2005	94.74	105.92	77.69	82.00*	136.34

* Number of employees has been taken one-fourth to calculate productivity for January to March 2005

** Actual figures are indexed by taking 2002 as base year

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Analysis

31.2 The above table shows that the number of employees in domestic industry remained same during the POI. According to the Applicant, these numbers of employees were essential to run the plant. Productivity per worker increased throughout the POI; salaries and wages per MT of production increased during the POI.

Conclusion

31.3 Based on the above analysis, the Commission has concluded that the domestic industry did not suffer material injury on account of employment and productivity during the POI.

32. Effects on Return on Investment

Facts

32.1 According to the information/data provided by the Applicant, the return on investment of domestic industry during the POI is presented in the following table:

Table -XII
Investment and Return on Investment

Year	Total investment (Rs)*	Return on Investment (%)
2002	100	3.75%
2003	97.25	1.00%
2004	111.99	9.39%

*Actual figures are indexed by taking 2002 as base year

Analysis

32.2 The above table shows that the return on investment was 3.75 percent in the year 2002. It declined to 1.00 percent in the year 2003. It, however, improved to the level of 9.39 percent in the year 2004. Domestic industry's return on investment remained positive throughout the POI.

Conclusion

32.3 On the basis of the above analysis, the Commission has concluded that the domestic industry did not suffer injury on account of return on investment.

33. Effects on Growth and Investment

Facts/Analysis

33.1 Domestic market of PA is growing. The Applicant has enhanced its production capacity in January 2005. From 100MT* to 133.33MT per annum. Production capacity of the domestic industry would be further enhanced to 200MT* per annum by the year 2006.

* Actual figures are indexed to maintain confidentiality

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Conclusion

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

34. Ability to Raise Capital

Facts/analysis

34.1 The Applicant alleged difficulty in raising capital due to dumping of the investigated product. However, it did not submit any documentary evidence in support thereof.

Conclusion

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

35. Summing up of Material Injury

The analysis in the preceding paragraphs 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;
- ii. significant price undercutting;
- iii. significant loss in market share;
- iv. significant loss in sales; and
- v. significant decrease in production and capacity utilization.

36. It is therefore evident that the concentration of increased volume of dumped imports and price undercutting was significantly enough to cause a loss in sales to the domestic industry. Reduced sales and increased dumped imports led to a consequent reduction in market share. The fall in sales and market share impacted directly on production levels; output and capacity utilization of the domestic industry fell significantly. In this manner it was established that the domestic industry suffered significant material injury on account of dumped imports.

D. CAUSATION

37. Effect of Dumped Imports

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

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- i. volume of dumped imports increased significantly (paragraph 23 supra);
- ii. dumped imports undercut prices of the domestic like product significantly (paragraph 24.2 supra);
- iii. domestic industry lost significant market share while market share of dumped imports increased significantly (paragraph 25 supra);
- iv. domestic industry's sales were effected negatively due to dumped imports (paragraph 26 supra) ; and
- v. domestic industry's production and capacity utilization decreased significantly (paragraph 27 supra);

38. Other Factors

38.1 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 injury caused by dumped imports.

38.2 The investigation of the Commission revealed that the domestic industry also suffered some injury due to imports of PA from sources other than dumped source during the POI. However, injury caused by other imports cannot be considered as significant as its volume was far less than the volume of dumped imports and the weighted average CIF price was above the weighted average CIF price of the investigated product. Following table shows the volume and weighted average CIF prices of other imports and dumped imports:

Table - XIII
Volume and CIF Prices of Imported PA

Year/Period	Other Imports		Dumped Imports	
	Quantity (MT)	CIF Price (US\$/MT)	Quantity (MT)	CIF Price (US\$/MT)
2002	1184.00	555.28	21.00	450.00
2003	2045.00	583.81	3955.25	545.72
2004	1626.00	725.43	3233.00	697.80
Jan-March 05	371.00	871.78	799.53	846.38

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

- i. There was no contraction in demand of PA during POI in Pakistan;

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- ii. There was no change in trade restrictive practices and competition between foreign producers other than producers of the investigated product and domestic producer; and
- iii. There has been no considerable change in technology.

E. CONCLUSIONS

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

- i. the application was filed by the domestic industry as the Applicant represents entire production of the domestic like product;
- ii. the investigated product and the domestic like product are like products;
- iii. during the POI, the investigated product was exported to Pakistan by the exporters/foreign producers, from India, at prices below its normal value;
- vi. the volume of dumped imports of the investigated product and the dumping margin established on the basis of the foregoing analysis, are above the negligible and *de minimis* levels respectively;

40. The Commission further concludes that on the basis of the analysis, the domestic industry suffered material injury in terms of Section 15 and 17 of the Ordinance due to dumped imports of the investigated product during the POI with regard to the following factors:

- i significant increase in volume of dumped imports of the investigated product;
- ii. significant price undercutting;
- iii. significant loss in market share;
- iv. significant loss in sales; and
- v. significant decrease in production and capacity utilization.

41. There is a causal relationship between dumped imports and the material injury suffered by the domestic industry.

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F. IMPOSITION OF DEFINITIVE ANTIDUMPING DUTY

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

43. In terms of Section 50 of the Ordinance and Article 9 of the Agreement on Antidumping, definitive antidumping duty is hereby imposed @ 10.94 percent *ad val* of CIF price on import of the investigated product (Phthalic Anhydride) originating in and/or exported from India to Pakistan for a period of five years effective from February 13, 2006. The investigated product is classified under PCT heading No. 2917.3500.

44. Imports of PA from sources other than the dumped source (India) would not be subject to this definitive antidumping duty.

45. In accordance with Section 51 of the Ordinance, the definitive 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.

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

47. The definitive antidumping duty 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.

48. The Commission had imposed provisional antidumping duty on the investigated product vide official gazette (extra ordinary) dated February 13, 2006 for a period of four months effective from February 13, 2006. In terms of Section 55(2) of the Ordinance and Article 10.3 of Agreement on Antidumping, if the definitive antidumping duty is lower than the amount of provisionally determined antidumping duty, the difference shall be refunded by the Commission within forty-five days of the final determination. Since provisional antidumping duty imposed by the Commission on February 13, 2006 and the definitive antidumping duty imposed on May 26, 2006 are equal, no claim for refund of antidumping duty shall be entertained with respect to the import of the investigated product.

(Muhammad Ikram Arif)
Member
May 23, 2006

(Faizullah Khilji)
Chairman
May 23, 2006