

(NON-CONFIDENTIAL)



**Government of Pakistan
National Tariff Commission**

REPORT

ON

**FINAL DETERMINATION AND LEVY OF DEFINITIVE
ANTIDUMPING DUTY ON DUMPED 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

June 05, 2007

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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 three domestic producers of Polyester Staple Fibre, not exceeding 2 denier (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") was 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 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

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 for like product) 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 any importer of PSF. None of the Applicants was also 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 Pakistan namely Rupali Polyester Limited, Lahore and Pakistan Synthetics Limited, Karachi were indifferent, in that these two units did not respond in any manner with regard to this application and the investigation. 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”) 2004 and FY 2005 were as follows:

Table-I (% share in total production)

Unit Name	FY 2005	FY 2004
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
Total	100.00	100.00

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 2005 and 91.88 percent during FY 2004.

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.

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

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 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”.

6. Applicants Views

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

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- 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 were/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 was 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 Gazette¹ of Pakistan and in two widely circulated national newspapers² (one in English language and one in Urdu Language) on August 09, 2006. Investigation concerning imports of PSF into Pakistan (classified under PCT³ 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.

¹ The official Gazette of Pakistan (Extraordinary) dated August 09, 2006.

² The 'Daily Business Recorder' and the 'Daily Asas' of August 09, 2006 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.

7.3 The Commission notified the embassies of the Exporting Countries in Pakistan (by sending a copy of the Notice of Initiation) 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, 2006, 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. The embassies were also requested to forward non-confidential version of the application to 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”.

8.2 For the purposes of this investigation and the given 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;
- 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 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 to submit information to the Commission, including the two (Chemon Corporation, Indonesia, and Meiyo Corporation, Thailand), whose mailing addresses were not available.

10.2 Following eight exporters/foreign producers responded to the notice of initiation and stated that they will supply the requisite information. However, five exporters/foreign producers mentioned at S. Nos i. to v. below submitted information/data in response to the questionnaire, which was accepted by the Commission for the purposes of this investigation:

- 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;
- vi. Saehan Industries Inc., Korea;

- vii. Chiem Patana Synthetic Fibres Co., Ltd., Thailand; and
- viii. Teijin Polyester (Thailand) Ltd., Thailand

10.3 None of the other exporters/foreign producers from the Exporting Countries, (including the following two exporters identified by the Applicants) to whom questionnaires were sent directly, responded to the questionnaire:

- i. Tuntex (Thailand) Public Company Ltd., Thailand; and
- ii. Itochu (Thailand) Ltd., Thailand

Details of the questionnaire's response by the exporters/foreign producers are given 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 Commission.

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 some 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 final 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 6th to 19th December 2006.

10.11 Thus the Commission 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.

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 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

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 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.

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. Preliminary Determination

14.1 The Commission made its preliminary determination in this case on February 06, 2007 and in terms of Section 37 of the Ordinance, the Commission issued a notice of preliminary determination, which was published on February 09, 2007 in official Gazette of Pakistan and in two widely circulated national newspapers⁴ (one English and one Urdu Language) notifying the imposition of provisional antidumping duty at following rates for the period of four months effective from February 09, 2007:

**Table-II
Provisional Antidumping Duty Rates**

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

14.2. Provisional anti-dumping duty was not imposed on P.T Indorama Synthetics Tbk. Limited, Jakarta, Indonesia as dumping margin for this exporter/

⁴ The 'Daily Time' and the 'Khabrain' of February 09, 2007 issue

foreign producer was found to be *de minimis* (less than 2%) in terms of Section 41 of the Ordinance during the POI.

14.3 The Commission also sent notice of preliminary determination to the Embassies of the Exporting Countries in Islamabad, the exporters, the importers and the Applicant in accordance with the requirements of Section 37(4) of the Ordinance.

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

- i. the application was filed on behalf of domestic industry as the Applicants represent major proportion of the total 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 ranges between 0.58 percent to 8.93 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 was a causal relationship between dumped imports and the material injury suffered by the domestic industry during the POI.

15. Disclosure after Preliminary Determination

15.1 In terms of Rule 11 of the Rules, the Commission, upon request made by foreign producers/exporters within fifteen days of the publication of notice of

preliminary determination, shall hold disclosure meeting with the producer or the exporter to explain dumping calculation methodology applied for that producer/exporter. The Commission shall also provide an opportunity to producer or exporter or their legal representatives to examine and receive copies of the dumping calculation done by the Commission for their exports.

15.2 All the exporters/foreign producers for whom individual dumping margins were determined requested the Commission for disclosure meetings. Such disclosure meetings were held on March 01, March 03 and March 05, 2007 at the offices of the Commission, in which methodology applied for dumping calculations was explained and copies of the detailed calculations for normal value, export price and dumping margin were provided to the representatives of the exporters/foreign producers. The exporters/ foreign producers have offered their comments on methodology used in dumping calculations. Those comments have been taken into account in this final determination.

16. Hearing

Upon the request of the exporters, importers and All Pakistan Textile Mills Association, a hearing was held on March 20, 2007 under Rule 14 of the Rules. List of interested parties attended the hearing is placed at Annexure II. In the hearing, interested parties commented on Commission's preliminary determination. The information submitted by the participants during the hearing, whether orally (oral statements were subsequently confirmed in writing as per Rule 14 of the Rules) or in writing, is available in the public file maintained by the Commission.

17. Views/Comments of the Interested Parties on the Preliminary Determination

17.1 The Commission received views/comments on its preliminary determination made in this investigation (paragraph 14 supra) from the following interested parties:

- i. Thai Polyester Company, Thailand and Kangwal Polyester Co., Thailand (through their legal representative);
- ii. Huvis Corporation, Korea;
- iii. Ministry of Trade, Government of Indonesia;
- iv. PT. Polysindo Eka Perkassa ("Polysindo"), Indonesia
- v. All Pakistan Textile Mills Association ("APTMA");
- vi. (a) APTMA, (b) P.T Indorama Synthetics, Indonesia, (c) Huvis Corporation, Korea, (d) Bilal Fibres Ltd., (e) Crescent Sugar Mills, (f) Gadoom Textilke Mills, (g) Island Textile Mills Ltd., (h) Salfi Textile Mills Ltd., and (i) Ellcot Spinning Mills ltd. (through their legal representative)
- vii. Gul Ahmed Textile Mills Ltd.; and

viii. Taxila Cotton Mills limited.

17.2 The comments received on the preliminary determination 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:

Column A

Column B

i. Views/Comments of Thai Polyester Company Limited, Thailand and Kangwal Polyester Company Limited, Thailand

Legal counsel of the two Thai exporters/producers submitted following views/comments on preliminary determination:

"1. No Material Injury On Account of Profit

"The Commission insisted that the Applicants had experienced the loss of profit during the Period of Investigation ("POI") determined on the information supplied by the Applicants in their Profit and Loss Account Statements for the domestic like product. However, the financial statements of ICI and Dewan Salmon Fibres, which are made available to the public and therefore the best information available to the Thai exporters and other interested parties, disclosed that both Applicants did not suffer any material injury during the POI on account of loss of profit....."

"In addition, the Commission has admitted that the domestic industry did not suffer material injury on account of cash flows through operating activities (*para. 33.3, page 66*). In normal practice, the figure of operating cash flow and that of operating profit should correspond. Based on the information demonstrated in the Disclosure Report, if the investigation revealed that domestic industry had suffered material injury on account of profit while simultaneously it did not suffer material injury on account of cash flows, the findings would appear to be flawed since operating cash flow is the factor which measures the cash generated from the company's operations."

"2.Improper Evaluation of the Meaning and Quantum of the Term "Significance"

We submit that it is normal practice of all WTO Member states under WTO law to determine material injury based on whether the dumped imports constitute a 'significant' or 'direct' cause of injury or that a 'significant proportion' of material injury is attributable to the effects of dumping. With reference to the Disclosure Report, it appears that the factors explained below should not be considered as 'significant' or 'direct' cause of injury. In the view of Thai exporters, the Commission failed to make a proper evaluation on the significance of the following relevant factors, which as a result appeared to be inconsistent with Article 3.1 of the

On the basis of the information submitted by the Applicants and subsequently verified by the Commission, the investigation revealed that the domestic industry suffered material injury on account of profitability for production and sales of domestic like product. It was found that the domestic industry suffered material injury on account of profits (paragraph 37 *infra*). Further, POI for this investigation and the accounting year for the publicly available financial statements of the Applicants are different. As regards the finding of the Commission that the domestic industry did not suffer material injury on account of cash flow, it may be noted that the cash flow is effected by profits but it is also effected by a number of other adjustments. The finding on cash flow in preliminary determination represent an over all position of all activities effecting flow of cash of the domestic industry. Therefore, there is no contradiction in Commission's findings.

The Commission has examined and analysed all injury factors listed at Sections 15 and 17 of the Ordinance and Article 3 of the Agreement on Antidumping and determined that the domestic industry suffered significant material injury during the POI due to dumped imports. The Commission, in terms of Section 18(2) of the Ordinance and Article 3.5 of the Agreement on Antidumping, examined and analysed factors other than dumped imports of the investigated product, which could at the same time cause injury to the domestic

Agreement on Implementation of Article VI of GATT 1994 ("ADA")."

"2.1 Price Undercutting

"With reference to published reports concerning this investigation, the rates of price undercutting were determined such that the undercutting margins were widely disparate and inexplicably self-conflicting. Moreover, the data regarding average landed cost of alleged dumped imports was obtained from the same source, i.e. the Applicants."

"The claim of the Applicants stated that the price undercutting existed only in two quarters, i.e. the 2nd and 3rd quarters of 2005, and the prices of imported products were lower than the domestic selling prices by only 1-2 percent. On the other hand, the Initiation Memorandum of the Antidumping Investigation Unit to the National Tariff Commission stated that the alleged dumped imports undercut the prices of domestic like product during the year 2005-06 by 3.54 percent. The Commission stated in the Disclosure Report however that the investigation revealed that the landed cost of the investigated product "significantly" undercut the price of domestic like product by 16.99 percent during the year 2005-06."

"We understand from the Disclosure Report that the landed cost of PSF imported from the exporting countries has been calculated from the information supplied by the Applicants who had obtained such information from PRAL and the landed cost for the dumped imports has been calculated from the information supplied by the exporters responding to the questionnaire. Nevertheless, disparity between the price undercutting margins of 1-2, 3.54 and 16.99 percent are irreconcilable at best and not credible for the purpose of finding material injury, at worst."

"In addition, it appears that the price undercutting occurred for a very short period during the POI. For determination of material injury, price undercutting occurred in two quarters out of the total twelve quarters of the POI should not be considered extensive enough to cause material injury. Thus, it is not warranted on the part of the Commission to conclude that price undercutting constituted significant cause of material injury."

"2.2 Price Suppression

"The Commission revealed in Table XII (page 61) of the Disclosure Report that the price of the domestic like product did not experience price suppression until the year

industry, in order to ensure that possible injury caused by other factors is not attributed to the dumped imports (paragraph 45 infra).

The Commission has determined price undercutting on the basis of the information provided by the Applicants, obtained from PRAL and submitted by the exporters.

Prices of the domestic like product have been determined on the basis of the information submitted by the domestic industry on its domestic sales of the domestic like product. Landed cost of the PSF imported from the Exporting Countries during the years 2003-04 and 2004-05 has been worked out on the basis of the information obtained from PRAL while landed cost of the dumped imports of the investigated product during the POI (2005-06) has been worked out on the basis of the information supplied by the exporters.

The investigation revealed that the domestic industry suffered significant material injury on account of price undercutting (paragraph 32.2 infra).

The Commission initiated this investigation after satisfying itself the accuracy and adequacy of the information and evidences provided in the application on dumping of PSF from the Exporting Countries and material injury to the domestic industry due to dumping. Price undercutting worked out in the Initiation memorandum was based on the information provided in the application, which was submitted by the Applicants and obtained from PRAL. As stated above, price undercutting in this investigation is worked out on the basis of the information supplied by the Applicants, obtained from PRAL and information submitted by the exporters, which is more authentic and reliable.

To determine material injury to the domestic industry, the Commission has examined the information on yearly basis, which is the weighted average for the whole year.

The Ordinance and the Agreement on Antidumping do not provide threshold for significant. However, the Ordinance

2005-06 as the increase in price was less than the increase in cost of production at the rate of 1.35 percent. With all due respect, it is rather unfair to conclude that the aforementioned rate of 1.35 percent was significant to cause price suppression since, by way of an analogy, an antidumping margin is always considered as *de minimis* when it is lower than 2 percent. Based on the similar logic, if the amount which is less than 2 percent is regarded as negligible from the dumping determination perspective, it should also be regarded as negligible or "*de minimis*" from the injury determination as well. Moreover, in order to analyze "price effects" which include price undercutting, price suppression and price depression, the information should be taken for analysis on the same basis, i.e. on a quarterly basis."

"2.3 Profit Margin on Sales Value

"The Thai exporters agreed with APTMA's view that since the Applicants set the theoretical profit margin to construct normal value at the rate of 1 percent, it shall be able to implied that, in the Applicants' opinion, PSF industry generally have very small profit margin, i.e. 1 percent. Therefore, when the investigation revealed that the Applicants had profit as of sales value of 1.57 percent in the year 2005-06 (Table XVII, page 65), it should be considered as regular business norm. Even though there were the aforesaid decreased profit margins, the *de minimis* principle shall be taken into account especially when both decreased margins were even lower 1 percent. Such decrease is simply too small to be significant in a meaningful manner..... the Commission determined that the ratio of decline at the rate of 1.35 and 0.95 percent, which appeared in only one from three years of the period of investigation for determination of injury, was considered as "significant" decrease and that it directly caused material injury to the domestic industry. In contrast, when the Commission examined export sales of the domestic industry as one of the factors other than dumped imports which can also cause injury to the domestic industry, the Commission concluded that the volume of export sales which declined by 1.50 percent in the year 2005-06 was "insignificant" (*para 40.9, page 73*). Thus, Thai exporters are not able to follow the line of reasoning as to how the Commission interpreted the meaning and quantum of the term "significance" and what is the methodology in conducting the objective examination."

"3. No Causation Between the Dumped Imports and Alleged Injury

"While there appeared to be some increased volume of dumped import and some price undercutting, it was insufficient to establish causation in the absence of specific evidence with regard to the following issues."

defines *deminimis* dumping margin (less than 2 percent) and negligible volume of imports (less than 3 percent). The Commission, keeping in view of the facts and circumstances of this case, considered that the price suppression faced by the domestic industry during the POI was significant.

The Commission has analysed and examined all injury factors on annually basis in preliminary determination and final determination of this investigation.

The effect on profit margin of domestic industry on production and sales of the domestic like product has been determined on actual profits earned by the domestic industry during the POI. On the basis of its analysis, the Commission concluded that the domestic industry suffered material injury on account of profits/profitability (paragraph 37 *infra*). In the comments, it is not understandable how the figure 1.35 percent is derived. This figure must have been 0.06 percent if the analogy of the working for 0.95 percent is used. However, the Commission is of the view that the Ordinance as well as Agreement on Antidumping do not specify quantum of "significant". The Commission is of the view that absolute value of increase or decrease does not specify the significance, rather significance can be assessed on the basis of the base and ratios.

The investigation revealed that there was a causal relationship between dumped imports of the investigated product and the material injury suffered by the domestic industry during the POI (part D *infra*).

“3.1 Sales and Market Share

“The reduction in demand for PSF, among other factors, was caused mainly by the unpredictable cotton crops. The relationship between cotton and PSF has been strong in the recent past since PSF is an attractive substitute for cotton and also complements cotton through the production of blended yarn. Cotton therefore plays a very important role in the consumption trends of polyester products.

“As mentioned in the Disclosure Report (Table-15 of the questionnaire), there was a reduction of 70,963 MT of PSF in 2005 from 2004 which was said to have been affected by import of merely 19,398 MT. The Applicants however admitted that during 2005 total volume of PSF lost to cotton was 45,930 MT. Based on this information, Thai exporters are not able to ascertain as to what is the methodology or basis of reasoning by the Commission in concluding that the cause of decline in sales of domestic like product was due to imports, since there was also the volume of PSF that was lost to cotton in the amount of 45,930 MT.

“In the Disclosure Report, the Commission admitted that bumper cotton crop was another reason for reduction in production of domestic like product and capacity utilization by the domestic industry. However, the Commission reassured that cotton was not the cause of decline in sales of domestic like product because of the ratio of sales by domestic like product and alleged dumped imports in PSF domestic market. In our opinion, it should not simply be assumed that the increase of allegedly dumped imports was the cause of injury claimed to be suffered by the domestic industry unless the Commission expressly was able to compare these ratios with the those of the cotton market.”

“3.2 Volume of Subject Imports

“Although there appeared to be an increase in volume of imported PSF into Pakistan during POI, imports from the three alleged countries represented only 4.07 percent of the total PSF domestic market in 2005. Furthermore, such increase in volume of imports began in the second quarter of 2005 which concurred during the same period as the reduction of Pakistan’s customs tariff rates on import of PSF and its major raw materials from 20 percent to 6 percent. We submit that it is extremely difficult to pinpoint exactly with any degree of precision which event was the main cause of the increased imports when the reduction of tariff rate occurred simultaneously to the price undercutting which appeared in only two quarters. Therefore, Thai exporters respectfully request that the methodology in comparing the reduction of landed cost of the dumped imports with the tariff reduction be reconsidered on a quarterly basis, not on the basis of the average value for the entire year.

“On the basis of the information on the record and in light

The Commission has examined and analysed other factors including the bumper cotton crop in terms of Section 18(2) of the Ordinance and Article 3.5 of the Agreement on Antidumping, which could at the same time cause material injury to the domestic industry, in order to ensure that possible injury caused by other factors is not attributed to the dumped imports (paragraph 45 infra).

The investigation of the Commission showed that the domestic market of PSF declined by 4.92 percent in the years 2004-05 and increased by 1.88 percent in the year 2005-06. The sales of the domestic like product decreased by 4.98 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 6.99 percent as compared to the increase in domestic market by 1.88 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 (paragraphs 34 and 45.3, 45.4 infra).

As per the information available with the Commission, imports of PSF from the Exporting Countries during the POI for dumping (2005-06) were 47035.94 MT, which was 9.43 percent of total domestic market of PSF in the year (paragraph 33 infra).

The Commission’s investigation showed that the market share of PSF imported from the Exporting Countries was 0.43 percent, 0.62 percent and 10.26 percent during the years 2003-04, 2004-05 and 2005-06 respectively (paragraph 28 of the report on preliminary determination and paragraph 33 infra).

The Commission has also examined and analysed the effect of tax and tariff changes on imported and domestically produced PSF. On the basis of the analysis, the Commission concluded that tariff reduction has equal impact on both the imported PSF and domestically produced PSF (paragraph 45 infra).

The Commission examined and analysed

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

of the above analysis, Thai exporters found that, although domestic industry made a number of claims of increase in alleged dumped imports, there is still a lack of evidence necessary to form the crucial link between dumped imports and injury to the domestic industry. The imports from alleged countries might have increased comparing to the volume of import in the past but its effect on prices and its impact on domestic industry is highly questionable.

“In conclusion, we submit that, based on the information provided in the Disclosure Report, there is no effect on prices because of the following reasons:

- price undercutting occurred for only two quarters
- no existence of price depression by any means, and
- insignificant rate of price suppression

“Pursuant to the ADA, injury for the purposes of anti-dumping investigations shall be assessed by consideration of the casual relationship between the volume of the dumped imports, the effect of dumped imports on prices of the domestic like product and the consequent impact of the imports on domestic like product’s producers considered as a whole. Since this present proceeding is an anti-dumping investigation, not a safeguard investigation, the mere fact that there has been a surge of imports is in and of itself not sufficient to justify a finding of injurious dumping. As mentioned in Article 3.2 and 3.4 of the ADA, “no one or several of these factors can necessarily give decisive guidance”.”

“Although the domestic industry appears to have suffered injury during the POI on account of market share, capacity utilization, and productivity, no matter what the cause was, it was able to increase its profits, cash flow, growth and investment, and ability to raise capital. The latter factors, which demonstrated that there was no negative effects, are all essential factors for operating the business. If on the basis of the findings that the company can make profit, has operating cash flow and growth of investment, and is able to raise capital, it is our view that such company should not be considered as under distress of material injury with regard to its business.”

“In our view, the Commission has failed to demonstrate that any injury suffered by the domestic industry was caused by allegedly dumped imports from Thailand through the effects of dumping and causation. As a result, the Commission did not make an "objective examination" on the basis of "positive evidence" under Article 3.2 of the ADA.”

“Based on the foregoing, it is our opinion that the injury suffered by the domestic industry during the POI was negligible.”

“We refer to the Disclosure of Methodology Used in Dumping Calculations (the “Dumping Disclosure”) for Thai Polyester Co., Ltd. (“TPC”) Having reviewed the Dumping Disclosure, we would like to submit our

the volume of dumped imports of the investigated product with respect to the production of domestic like product during the POI (paragraph 31 infra). The Commission has also examined and analysed the effect of dumped imports of the investigated product on prices of the domestic like product (paragraph 32 infra) and impact of those imports on domestic industry (part C infra). The investigation showed that the domestic industry suffered material injury during the POI.

During the investigation the Commission has determined on the basis of the information and evidences available with it that there was a causal relationship between dumped imports of the investigated product and the material injury suffered by the domestic industry during the POI (part D infra).

The profit of the domestic industry on production and sales of the domestic like product did not increase during the POI as claimed in the argument. However, the Commission has determined material injury to the domestic industry in accordance with Part VI of the Ordinance and Article 3 of the Agreement on Antidumping (part C infra).

The Commission analysed all the injury factors in part C of the report infra and findings have been there for each injury factor on the basis of the information and evidences submitted by different interested parties.

comments with regard to the dumping calculation as follows.

“1. TPC’s Sales to Related Party

“It should be noted that it is a normal practice of all business to grant a volume rebate to its major customers and this applies also to TPC. Had the Commission considered the information submitted by TPC thoroughly, the Commission should have noted that TPC’s sales to its related party accounted for more than 50 percent of its total domestic sales during the period of investigation (“POI”). Therefore, the reason why TPC’s related company deserved the volume rebate was justifiable. There is no reason for the Commission to exclude such sales to the related party which as a result inflated the dumping margin of TPC.

“Had the Commission scrutinize the net sale value of sales to the related party against the net sale value of sales to other customers during the same period, it should be clear that the price of PSF sold to related and non-related customers were still in the same market price range. Thus, it is unfair for TPC that the Commission had concluded that TPC’s sales to related party were not made on an arm’s length basis.”

“2. The Commission Should Have Applied the Best Information Available Treatment to Non-Cooperating Exporters

“Having reviewed the Commission’s dumping analysis, we noted that the Commission, instead of applying the “Best Information Available” treatment (“BIA”) to non-cooperating exporters, simply determined the other rate or the country rate based on the highest rate of the exporters for each subject country. This approach is truly unfair for the exporters who participated in this case, in particular, TPC, given the amount of times and manpower consumed in participating in this investigation.

“In fact, the Commission should have calculated the anti-dumping rate for the non-cooperating exporters based on BIA. In other jurisdictions, including Thailand, the investigating authorities tend to calculate the anti-dumping rates for non-cooperating exporters based on information supplied by the Applicants or any other reliable source, taking into account the overall industry conditions in such country. Hence, it is respectfully requested that the anti-dumping rates of other non-cooperating exporters, from Indonesia and Korea as well as Thailand, be recalculated based on the BIA methodology.”

ii. Views/Comments of Huvis Corporation, Korea

Huvis Corporation, Korea made following comments/views on preliminary determination:

“1. It is understood that Huvis fully cooperated in this investigation and based on data provided by Huvis, dumping margin of 2.09% was determined by the Commission. However, we are surprised to note that even though an other exporter from Korea namely Saehan

The investigation revealed that the Thai Polyester Company Ltd., Thailand (“TPC”) granted rebate only to its related party during the POI. This issue was discussed with TPC during on-the-spot investigation conducted at its premises on December 15-16, 2006. Investigation and the evidences provided revealed that it was not TPC’s general policy to grant rebate to all customers on the basis of quantity purchased. On the basis of this information, the Commission has determined that the sales to TPC’s related party were not at arms length.

In the preliminary determination, the Commission determined dumping margins for non-cooperating exporters on the basis of best information available in accordance with Section 32 of the Ordinance. For this purpose, the Commission considered highest dumping margin determined for an investigated exporter from a particular country as the best information available for the exporters from that country who did not cooperate with the Commission in this investigation. However, in this final determination, dumping margin for non-cooperating exporters has been determined separately on the basis of best information available in terms of Section 32 of the Ordinance (paragraph 25 infra).

In preliminary determination, the Commission determined dumping margins for non-cooperating exporters on the basis of best information available in accordance with Section 32 of the

Industries Inc, Korea ("Saehan") who did not cooperate at all throughout the investigation, the Commission has applied to this company the same dumping margin of 2.09% in spite of reliance on best information available in its case in pursuance of Section 32 of the Antidumping Duties Ordinance, 2000 (the Ordinance). Section 32 of the Ordinance states as under:-....."

"We understand that in case of Saehan while making reliance on best information available as Saehan did not cooperate in provision of necessary information some show the Commission did not resort to respective provisions of Schedule as referred to in sub-section (2) of Section 32 of the Ordinance. Relevant provisions of this Schedule state as under:-

"Provision No1

"As soon as possible..... In its response. The Commission should also ensure that the interested party is aware that if information is not supplied within a reasonable time, the Commission shall be free to make determination on the basis of facts available, **including those contained in an application for initiation of an investigation by domestic industry.**

"Provision 7

"If the Commission.....during the investigation provided that if an interested party does not cooperate and thus relevant information is being withheld from the Commission, **this situation may lead to a result which is less favourable to the party than if the party did co-operate.**"

"According to our understanding the Commission did not ensure that the interested party is aware that if information is not supplied within a reasonable time, the Commission shall be free to make determination on the basis of facts available, **including those contained in an application for initiation of an investigation by domestic industry.** It is also understood that the Commission did not ensure that if an interested party does not cooperate and thus relevant information is being withheld from the Commission, **This situation may lead to a result which is less favourable to the party than if the party did co-operate.**"

"2. The outcome of non-compliance of above referred provisions of the respective Schedule to the Ordinance was similar dumping margin of 2.09% for Huvis who fully cooperated in the investigation as well as for Saehan who did not cooperate at all in provision of necessary information to the Commission. While requesting the Commission to remedy this situation, we would like to quote the relevant law and practice followed by US antidumping authority in this regard in the following paragraphs....."

"5. As is evident from the law as well as practice followed by USA that after resorting to facts available, they usually levy the highest duty rate to the non-cooperating producers/exporters based on the information provided in

Ordinance. For this purpose, the Commission considered highest dumping margin determined for an investigated exporter from a particular country as the best information available for the exporters from that country who did not cooperate with the Commission in this investigation. However, in this final determination, dumping margin for non-cooperating exporters has been determined separately on the basis of best information available in terms of Section 32 of the Ordinance (paragraph 25 infra).

The Commission made clear to all exporters/foreign producers including the Korean exporters/foreign producers of PSF that in case of no response of the questionnaire 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 (paragraph 11.4 supra).

Dumping margin for non-cooperating exporters has been determined separately on the basis of best information available

the petition. Therefore, we hereby request to the Commission that while making final determination, please differentiate between the duty rates applied to the cooperating and the non-cooperating producers/exporters.....”

in terms of Section 32 of the Ordinance (paragraph 25 infra).

iii. Views/Comments of Ministry of Trade, Government of Indonesia

The Government of Indonesia made following comments/views on preliminary determination:

“1. The GOI was coordinating with Indonesian exporters/producers; PT. Indorama Synthetics Tbk. (“Indorama”) and PT. Polysindo Eka Perkasa (“Polysindo”) which one of them namely PT. Polysindo has been stated that up to the imposition of anti dumping duties. Sp, for the purpose of determination of antidumping duty by Commission, our Government maintains the right for all interested parties to receive individual treatment. We wish to seek clarification on the possible implication of the sample propose as follow:

“a. Like Product:

Referring to recital 8, for this purpose, the Commission stated that for the purpose of this investigation set out the investigated product, domestic like product and the like product are identified as similar manufacturing process and have similar appearance. Those are the same namely purified Terephthalic Acid (PTA) and Mono-Ethylene Glycol (MEG). While on the place, for those three products show that are different by indication of custom duty 2004-05 and 2005-06 as shown on table XXIII (Tariff Structure). We hope that the Commission addresses all aspects as required under article 2.6 of the WTO Anti Dumping Agreement.”

The Commission has complied with the Article 2.6 of the Agreement on Antidumping in determination of the like product, which *inter alia* includes the production process, H.S code and raw material used for production of the investigated product and the domestic like product (paragraph 8.3 supra).

“b. Information / Data Gathering:

“Referring to recital 10, on the information/data gathering, the Commission stated that has sought from all available sources the relevant data and information deemed necessary for the purpose of determination of dumping and injury caused by dumped import. But, we do not see the data show of Pakistan’s import of PSF on the period of investigation (April 1, 2003 to March 31, 2006) including on non-confidential complaint.”

Import figures of PSF including imports of the investigated product have been reported at paragraphs 14, 25, 26, 28 and 40 of the preliminary determination and paragraphs 27, 30.2, 31.2 and 33.1 of this report).

“As mentioned on Article 6.1 and 6.9 of Article VI (the WTO Anti Dumping Agreement), the Commission should provide the Government of the exporting member to defend its interest.”

The Commission has provided ample opportunity to all interested parties including the Government of Exporting Countries to defend their interests (paragraphs 1, 7.3, 7.4, 10.1, 14.3, 16 and 17 of this report).

“2. Based on the injury factors relating to the domestic industry in Pakistan, we do not see that the development of production and inventory. While some of injury factors

The Commission made preliminary determination as well as final determination for material injury to the

related to production and inventory, especially recital 36 (effect on growth and investment) and recital 37 (ability to raise capital in your report on preliminary determination and levy provisional anti-dumping duty, we see no injury to the domestic industry in this respect, we hope that the commission addresses all factors as required under article 3.4 of the WTO antidumping agreement.”

“3. Effects on Sales

“The report on this preliminary determination has two tables about sales which are different. One table on the recital 29 (table XIV) that show the sales of domestic like product are decreased, but the opposite side on the recital 40.8 (table XXVI) shows that sales of domestic product are increased. Based on the facts, we wish to seek clarification about the domestic sales.”

“4. Furthermore, reference to recital 33 (Effects on Cash Flow), 36 (Effects Growth and Investment) and recital 37 (Ability to Raise Capital) show that the facts are not correct. If the report wishes to make such correct facts, each of them should have been undertaken on the basis of correct information from the domestic industry. Based on these facts we consider that it is impossible that injury caused by import of PSF.”

“In summary, the allegation against Indonesia was unfounded. While the level of confidentiality applied in the petition does not allow our Government to defend our legitimate interests in this case, on the limited information supplied there is no injury. Finally, the GOI hope that Indonesian producers/exporters above mentioned to be excluded from midterm review of anti dumping. Our Government considers that there insufficient evidence of dumping and injury to the disclosure statement of this proceeding and we request that it **be terminated.**”

domestic industry in accordance with part VI of the Ordinance by examining all injury factors listed at Article 3.4 of the Agreement on Antidumping (part C of the report infra).

Figures given in table XIV of the report on preliminary determination were indexed figures for sales of the domestic like product by the domestic industry in Pakistan. Table XXVI of the report on preliminary determination shows the percentage share of domestic and export sales of the domestic like product by the domestic industry during the POI. However, note for indexation was inadvertently inserted at the end of the table XXVI.

To determine material injury to the domestic industry, the Commission used information provided by the Applicants. The Commission has satisfied itself to the accuracy of the information submitted by the domestic industry. For this purpose, the Commission conducted on-the-spot investigations at the premises of the Applicants. The Government of Indonesia did not supply any information or evidence on injury factors to substantiate that the domestic industry did not suffer material injury due to dumped imports of the investigated product during the POI.

In terms of Section 31 of the Ordinance, the Commission is required to maintain confidentiality. In accordance with Sections 37 and 39 of the Ordinance, the Commission in its determinations (preliminary and final) has disclosed confidential information by converting it into non-confidential version, which permits a reasonable understanding of the substance of confidential information.

Any interested party can request for changed circumstances review under Section 59 of the Ordinance after twenty-four months of the imposition of definitive antidumping duty.

The Commission’s investigation revealed that the exporters/foreign producers based in the Exporting Countries dumped the investigated product into Pakistan during the POI (paragraphs 26 infra) and those dumped imports caused material

injury to the domestic industry
(paragraphs 44 infra)

iv. Views/Comments of PT. Polysindo Eka Perkassa (“Polysindo”), Indonesia

Legal representative of Polysindo submitted following comments/views on preliminary determination:

“..... That an analysis of the methodology used by NTC for calculating the dumping margin for Polysindo reveals that certain aspects of the data provided during the investigation which were highly significant for conducting a fair comparison between the export price and normal value have not been considered.”

“That Polysindo strongly believes that its dumping margin should be zero/negligible through the use of a correct methodology and a fair determination by NTC.”

“Determination of Normal Value by correct Methodology

“Used Article 2.4 of the Anti-dumping Agreement of the WTO and Section 11 of the Anti-dumping Duties Ordinance, 2000, a fair comparison is required to be made between the export price and the normal value. NTC has used 1.2 D Grade A domestic sales transactions of PSF in order to establish the normal value for the purposes of comparison with the export price for calculating the dumping margin for Polysindo. This methodology of establishing normal value for Polysindo on the basis of PSF 1.2 D Grade A by NTC does not constitute a fair comparison as contemplated under the law for the following reasons:”

“a) PSF of 1.2 D Grade A is not a regular product of Polysindo for sale in the domestic market and is exclusively meant for export purposes.”

“b) The very few domestic sale transactions of PSF 1.2 D Grade A of Polysindo during the POI and proof of the fact that PSF of 1.2 D Grade A was simply a left over product which was actually manufactured for export purposes, and a very small left over quantity had to be disposed of in the domestic market.”

“c) There are only twelve (12) domestic sale transactions of PSF 1.2 D Grade A out of the total 2082 different domestic transactions of PSF during the POI by Polysindo.”

“d) Moreover, the quantity of PSF 1.2 D Grade A sold in the domestic market only comprised 0.5% of the total quantity of PSF sold during POI by Polysindo.”

“e) Furthermore, the value of PSF 1.2 D Grade A sold in the domestic market only comprised 0.52% of the total value of PSF sold during POI by Polysindo.”

“f) In addition, the 12 domestic transactions of PSF 1.2 D Grade A only took place within the months of August, September, October of 2005 and February of 2006, which means that they do not cover the entire POI and therefore cannot reflect the fair weighted normal value for the

The Commission considered all the information submitted by Polysindo for the purposes of this investigation. Dumping calculations (normal value, export price and dumping margin) for Polysindo in preliminary determination and final determination has been done on the basis of that information provided by Polysindo (paragraphs 23.3, 24.3 and 26.4 infra).

The Commission complied with the requirements of Section 11 and 12 of the Ordinance while calculating dumping margin.

The investigation revealed that during the POI, Polysindo exported only 1.2 denier grade A type of the investigated product to Pakistan. It sold different types of the like product (PSF not exceeding 2 denier) including 1.2 denier grade A type in its domestic market during the POI.

In the preliminary determination, normal value was determined on the basis of the domestic prices of comparable type of the like product (1.2 denier grade A). For this purpose, the Commission determined that the Polysindo’s total domestic sales of PSF during the POI were in sufficient quantities in terms of Section 6(2) of the Ordinance to determine normal value, as those were 364.23 percent of its export sales of the investigated product to Pakistan. However, sales of the comparable type of the like product (1.2 denier grade A) in its domestic market were only 1.82 percent.

Without prejudice to the dumping calculations done by the Commission in preliminary determination for Polysindo, between normal value and export price as Polysindo has shown reservations on determination of normal value on the basis of its domestic sales prices of comparable type of the like product (1.2 denier grade A). For this purpose, information supplied by Polysindo in

purposes of comparison with export price in order to determine the dumping margin for Polysindo.”

“g) The physical difference in PSF of 1.2 D Grade A and 1.4 D Grade A does not affect price comparability at all. The slight difference in the per unit price of PSF of 1.2 D Grade A and that of 1.4 D Grade A which is presently being derived by NTC from the data provided by Polysindo is only due to the fact that there are only 12 transactions of 1.2 D grade A whereas there are 1635 transactions of 1.4 D Grade A. Had there been a significant number of transactions of 1.2 Denier Grade A of a considerable quantity and value spread over the whole POI instead of simply 12 transactions in a few months, there would have been no difference with the per unit price of 1.4 D Grade A. ”

“h) The PSF market is a very volatile market in which the domestic and export prices vary all around the year depending on a number of factors including prices of raw materials. A few sporadic and inconsistent domestic transactions during the POI and that also only in the months of August, September, October of 2005 and in February 2006, cannot be treated as truly reflective and representative of the prices prevailing during the whole year (POI) and thus are not fairly sufficient or adequate to establish the normal value on their basis for the purposes of calculating the dumping margin. ”

“i) As the investigated product for the purposes of investigation includes PSF not exceeding 2 denier, therefore, taking PSF 1.4 D Grade A to establish the normal value for Polysindo would be in line with the law and practice. Moreover, 1.4 D Grade A being the domestic counterpart of the exported 1.2 D Grade A during the POI, and comprising a significant number, quantity and value of transactions is the true reflection of the domestic sales of PSF by Polysindo for the purposes of calculating the weighted normal value.”

“j) PSF of 1.4 D grade A falls under the definition of like product and is alike in all respects to an investigated product. The physical difference of the 1.2 D Grade A and 1.4 D Grade A is totally immaterial, as it does not signify any variation of price. NTC has mistakenly assumed that if Polysindo has exported only PSF of 1.2 D Grade A to Pakistan during POI, the like product for the purposes of comparison could only be PSF 1.2 D Grade A sold domestically, irrespective of whether the latter is truly representative of the normal value for the purposes of fair comparison as required under Article 2.4 and 2.4.2 of the Anti-dumping Agreement of the WTO and Section 11 of the Anti-dumping Duties Ordinance, 2000. ”

“k) The model-to-model approach for the purposes of comparison that has been used by NTC in the case Polysindo does not always necessarily lead to a fair comparison between the export price and normal value. Each case has to be decided on its particular facts and circumstances. It is pertinent to mention here that the use of models is only a practical tool that facilitates the calculation of the dumping margin at the level of the subject product..... ”

response to the questionnaire is used.
(Paragraph 23.3 infra)

The Commission is of the view that for like to like and fair comparison, comparable type of the like product to the investigated product exported by Polysindo during the POI is 1.2 denier grade A only.

Investigated product in this investigation was polyester staple fibre not exceeding 2 denier (paragraph 8.2 supra). However, for the purposes of determination of dumping, comparison should be made between normal value and export price of comparable types/grades of the like product and the investigated product.

The investigation revealed that during the POI Polysindo exported only 1.2 denier grade A type of the investigated product. Thus for like to like comparison, like product for Polysindo is 1.2 denier grade A.

The Commission has complied with all the requirements laid down in the Ordinance in determination of normal value, export price and dumping margin.

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

"1) That as the investigated product in the subject investigation is defined as PSF not exceeding 2 denier, originating in and/or exported from the exporting countries into Pakistan, therefore, correspondingly, the like product that is alike in all respects to the investigated product is PSF not exceeding 2 denier sold by the exporters/foreign producers of the exporting countries in their domestic market. Interestingly, the scope of the definition of investigated product maintained by NTC is very broad which does not differentiate between the different grades (A, B or lower) of PSF, which correspondingly means that irrespective of the grade, the PSF not exceeding 2 denier that is sold domestically should be taken into account to establish the normal value. This point further gets strength from the fact that an anti-dumping, if any, that is levied in the subject case would be attracted to all types of PSF falling within the definition of investigated product, irrespective of what grade they belong to or that particular grade ever exported to Pakistan."

"The practice of NTC of not considering PSF of Grade B or lower while establishing the normal value for Polysindo is unfair for the reason that on one hand NTC maintains a very broad definition of investigated product by including all grades of PSF and on the other hand it is highly selective by considering only grade A for the purposes of establishing normal value for Polysindo. If NTC is of the opinion that because Polysindo exported only Grade A during the POI and it should solely be considered, then what justification is left for NTC to include Grade B and lower within the definition of investigated product, as a consequence of which any anti-dumping duty levied would not just be attracted to PSF of Grade A but to PSF of all Grades, irrespective of whether they were or will ever be exported to Pakistan. Therefore, in such a situation the normal value for product as a whole needs to be established for Polysindo which includes considering all the Grades of PSF (except 1.2 D Grade A due to the reasons mentioned above) sold domestically during POI.

"In view of the above arguments, it is very humbly requested that the methodology used by NTC to calculate the dumping margin for Polysindo may kindly be revised for the purposes of final determination in the following ways:

"i. That the normal value for Polysindo may be established on the basis of PSF 1.4 Grade A domestic transactions instead of PSF 1.2 Grade A, and

"ii. That, in addition, all grades of PSF (except PSF 1.2 Grade A due to the reasons mentioned above) may be collectively considered for establishing the normal value for Polysindo."

v. Views/Comments of All Pakistan Textile Mills Association (“APTMA”)

APTMA submitted following comments/views on preliminary determination:

“[1] INCLUSION OF QUANTITIES OF PSF IMPORTED UNDER DTRE SCHEME IN CALCULATIONS FOR DETERMINATION OF DUMPING

“The Preliminary Determination Report reveals that the Commission has included PSF imported under DTRE scheme in its calculations in the conduct of the instant anti-dumping investigation.

“From the very incipency APTMA has been pointing out that imports under DTRE are proscribed from entering the domestic market and meant exclusively for re-export after value-addition and are not at any stage introduced into the commerce of Pakistan and thus do not fall within the definition of Dumping as defined in Section 4 of the Anti-Dumping Duties Ordinance, 2000, which requires an investigated product to “be considered to be dumped if it is introduced into the commerce of Pakistan ...”..... PSF imported under DTRE having been imported only for value-addition and exclusively for purpose of re-export cannot be considered to have been introduced into the commerce of Pakistan. The DTRE Scheme is a very restrictive and special importations for export regime wherein duty and tax free imports of goods for value-addition, exclusively for purpose of exports are envisaged. PSF imports under the DTRE were proscribed from being sold in the open domestic market..... Thus DTRE imports are not introduced into the Commerce of Pakistan whereby they can be freely traded.”

Investigation by the Commission revealed that even after exclusion of the imports of PSF under DTRE scheme, conclusion regarding increase in volume of imports of the investigated product is not materially affected (paragraph 31.5 and 31.6 infra). This is without prejudice to the fact that the Ordinance identifies only “dumped imports”.

“[2] NON-AVAILABILITY OF DEEMED DRAWBACK ON LOCALLY PROCURED PSF

“The Commission’s finding that “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”..... An indication to this effect is gathered from the *Report of the Directors for the Quarter Ended 31 March 2006* of ICI Pakistan Limited, one of the three Applicants, wherein at page 4 it is stated that “The non-availability of deemed drawback on locally procured PSF also encouraged further imports under DTRE, an issue which has been raised with the Government” is at variance with facts. The last three lines (underlined above) themselves are a confirmation to the contrary by ICI to NTC’s contention that deemed drawback were available on locally procured PSF.”

The investigation of the Commission showed that the Pakistani exporters who used locally produced PSF in production of textile products for exports were allowed duty drawback on deemed import basis, which was withdrawn with effect from July 1, 2005. Furthermore, the facility to import PSF under DTRE scheme has also been withdrawn with effect from July 01, 2006.

“It is clarified that in the 2005-06 Budget effective from July 2005, deemed drawback on locally procured PSF were specifically withdrawn.”

“[3] PRICE UNDERCUTTING

“1 APTMA’s exhibition of a total absence of a causal link between a receding quarter-wise price undercutting (2%,1%, 0%,0%) and increasing imports during the POI for dumping has been disregarded. The Commission is urged

The Commission has conducted its analysis on yearly basis and not on quarterly basis. Price undercutting is determined on the basis of the information

to take into account our submission in this respect also.”
“2 The Commission’s conclusion (para 27.2.2) that “there was no price undercutting in the year 2004-05” conflicts with the Applicants’ version (Application, page 28 and Appendix 8) that price undercutting took place in three quarters in the period preceding dumping.

“[4] PRICE FIXING

“Pursuant to its analysis of the effects of tariff changes on the PSF domestic industry, the Commission’s conclusion (para 40.7) that “During the POI, the domestic industry had the equal opportunities to sell domestic like product at a **reduced price**” fortifies APTMA’s exhibition of the Applicants’ price fixing (reproduced on page 30 of the Commission’s Report) wherein it is amply indicated to the effect that the domestic industry instead of availing “the equal opportunities to sell domestic like product at a **reduced price**” as found by the Commission raised its price:- 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.”

“[5] 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.” (reproduced on page 30 of the Commission’s Report) has not met with a meaningful examination by the Commission. The Commission is urged to consider this submission and discount the injurious effects of this practice before attributing injury to the Applicants as a result of dumped imports.

“[6] APTMA’s elaboration on PSF REQUIREMENT FOLLOWING CONTRACTION IN DEMAND AS A RESULT OF INCREASE IN COTTON CONSUMPTION

and its demonstration that **IMPORTS UNDER QUESTION FOR DUMPING DO NOT REPRESENT LOST SALES OF THE APPLICANTS** (pages 8 and 9 of submission dated 22 January 2007) have not been considered by the Commission. The calculation of the Commission that there was no

submitted by the Applicants, the exporters and obtained from PRAL (paragraph 32.2 infra).

The investigation revealed that after rationalization of tariff structure, the domestic industry reduced price of the domestic like product by 16.73 percent (paragraph 32.2 infra).

The Commission, in terms of Section 18(2) of the Ordinance, examined and analysed 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 (part D infra). The investigation showed that there were no change in the trade restrictive practice which could have adversely affected the domestic industry during the POI. Not entering into long-term contracts could not be considered a restrictive practice. Further, APTMA did not substantiate this claim with documentary evidence.

In this investigation, total domestic market for PSF during the POI is determined by combining the sales by the domestic industry, imports from the Exporting Countries and imports from other countries. (Paragraph 33 infra). For this purpose, the information submitted by the Applicants, the exporters/foreign

contraction in PSF demand during 2005-06 despite the bumper cotton crop is at variance with the ground reality. The Commission's attention is invited to the fact that the consumption of cotton was more in 2005-06 than in the actual bumper year 2004-05 which produced the record crop."

"According to **Cotton Outlook / Cotlook** the consumption of cotton in 2005-06 was 2584000 tons whereas in 2004-05 it was 2305000 tons. According to the **US Cotton Market Monthly Economic Letter** October 2006 the consumption of cotton in 2005-06 was 11.8m bales of 480 lb each whereas in 2004-05 it was 10.8m bales of 480 lb each. The official data of the **Textile Commissioner's Organization** for 2004-05 and 2005-06 (1 April to 31 March) is 2033402 tons and 2209311 tons respectively."

"It is submitted that the spindle capacity of the country remaining the same, an increase in cotton consumption has an inversely proportional effect on the **consumption** of PSF. Thus, with an increase in cotton consumption during the POI for dumping, the contraction in PSF demand for consumption during this period (i.e. 1 April 2005 to 31 March 2006) stands proved, which by itself displaces all arguments linking injury to dumped imports."

[7] VOLUME EFFECT

"APTMA's submission (page 19 of submission dated 22 January 2007) with respect to the term "*increase in dumped imports*" has not been considered. Comparison of the volume of imports simpliciter (i.e. non-dumped imports) with dumped imports as undertaken by the Commission does not indicate "*increase in dumped imports*" as envisaged by the Ordinance and the WTO Anti-Dumping Agreement and the jurisprudence that has developed thereupon. Analysis of any increase or decrease has to be undertaken with respect to volumes that have been determined to have been dumped, i.e. "*increase in dumped imports*" is to be determined with effect from the point from where dumping commenced. In other words the effect of dumped imports is to be evaluated **during or within the period** for which dumping is investigated."

[8] PRODUCTIVITY

"While pronouncing on the sufferance of injury by the Applicants on account of productivity APTMA's submission on this point (page 39 of submission dated 22 January 2007) has not been taken up."

[9] GENERALLY, vital facts pointed out in our submissions have not been taken up, rather not even been considered, while arriving at positive findings of injury to

producers and obtained from PRAL has been used. Analysis of the information showed that there was a contraction in domestic market of PSF during the year 2004-05, but domestic market increased in the year 2005-06 as compared to the market for the year 2004-05 (paragraph 34.4 infra).

The Commission has determined the effect of volume of dumped imports with regard to the production of domestic like product during the POI in accordance with Section 15(2) of the Ordinance (paragraph 31 infra).

POI (for dumping and injury) was clearly defined in the notice of initiation of the investigation as well as preliminary determination. (Paragraph 9 supra). Volume of dumped imports have been determined according to the defined POI.

In the preliminary determination all issues raised by APTMA including productivity were considered (paragraph 14.2(iii) of the report on preliminary determination). The Commission has determined productivity of the domestic industry on the basis of the information (which was verified by the Commission) submitted by the domestic industry on production of the domestic like product and employment (paragraph 39 infra).

All the submissions received from APTMA during this investigation have been considered in preliminary

the Applicants on account of dumped imports. The Commission's view (para 24.7) that "Any inference derived in this regard from the data of the Applicants would apply to the entire industry" is untenable in accordance with the law. Even in areas where the applicant individual entities of the domestic industry did not suffer injury, rather performed well as indicated in their respective Annual Reports, the Commission has endeavoured to indicate attributable injury to the domestic industry as a whole. The Commission is earnestly requested to review our submissions objectively and arrive at a considered conclusion with respect to injury to the Applicants.

The Commission is urged to consider in terms of section 18(1) the matter of a causal relationship between dumped imports and injury to the Applicants after examining ALL relevant evidence furnished by APTMA. Pursuant to section 18 (2) we plead that the injury that resulted from other causes be not attributed to dumped imports.

We request the Commission to examine and analyse factors other than dumped imports listed separately in respect of

- price and volume effects
- market share
- production
- utilization of production capacity
- sales
- profits
- export performance
- employment and staff costs and
- productivity, among others

in our injury submission dated 22 January 2007 which caused injury to the Applicants during the POI for dumping."

The Commission received following further comments/views from APTMA on April 12, 2007.

"1 Substitution of Actual Import Figures by Shipment Data:

"1.1 In the instant Anti-Dumping Investigation the Commission has deviated from its regular past practice of considering imports on a factual basis as indicated in official import record and has this time substituted exporters' shipment data for actual imports into Pakistan."

"1.2 Compiling the volume of imports on the basis of estimations, likelihood, and probabilities in the presence of authentic and recorded entries for imports into Pakistan is tenuous and untenable in the eyes of law."

"1.3 Only goods that have actually entered Pakistan through any port of entry fall within the definition of "imports" as provided under the law. All imports thus made are duly recorded. Only this recorded quantity as per Customs/PRAL record is admissible for being considered in the Anti-Dumping Investigation as the imported quantity."

"1.4 It follows from the Schedule to the Ordinance that "official import statistics" and "customs return" are the primary and authentic, rather the sole source of information

determination as well as in this final determination.

The Commission has defined domestic industry in this investigation in accordance with Section 2(d) of the Ordinance. On the basis of the information submitted by the Applicants and obtained from different sources and the definition set out in Section 2(d) of the Ordinance the Commission has determined that the Applicants constitute domestic industry for the purposes of this investigation. (Paragraphs 3 supra and 29 infra).

The Commission, in terms of Section 18(2) of the Ordinance, examined and analysed 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 (paragraph 45 infra).

Investigation by the Commission revealed that there was a causal relationship between the dumped imports of the investigated product and the material injury suffered by the domestic industry during the POI (paragraph 44 infra).

In this investigation the Commission has used information submitted by the exporters, the Applicants and obtained from PRAL. The Commission is obliged under the Ordinance to satisfy itself as to the accuracy of the information used in the investigation and to use correct and reliable information. In Commission's view, the most correct and reliable information for volume of imports of the investigated product is the information supplied by the exporters in response to the questionnaire(s), which is a primary source. Further, the Commission has verified that information during on-the-spot investigations (paragraph 10.8 supra). The Commission has used that information to determine volume of dumped imports.

pertaining to imports. It also follows from the "special circumspection" the Ordinance makes incumbent upon the Commission to exercise, to "check the information" of claimed shipments with imports indicated in the official import statistics and customs record/PRAL data. It is our contention that only the tallied amount resulting therefrom is admissible for being considered in the Investigation as the quantity imported."

"1.5 The Commission's elimination of quantities shipped in March 2006, on the probability that they "may not have been entered (reached) (*sic*) Pakistan during the POI" (pages 56, 57 and 58 of the Preliminary Determination Report) amply indicates the element of gross inexactitude and supposition in employing a subjective methodology of arriving at import figures by substituting shipments in place of recorded imports."

"1.6 The Commission's deviation from its established practice of relying on official Customs/PRAL factual import record has grossly exaggerated the volume of "imports" from the 'exporting countries' from the initial authentic and recorded 28418.79 tons as per Customs record to a questionable 47467 tons. This inflated volume of "imports" considered in the Anti-Dumping Investigation by the Commission has completely distorted the various analyses and conclusions based thereon and has caused detriment to the interests of industrial users/re-exporters represented by APTMA."

"1.7 The new and inflated "import" volume "calculated" by the Commission has materially and adversely affected the outcome of the Preliminary Determination against APTMA which represents its constituents engaged in importation, value-addition and re-exportation."

"1.8 Inaccurate and grossly misleading results have been reached *inter alia* for weighted average dumping margin and injury amongst others in respect of market share and volume effect. The Commission's exhibition (para 26.7 of the Preliminary Determination Report) that DTRE imports if considered for the sake of argument to be not a part of the total imports for the purposes of the investigation, "even then imports of the investigated product have increased significantly in absolute terms as well as relative to domestic production" is incorrect. For the purpose of this argument, the Commission has used a grossly exaggerated volume for imports that does not qualify as the import volume. Import volume evidenced by PRAL figures has been disregarded in favour of data from unauthentic sources, suppositions and likelihood, whereas the other variable i.e. the volume of imports under DTRE as indicated by PRAL data and put forth by APTMA has been kept intact at the same level for the exercise.

"2 **Unwarranted Indexation of Import Volume:** The Commission's unwarranted indexation of the volume of imports has eliminated the clarity that is so vitally essential to the analysis involved. Volume of imports is not a matter calling for securing the commercial confidentiality of any

It is Commission's consistent practice to use information submitted by the exporters in its antidumping investigations to determine volume of imports, export price and dumping margin etc. The Commission uses PRAL's information only if it is not available from the primary sources.

For the purposes of meaningful analysis, in determination of volume of dumped imports for injury determination, quantities shipped in the month of March 2006 by the exporters has not been considered on the assumption that it may have entered in Pakistan in the month of April 2006, which is outside POI.

The Commission has not inflated quantities of dumped imports of the investigated product. Rather quantity of dumped imports was determined on the basis of an authentic information, which was submitted by the exporters themselves.

In terms of Section 15(2) of the Ordinance, the Commission is required to consider whether there has been a significant increase in volume of dumped imports, either in absolute terms or relative to production or consumption in Pakistan. The Commission has considered volume of dumped imports of the investigated product with respect to the production of domestic like product, which is a consistent practice of the Commission.

The Commission has not indexed volume of imports of the investigated product (paragraph 14 of the report on preliminary determination). However, in injury determination, for like to like comparison

business entity. Indexation has muddled the transparency of the analysis.”

“3. Discounting of the Indifferent Industry’s Sales in the Analysis of Market Share: The Commission has at different places in the Preliminary Determination Report expressed its helplessness with respect to securing the sales and other data of the non-participating indifferent industry and has excluded the sales of the indifferent industry while analysing the market share of the Applicants. The conclusions derived pursuant to this analysis are flawed and prejudicial to the interests of APTMA. Appendices 6 and 7 of the Application do indicate the sales etc. of the indifferent industry. This data of the indifferent industry derived from the above-mentioned Appendices was used as such by APTMA. In its injury submission APTMA made a clear mention to this effect while analysing market share. However, the Commission while presenting its own analysis of market share proceeded on the basis of insufficient and incorrect data and completely disregarded APTMA’s underlining of the indifferent industry’s data in its assertions, indicating the absence of even a minimal or cursory perusal thereof. On the basis of the foregoing it is observed with regret that the Commission has been very casual and indifferent to APTMA’s submissions.”

“4. Inclusion of Quantities of PSF Imported under DTRE Scheme in calculations for Determination of Dumping: “While elaborating on our submission of 22 January 2007 with respect to inclusion of quantities of PSF imported under DTRE scheme in calculations for determination of dumping, the Commission’s statement in para 26.5 of the Preliminary Determination Report that “investigation of the Commission (*sic*) 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”, does not advance the argument of the Commission, rather on the contrary it buttresses APTMA’s viewpoint that DTRE imports did not enter the commerce of Pakistan. The basis for the Commission to find that they “entered into the commerce of Pakistan” viz., their being “used in production of textile products for exports” clearly shows that imports made under DTRE, as per the Commission’s investigation, did not change titles and were not free from constraint with respect to transportability within and throughout Pakistan, indicating the absence of the two vital prerequisites for being “introduced into the commerce of Pakistan”. Thus, DTRE imports not being freely tradable or transportable throughout Pakistan as found by the Commission and as per the terms of the DTRE scheme, and therefore not having been introduced into the commerce of Pakistan, rather having been “used in production of textile products for exports”, APTMA’s contention that DTRE imports are inadmissible for considerations of dumping according to the Ordinance is correct.”

with sales of the domestic like product, indexation is used for both sales by the domestic industry and imports.

It is clearly stated at paragraph 24 of the preliminary determination and paragraph 29.6 *infra* that the other two units in the domestic industry were indifferent in this investigation and they did not supply requisite information. Further, the Commission endeavored to use publically available information obtained from annual reports of these two units but was unable to do so due to the reasons given there. Further, the Applicants constitute domestic industry in terms of Section 2(d) of the Ordinance as they represent major proportion (91 percent) of the total domestic production of the domestic like product (paragraph 29 *infra*). However, market share of the domestic industry and sales of the domestic like product have been determined on the basis of total sales, including the sales of indifferent units (Paragraphs 33 and 34 *infra*). For this purpose information for indifferent units was submitted by the Applicants.

In accordance with Section 2(f) of the Ordinance, dumping margin in relation to a product means the amount by which its normal value exceeds its export price. In an antidumping investigation, normal value and export price are determined on the basis of the information supplied by the exporter/foreign producer in relation to its export sales of the investigated product, domestic sales of the like product and cost to make of sell of the investigated/like product. Thus imports under different schemes, including the imports under DTRE scheme do not have any impact on dumping margin determination.

vi. Legal representative of: (a) APTMA, (b) P.T Indorama Synthetics, Indonesia, (c) Huvis Corporation, Korea, (d) Bilal Fibres Ltd., (e) Crescent Sugar Mills, (f) Gadoom Textilke Mills, (g) Island Textile Mills Ltd., (h) Salfi Textile Mills Ltd., and (i) Ellcot Spinning Mills ltd. submitted following views/comments on preliminary determination:

“Before budget for the financial year 2005-06, Government of Pakistan decided to rationalize duty structure of PSF and its inputs. In this regard various meetings of all the stakeholders were held with the concerned Government Departments. As the budget was going to be announced before the end of 2nd quarter of 2005 for the financial year 2005-06, visualizing the reduction in duty on PSF, a small quantity of PSF was imported during 2nd quarter of 2005 followed by some imports during subsequent quarters after the announcement of budget for the financial year 2005-06.”
“The direct impact of rationalization of tariff structure for the PSF industry was reduction in incidence of customs duty and sales tax.....”
“.....there was substantial reduction in duty and tax both on imported PSF and locally produced PSF. As a result of this reduction in duty and tax, the landed cost of imported PSF reduced considerably, which lead to import of some quantity of PSF whereas the Applicants did not pass on the effect of reduction in the duty & tax of raw material in true letter and spirit to the user industry. This prompted some of the users to switch over to cotton to the extent possible due to bumper cotton crop during the year 2005. **The Applicants as per sub para (iv) of para 10 of the questionnaire has also admitted** that due to worldwide bumper cotton crop there was a contraction in PSF market. According to the Applicants, estimates, total volume lost to cotton during 2005 was 45,930 MT of PSF and total volume lost to imported PSF during this period was 17,472 MT. Thus the adverse effect of contraction in demand should be given due consideration by the Commission while discussing market share and other injury factors”

“Volume of Dumped Imports”

“The Commission has given volume of imports from Exporting Counties and domestic production in indexed form in Table No VII under para 26.2 of the Report. As per note to this Table, it has been clarified that exports for the month of March 2006 have not been taken into account as these exports may not have reached Pakistan during the

The Government of Pakistan has rationalized tariffs on imported as well as on domestically produced PSF with effect from 1st July 2005. The Commission has examined the impact of tariff changes and found that there was a similar reduction in tariffs and taxes on both imported and locally produced PSF. Thus it was not the reason for material injury to domestic industry (paragraphs 45.5 to 45.9).

The investigation by the Commission revealed that the domestic industry reduced prices of the domestic like product by 16.73 percent in FY 2006 over its prices FY 2005 (table XI infra) inclusive of sales tax while reduction in the prices exclusive sales tax was 4.24 percent.

The Commission has also examined and analysed the factors other than dumped imports of the investigated product including bumper cotton crop, which caused material injury to domestic industry during the POI. APTMA did not provide any figure on the use of PSF but simply relied upon the use of cotton and assigned the increase in use of cotton to reduction in use of PSF. While in actual practice the use of PSF is affected by many other factors like change in capacity utilization, change in use of other fibres etc. information on which has not been provided. The Commission’s investigation showed that the use of PSF increased in the year 2005-06 over its use in the year 2004-05. Therefore, the bumper cotton crop was not the reason for material injury to the domestic industry during the POI (paragraphs 34 and 45.4 infra).

At paragraph 26 of the preliminary determination it is clearly stated that the Commission has used information submitted by the exporters, the Applicants and obtained from PRAL. The Commission is obliged under the

POI. This shows that these exports are based on exporters data and not based on PRAL data. Table V of the Report shows that volume of dumped imports of PSF from the Exporting Countries based on exporters data comes to 43192.94 MT against imports of 28,419 MT of PSF as per Appendix-6 of the Applicants Questionnaire. Statistics as per PRAL data should have been taken into account as henceforth the Commission has been depending on PRAL data for the purposes of injury analysis. **The Commission did not give any reasonable ground to ignore PRAL data and consider exporters data.** As a general principle of consistency, the Commission is requested to consider PRAL data for imports for analysis of all injury factors.”

“Para 26.3 of the Report states that dumped imports increased by 15.60 times in the year 2005-06 (during POI) over the imports of 2004-05, while domestic production decreased by 9.19%. On this basis it has been concluded that dumped imports increased significantly in absolute as well as relative to domestic production.

“We are of the view that imports from the Exporting Countries should have been compared with the consumption (and not the production) by taking into account the aspect of contraction in consumption. **That comparison will definitely show that the major cause of injury, if any to the Applicants, is contraction in demand due to bumper cotton crop and not the imports from the Exporting Countries.** Hence, it is respectfully submitted that, our clients have doubt that the analysis made by the Commission is not in compliance with the requirement of Section 15 of the Ordinance.”

“In addition to the above, with regard to the volume of dumped imports, Section 15 (2) of the Ordinance states that *“the Commission shall consider whether there has been a significant increase in dumped imports either in absolute terms or relative to production or consumption in Pakistan.”* We understand the Commission analysis is based on only Applicants data and the Commission could not obtain data for other two units (as identified by the Commission in para 24.6 of the Report), so as to assess the effects of imports on production or consumption for the whole of Pakistan. However we hope that the Commission would endeavour to obtain data for the remaining two units for analysis on **Pakistan basis** in its final determination.”

“PRICE EFFECTS”

“Here again we understand that the price effect analyzed by the Commission are based on data of the Applicants and we hope that data for two remaining units will be obtained by the Commission to see the price effects in domestic market

Ordinance to satisfy itself as to the accuracy of the information used in the investigation and to use correct and reliable information. In Commission’s view, the most correct and reliable information for volume of imports of the investigated product is the information supplied by the exporters in response to the questionnaire(s). The Commission has used that information to determine volume of dumped imports.

In terms of Section 15(2) of the Ordinance, the Commission is required to consider whether there has been a significant increase in volume of dumped imports, either in absolute terms or relative to production or consumption in Pakistan. The Commission has considered volume of dumped imports of the investigated product with respect to the production of domestic like product, which is a consistent practice of the Commission.

It is clearly stated at paragraph 24 of the preliminary determination that the other two units in the domestic industry were indifferent in this investigation and they did not supply requisite information. Further, the Commission endeavored to use publically available information obtained from annual reports of these two units but was unable to do so due to the reasons given there. Furthermore, the Applicants constitute domestic industry in terms of Section 2(d) of the Ordinance as they represent major proportion (91 percent) of the total domestic production of the domestic like product (paragraph 29 infra).

Detailed explanation has been given in response to the above mentioned comment.

in accordance with Section 15(3) of the Ordinance for the final determination.

“Price Undercutting

“..... price undercutting for 2003-04 and 2005-06 comes to 1.40% and 10.80% respectively and not 1.42% and 16.99% as worked out by the Commission..... In addition as per last sub-para of para 10.4 of the questionnaire, the Applicants itself admitted the price undercutting of 2% during 2nd quarter of 2005 and 1% during 3rd quarter of 2005 and no price undercutting in subsequent two quarters. Thus 16.99% price undercutting as worked out for 2005-06 does not seem reliable. Interestingly ex-factory indexed price of domestic product given by the Commission as per above table comes to 114.67 for 2005-06, whereas as per Table-XI of the Report indexed price for the same year is 127.48. If that is taken into account, then price undercutting will swell to 20.54% which is totally unbelievable.”

“During discussion in the hearing the legal counsel of the Applicants argued that it is not necessary that the Commission takes into account the price undercutting as given by the Applicants in the questionnaire as the Commission has also not taken into account the dumping margin given in the questionnaire. In this regard we would like to submit that price undercutting is arrived at by comparing the average ex-factory price of domestic like product with the landed cost of the investigated product which are usually not changed later on. However dumping margin arrived at after examination by the Commission usually changes with that claimed by the Applicants. Reason being that the Applicants claimed dumping margin is based on prime facie evidence whereas dumping margin calculated by the Commission is based on comparison of actual ex-factory export price with actual ex-factory domestic prices of each exporter during the POI after going through the records of each investigated exporter/producer.”

It is understood that reduction in landed cost of imported PSF was due to reduction in duty and sales tax. However price undercutting appearing in first two quarters was because of non-response of the Applicants in the shape of similar reduction in price due to elimination of duty and sales tax on the domestic like product. This reduction in landed cost of the imported PSF therefore may not be attributed to dumped imports.”

“In para 27.2.4 of the Report it has been argued (based on Table X of the Report) that as compared to last year of 2004-05, incidence of sales tax on domestic like product was reduced by Rs. 9,399.30/MT whereas incidence of duty and sales tax on imported PSF was reduced by Rs. 17,857.05/MT during the same period. Surprisingly at para 40.6 of the Report, reduction in incidence of duty and taxes on imported PSF and domestic PSF has been worked out as Rs. 18,804.77/MT (correct figure is Rs. 20,784.22/MT) and Rs. 20,169.60/MT respectively. Hence, the figure shown in table X of the Report, are not correct. In para 27.2.4 of the Report

The Commission determined price undercutting by comparing weighted average ex-factory price of the domestic like product with weighted average landed cost of the imported PSF during the POI. For this purpose the Commission has used information supplied by the exporters, the Applicants and obtained from PRAL. The Commission determined price undercutting for the year 2005-06, on the basis of the information supplied by the exporters on dumped imports, the confidential version of which is not available to the Applicants. The Applicants in application used PRAL’s information for this purpose.

Prices of the domestic like product given at table IX (price undercutting) of the preliminary determination is inclusive of sales tax, whereas prices given at table XI of the preliminary determination is exclusive of sales tax. This fact has clearly stated by putting “**” at the end of the table.

Reasons for difference in the dumping margins claimed by the Applicants and determined by the Commission are also same i.e. the Applicants claimed dumping margin on the basis of the export prices obtained from PRAL and constructed normal value and domestic prices of PSF prevailed in Exporting Countries during the POI, while the Commission has determined dumping margin on the basis of the information supplied by the exporters on export price and normal value in response to the questionnaires.

The Commission has examined and analysed the impact of tariff and tax changes on imported and locally produced PSF and has concluded that it was not the reason for material injury to the domestic industry during the POI (paragraph 45.5 to 45.9 infra).

In table X of the report on preliminary determination, the only effect of sales tax on domestic like product has been discussed while at paragraph 40.6 the total incidence of taxes and duties (customs duty on inputs and sales tax on out put) has been discussed.

it has been further argued that landed cost of the dumped imports decreased by Rs. 24,431.65/MT, more than the decline in taxes and duties is also not correct This reduction was only Rs. 5890/MT as against reduction of taxes and duties to the tune of Rs. 20,784.22/MT."

"Price Suppression"

"As per Table XII of the Report the Commission has concluded that there was no price suppression in 2004-05, however there was significant price suppression in 2005-06 over last year as the increase was less in the average ex-factory price of domestic like product as compared to increase in cost of production. The above referred table shows marginal price suppression which could not have significant adverse effect."

"The Applicants have given production and sales figures of the domestic like product in Appendix-7 of the questionnaire. Similarly the Applicants have also provided average cost of domestic production and average price of domestic product in Appendix-8 of its questionnaire. As the Commission has concluded that there was price suppression during 2005-06 (dumping POI) over last year (table XII of the Report), so figures as appearing in Appendix 7 and 8 of the Applicant's questionnaire have been tabulated to see this aspect. there was no price suppression during POI over 2004-05 as increase in average price was higher (3.29%) than the increase in average cost of domestic production (2.58%)."

"Effects on Market Share"

"Under this factor the Commission has concluded that the Applicants lost significant share in domestic market due to dumped imports and suffered material injury on this account. We have following comments on this conclusion:-

- "a) Total domestic market has been shown as static at an index of 100, although there was contraction in demand due to bumper cotton crop.
- "b) The effect of volume of sales lost to bumper cotton crop as admitted by the Applicants has been ignored."

"Effects on sales"

".....the Commission concluded material injury to the Applicants due to imports of the investigated product. It is a fact that there were some imports during 2004-05 which were only 0.62% of total domestic market as per table XIII (Market Share) of the Report. Of course this meager market share of 0.62% held by imports from Exporting Countries did not cause reduction of sales of 5.27% by the domestic industry as per Table X above. Similarly lesser sales of 7.96% during POI over last year are mainly by other factors including bumper cotton crop and not solely by imports from the Exporting Countries.

The Commission determined price suppression on the basis of verified information provided by the Applicants on cost to make and sell and sales of the domestic like product. The investigation revealed that the domestic industry was not able to recover increased costs by way of an increase in price of the domestic like product during the year 2005-06 (paragraph 32.4 infra).

Actual market share, in percentage terms, of the domestic like product, PSF imported from the Exporting Countries and PSF imported from other sources has been given at table XIII of the report on preliminary determination, which shows a decline in market share of the domestic like product from 99.05 percent in the year 2003-04 to 89.57 percent in the year 2005-06.

The Commission has examined and analysed effects separately on market share and sales of the domestic like product by the domestic industry and found that the domestic industry has suffered material injury on both factors during the POI (paragraphs 33 and 34 infra).

The Commission has also examined and analysed other factors including the bumper cotton crop and has concluded that it was not the reason for material injury to the domestic industry during the POI (paragraph 45 infra).

"Effects on Production and Capacity Utilization

"The Commission has concluded that decline in production and capacity utilization in the year 2005-06 was mainly due to imports of the investigated product from the Exporting Countries. **In fact reduction in capacity utilization during 2004-05 over 2003-04 was higher when there were almost no imports.** Similarly reduction in production and capacity utilization during 2005-06 over 2004-05 is mainly because of other factors including bumper cotton crop. So it's attribution to investigated product does not seem logical."

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 30.3 of the preliminary report and paragraph 35 infra).

"Effects on Profit & Loss

"The Commission has concluded "that the domestic industry has suffered material injury on account of profits." However, the Commission has rightly not related it to the import of investigated product. Therefore material injury if any suffered by the domestic industry was mainly due to other factors including bumper cotton crop."

It is clearly stated at paragraph 39 of the report on preliminary determination that the decline in profits/profitability of the domestic industry was due to dumped imports of the investigated product.

"Effects on Employment and Productivity

"The Commission has concluded that the domestic industry suffered material injury on account of productivity and wages during the POI. The Commission has however not related it to the import of the investigated product."

Causal relationship has been discussed at part D of the report on preliminary determination, which clearly states that the dumped imports of the investigated product were the main cause of material injury to the domestic industry during the POI and there was a causal relationship between material injury to domestic industry and dumped imports of the investigated product.

"Return on Investment

"The Commission has concluded that the domestic Industry suffered material injury on account of return on investment. It has however not been attributed to the import of the investigated product."

"CAUSATION

"On the basis of its analysis 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. However certain relevant evidences before the Commission like effect of bumper cotton crop have not been properly taken into account.

As discussed in this submission which includes background of the case, volume of dumped imports and effect of prices, that no causal link of material injury to the domestic industry by the imports from the Exporting Countries can be established if fair analysis and objective examination of the facts is done. As regards consequent impact of dumped imports on domestic producers of such products, these impacts are required to be seen in the context of volume of dumped imports and effect of dumped imports on prices as provided in Section 15 (1) of the Ordinance. As discussed under the head volume of dumped imports and price effects, there being least negative effect of these factors, there could also be no noteworthy consequent adverse impact. However, any

The Commission has conducted an unbiased and objective examination under the Ordinance and has considered all injury factors in terms of Part VI of the Ordinance. The Commission has also analysed and determined casual relationship, which revealed that the dumped imports of the investigated product were the main cause of material injury to domestic industry during the POI (parts C and D of the report on preliminary determination and this report).

adverse effect on profitability and a few injury factors of the domestic industry was mainly because of **other factors as discussed below.**"

"OTHER FACTORS"

"a) Volume and Prices of Imports not sold at Dumping Prices

"The Commission considers that domestic industry also suffered some injury due to non-dumped imports of the investigated product. Hence this must be considered among other injury factors"

"b) Contraction in demand or changes in the pattern of consumption

"The Commission has concluded that there was no contraction in demand of PSF during 2005-06 despite bumper cotton crop. **In its application the Applicants admitted that there was contraction in demand of 13%. Out of this, 9% was due to bumper cotton crop and the remaining 4% was due to import of dumped PSF.** We would like to add here that there were host of other reasons for this 4% contraction in demand of PSF which should not be attributed alone to import of PSF from the Exporting Countries. Some of these other factors have been discussed by the Commission while remaining are being discussed in paragraph 18 ahead."

"c) Trade restrictive practices and competition between foreign and domestic producers

"The Commission has observed vide para 40.11 of the Report that there were no changes in trade restrictive practices and competition between foreign producers (other than producers from the Exporting Countries) and domestic producers. We understand that 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 Commission is urged to consider this submission and

The Commission has examined and analysed all other factors including the factors pointed out in these submissions (paragraphs 45 infra). The investigation of the Commission revealed that although the domestic industry suffered some injury due to other factors but injury due to other factors was insignificant. The main cause of material injury to domestic industry during the POI was dumped imports of the investigated product from the Exporting Countries.

Furthermore, no documentary evidence in support of the claim that the cause for material injury to domestic industry during the POI was factors other than dumped imports and not the dumped imports of the investigated product has been submitted by the interested parties.

Section 18(3)(c) of the Ordinance relates changes between conditions of the competition between foreign and domestic producers. In this argument no such change has been identified which caused injury to the domestic industry.

discount the injurious effects of this practice before attributing injury to the Applicants as a result of dumped imports."

"d) Export performance and productivity of the domestic industry.

"This has been discussed in paras 40.8 and 40.9 of the Report. The Commission concludes that although the export sales of the domestic like product declined by 31.46% and 42.25% during 2004-05 and 2005-06 respectively, yet the volume of exports was insignificant being 5.62%, 4.13% and 2.63% of total sales in the years 2003-04, 2004-05 and 2005-06 respectively. This indicates that according to the Commission the volume of 2.63% to 5.62% of sales is insignificant to see any adverse effect on the domestic industry. However when the Applicants filed its application with the Commission, total volume of dumped imports it alleged was 28,419 MT or just 5.9% of total domestic market of 479,606 MT. Considering this percentage (5.9%) as significant by the Commission causing material injury to the domestic industry does not seem logical. There must be some consistency in the analysis made by the Commission."

The Commission has examined this aspect and found that decline in exports of the domestic like product was not the reason for material injury to the domestic industry during the POI (paragraphs 32.2.3, 32.2.4 and 32.2.5 infra)

"e) Reduction in incidence of duty & taxes on imported and domestic PSF due to tariff rationalization.

"The Commission has discussed this issue. However, it concluded as per para 40.8 of the Report that the changes in tariff of the investigated product during the POI was not the cause of material injury to the domestic industry. As per previous discussion in this submission it has been proved that reduction in tariff of imported PSF reduced its landed cost which led to some imports. Therefore reduced landed cost due to reduction/changes in tariff of the investigated product should not be considered to have caused any material injury to the domestic industry."

The Commission has analysed the impact of tariff rationalization and found that the impact of tax and tariff changes was in favour of the domestic industry (paragraphs 45.5 to 45.9 infra)

"There were also a few other factors which had adverse effect on the domestic industry during the POI. Factors acknowledged by Dewan Salman (Director's Report, Annual Report 2005, Pages 6&7) include:-

"a) **High Raw Material Prices**

"...PSF producers were forced to procure raw material at high prices in order to maintain their operations."

"b) **Decrease In PSF Sales And Reduction In Operations resulting from High Domestic PSF Prices.**

"While PSF prices started moving up, downstream started using their inventories thereby sales of PSF were dropped and inventories started piling up, resultantly PSF producers were forced to reduce operation."

This supports the Commission's conclusion that the domestic industry suffered on account of price suppression during the POI as it was not able to recover increased cost of production by way of an increase in price (paragraph 32.4 infra).

"c) **Further Reduction In Operations resulting from announced Impending Change In Tariff Structure.**

"The Government "announced that it will drastically reduce duties on PSF and its raw materials. This new situation brought a

The Commission has analysed the impact of tariff rationalization and found that the

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new challenge, downstream industries started depleting their inventories and PSF producers were forced to reduce their operations further with high inventories in hand".

"d) Repeated Moving Up Of Raw Material Prices Due To Hurricanes

"In July 2005 again the prices of raw material started moving up due to hurricane news, later on consecutive hurricanes caused loss of petrochemical production and again the prices were at very high levels...".

"e) "Misery" To The Applicants As A Result Of Increase In Fuel Oil Prices

"This unfavorable situation was compounded with the increase in fuel oil prices. The prices of furnace oil has (sic) jumped from Rs. 12,000/ ton to about Rs. 20,000/ ton during the period. Similarly the diesel oil prices increase from Rs. 23.27/litre to Rs. 27.55/ litre during this period, which has also pushed the cost and added misery to the industry. "

"f) Increase In Freight And Transportation Expenses On Both Procurement And Sales As A Result Of Further Increase In Prices Of Fuel Oil.

"Subsequent to Balance Sheet date prices of fuel oils are further increased to the level of Rs. 23,000/- ton for furnace oil and Rs. 35.13/- litre for HSD. This increase in prices has not only increased the fuel cost but has also pushed the freight and transportation expenses on both procurement and sales. "

"Other factors acknowledged by ICI (Report of the Directors, Annual Report 2005, pages 8 & 9) include

"a) Rising Crude Oil Prices

"2005 was a challenging year for the Polyester industry as it had to deal with the rising crude oil prices, which jumped from USD 46 per barrel in January to approximately USD 60 per barrel in December, 2005 ..."

"b) Sharp Increase In The Raw Material Prices Of Both MEG And PT A

"c) Restricted Ability Of Polyester Manufacturers To Pass On The Full Impact Of Feedstock Price Increases To Downstream Customers Due To The Bumper Cotton Crop Etc.

"d) Impact On PSF Demand As A Result Of 13.1 % Anti-Dumping Duty

" ... 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

impact of tax and tariff changes was in favour of the domestic industry (paragraph 45 infra)

This supports the Commission's conclusion that the domestic industry suffered on account of price suppression during the POI as it was not able to recover increased cost of production by way of an increase in price (paragraph 32.4 infra).

This claim was not substantiated with documentary evidence. However, as per

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exports from Pakistan to the European Union." (Emphasis added)

"e) Negative Impact On Industry Profitability Due To Reduction In Net Effective Protection Available To The PSF Manufacturers From 8.5% To 6.5%.

"f) Non-Availability of Deemed Drawback on locally Procured PSF

"The Commission's finding that "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". 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" (para 26.6 of the Report) made with reference to APTMA's following submission (page 2 of submission dated 22 January):-

"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. An indication to this effect is gathered from the *Report of the Directors for the Quarter Ended 31 March 2006* of ICI Pakistan Limited, one of the three Applicants, wherein at page 4 it is stated that "The non-availability of deemed drawback on locally procured PSF also encouraged further imports under DTRE, an issue which has been raised with the Government" is at variance with facts. The last lines (underlined above) themselves are a confirmation to the contrary by ICI to NTC's contention that deemed drawback were available on locally procured PSF.

"It is clarified that in the 2005-06 Budget effective from July 2005, deemed drawback on locally procured PSF were specifically withdrawn. The Commission is therefore urged to review its above-quoted finding and make necessary amendments to its conclusions at appropriate places."

vii. Views/Comments of Gul Ahmed Textile Mills limited

Gul Ahmed Textiles Mills limited presented following comments/views

"We have noted that the Investigated Product has been treated as a like product with the domestic like product. In our opinion merely comparison of HSC Code and manufacturing process of the product does not make a product like product.

"The Commission should also compare the finished

the information obtained from Federal Bureau of Statistics, Pakistan's bedwear exports increased by 40.86 percent (in terms of value) in the year 2005-06 over the exports of the year 2004-5.

The Commission has examined and analysed the impact of DTRE scheme (paragraphs 31.5 and 31.6 infra).

The Commission has determined likeness of the investigated product and the domestic like product on the basis of different factors including the HS code and production process and raw materials used (paragraph 8 supra). The

product manufactured out of the Investigated Product and the domestic like product. We as manufacturers of the finished product know that we are not getting the required quality of the finished product manufactured out of domestic like product and as result our finished product quality which is exported by us is suffering.

"This imposition of duty on the Investigated Product will naturally increase out cost of export and it will not be feasible to export the relevant finished product.

"Our country's textile exports are already going down and the imposition of antidumping duty on the Investigated Product will further affect the country's exports.

"If at all antidumping duty has to be imposed it should be meant for protection of the local industry but at the same time should not burden the textile exports of the country. For this purpose exporters using he Investigated Product should be allowed to import the same under DTRE Scheme of the Government of Pakistan."

investigation showed that the investigated product and the domestic like products are like products.

Gul Ahmed has not provided any evidence in support of this claim. However, as per the information obtained from Federal Bureau of Statistics, Pakistan,s exports of textiles increased by 15.30 percent (in value terms) in FY 2006 over the exports of the FY 2005.

Investigation by the Commission revealed that even after exclusion of the imports of PSF under DTRE scheme, conclusion regarding increase in volume of imports of the investigated product is not materially affected (paragraph 31.5 and 31.6 infra)..

viii. Views/Comments of Taxila Cotton Mills limited

Taxila Cotton Mills limited presented following comments/views

"UNDER-INVOICING OF IMPORTS

"Polyester Yarn/Sewing Thread, under PCT Code 5401.1000, is being imported into Pakistan from different countries. According to reliable local sources, polyester yarn is being imported and cleared from China. It is surprising to note that polyester yarn is being assessed at around US\$ 0.76 per kilogram, whereas the Raw Material, polyester staple fibre (PSF), is priced higher than that of the yarn. PSF is being offered from China and other countries ranging from USD 1.19/kg. To USD 1.25/kg."

"The inference from the above facts is obvious and glaring. 100% Spun Polyester Sewing Thread imported from China is being heavily under-invoiced. It is not economically possible to sell a product below its raw material cost. On account of under invoicing, most of the units producing polyester yarn are suffering and are on the brink of closure."

This investigation is relating to PSF and not to the polyester yarn/thread. If domestic industry manufacturing polyester yarn/thread is facing problems due to dumping of polyester yarn/thread, it may file an application with the Commission in accordance with provisions of the Ordinance.

Valuation of imported products does not fall within purview of the Commission. In case domestic industry faces problems due to the valuation of the imported good, it may approach Central Board of Revenue for possible help.

18. Disclosure of Essential Facts

18.1 In terms of Rules 14(8) of the Rules, and Article 6.9 of Agreement on Antidumping, the Commission disclosed essential facts, and in this context dispatched Statement of Essential Facts (hereinafter referred to as the "SEF") on April 20, 2007 to all interested parties including the known exporters/foreign producers, the Applicant, the known Pakistani importers, and to the embassies of the Exporting Countries in Pakistan.

18.2 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. The Commission received comments from following interested parties:

- i. Huvis Corporation, Korea;
- ii. All Pakistan Textile Mills Association (“APTMA”)
- iii. (a) APTMA; (b) Bilal Fibres Ltd; (c) Crescent Sugar Mills and Distillery (Textile Division); (d) Gadoon Textile Mills Ltd.; (e) Island Textile Mills Ltd.; (f) Salfi Textile Mills Ltd.; and (g) Ellcot Spinning Mills Ltd. Through their legal representative;
- iv. Mahmood Textile Mills Limited; and
- v. The Applicants

18.3 The comments received on essential facts 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:

Column A

Column B

i. Views/Comments of Huvis Corporation, Korea

Following comments on essential facts were submitted by Huvis Corporation, Korea.

“After glancing through the SEF, Huvis has observed that with reference to Huvis, nothing has been said about the following submissions to the NTC which Huvis filed after the preliminary determination:-

“a) Comments on calculation of dumping margin as per Huvis’s letter of March 14, 2007”

“b) Submission regarding reliance on best information available as per Huvis’s letter of April 16, 2007”

“On course, the SEF should thus contain all facts which were considered by the Commission while applying provisional antidumping measures plus new facts which collectively shall form the basis of a decision whether to apply definitive antidumping measure. After going through the SEF it is not difficult to conclude that no new facts have been incorporated in the SEF with the exception of minor information and changes made in the preliminary determination. In case of comments on dumping calculations, we have noted that as per para 24.2 of the SEF, NTC has just mentioned that the exporters/foreign producers have offered their comments on methodology used in dumping calculations which will be taken into account in the final determination. Since nothing particular has been said about our company, Huvis again request that both its submissions referred to above may kindly be taken into consideration in the final determination.

The Commission disclosed essential facts in accordance with Rules 14(8) of the Rules, and Article 6.9 of Agreement on Antidumping, which were considered for this final determination. All the facts, which were available with the Commission, including the facts submitted by Huvis Corporation, Korea have been taken into account.

The Commission disclosed essential facts after consideration of all facts, views and comments, which were before the Commission. It is clearly stated at paragraph 25 of the SEF that all comments received after preliminary determination will be taken into account in final determination. At paragraph 24.2 of the SEF it is mentioned that the comments of the exporters on dumping calculation methodology will be taken into account in final determination.

Essential facts were disclosed in accordance with Rule 18 of the Rules, which states “..... that such information shall not indicate whether a final determination is affirmative or negative.”

ii. All Pakistan Textile Mills Association ("APTMA")

APTMA raised the same issues, which it had raised on preliminary determination. Those issues have been discussed in detail at paragraph 17(v) supra. The Commission received views/comments from APTMA without any documentary evidence supporting their claims. The Commission asked APTMA in the hearing that documentary evidences in support of its views/comments should be provided to the Commission. However, no documentary evidence was received in this regard.

iii. Views/Comments of: (a) APTMA; (b) Bilal Fibres Ltd; (c) Crescent Sugar Mills and Distillery (Textile Division); (d) Gadoon Textile Mills Ltd.; (e) Island Textile Mills Ltd.; (f) Salfi Textile Mills Ltd.; and (g) Ellcot Spinning Mills Ltd.

Legal representative of the above parties submitted following comments/views:

"2. Of course the SEF should thus contain all facts which were considered by the Commission while applying provisional antidumping measures plus new facts which collectively shall form the basis of a decision whether to apply definitive antidumping measure. After going through the SEF it is not difficult to conclude that no new facts have been incorporated in the SEF with the exception of following minor information and changes made in the preliminary determination:-

"a) Para 15 of the SEF tells about attachment of list (Annex-II) of interested parties in the investigation.

"b) Para 23 of the SEF tells that hearing was held and information submitted by the participants is available in the public file. The Commission has said nothing about the examination of these submissions and facts found as a result of this examination.

"c) Para 24 of the SEF states that disclosure meetings were held and exporters obtained dumping calculations of their exports. Nothing has been said about the comments/observations made by the exporters on these calculations and new facts brought to the notice of the Commission through their comments.

"d) Para 25 of the SEF states that the Commission has received written submissions/comments after preliminary determination from the interested parties which would be taken into account while making its final determination. Actually these comments/ submissions should have been taken into account in this SEF, so that where one feels that Commission requires some more clarification about certain facts that could be provided before final determination by way of comments on this SEF. If the new facts which the Commission is likely to ascertain through analysis and examination of these submissions are not included in this SEF, how it can be claimed that this SEF contains all facts based on which final determination will be made.

"e) As per paras 30.3.4 and 30.3.5 it has been informed that for determination of normal value of Polysindo export of 1.2 denier grade A type to Pakistan constructed value would be used. In case of Huvis from Korea the Commission has said nothing although pursuant to disclosure meeting, Huvis pointed out a mistake in calculation of normal value which was against the provisions of the Ordinance as well as past

The Commission disclosed essential facts in accordance with Rules 14(8) of the Rules, and Article 6.9 of Agreement on Antidumping, which were considered for this final determination. All the facts, which were available with the Commission, including the facts submitted by different interested parties, were incorporated in SEF.

The Commission disclosed essential facts after consideration of all facts, views and comments, which were before the Commission. It is clearly stated at paragraph 25 of the SEF that all comments received after preliminary determination will be taken into account in final determination. At paragraph 24.2 of the SEF it is mentioned that the comments of the exporters on dumping calculation methodology will be taken into account in final determination.

Essential facts were disclosed in accordance with Rule 18 of the Rules, which states "..... that such information shall not indicate whether a final determination is affirmative or negative."

Further, the Commission received views/comments from different interested parties. Comments/views received from APTMA and the importers were without any supporting documentary evidence. The Commission asked the importers and APTMA during the hearing that documentary evidence in support of its views/comments should be provided to the Commission. However, no documentary evidence was received in this regard.

Methodology applied in determination of normal value and export price for all the exporters including the Huvis, Korea has

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practice of the NTC and other investigating authorities like USA.

"f) In para 35 of the SEF the issue of imports under DTRE has been discussed with reference to APTMA's submission dated March 26, 2007 and APTMA's contention in this regard has not been accepted.

"g) In all injury factors, analysis and conclusion part has been deleted whereas all information/figures as appearing in preliminary determination have been repeated. These injury factors and information/figures for the same have not been updated in the light of the comments submitted in this regard by various interested parties."

"3. We hereby request the Commission that the following documents/comments/submissions sent by us and by our clients may kindly be considered before reaching final determination:-

"a) Written Arguments pursuant to hearing sent by APTMA as per letter of March 26, 2007.

"b) Comments on Preliminary Determination in the light of discussion held in hearing sent by S.U. Khan Associates as per its letter of March 29, 2007.

"c) Submission containing elaboration in principal matters raised in the hearing sent by APTMA as per letter of April 9, 2007.

"d) Comments on calculation of Dumping Margin sent by Huvis as per its letter of March 14, 2007.

"e) Submission regarding reliance on best information available sent by Huvis as per its letter of April 16, 2007."

"4. Followings are our comments on various injury factors as given in the SEF:-

"a) Volume of Dumped Imports. As per para 16.6 of the SEF it has been informed that for the purpose of this investigation, the Commission has used import data obtained from PRAL in addition to the information provided by the Applicants and the exporters/foreign producers. Table VI of the SEF concerning volume reveals that import data for 2005-06 is based on exporters information whereas import data for 2003-04 and 2004-05 is based on PRAL. It does not seem logical that for two years (including base year) data obtained from PRAL has been used whereas for third year data of exporters has been used in spite of the fact that:-

"i) PRAL data is also available for 2005-06.

"ii) It is the Commission's past practice that PRAL data is used for analysis of import volume.

"Moreover, only goods that have actually entered Pakistan through any port of entry fall within the definition of "imports" as provided under the law. All imports thus made are duly recorded. Only this recorded quantity as per the record of the Pakistan Customs/Pakistan Revenue Automation Limited (PRAL) the data processing arm of the Central Board of Revenue, Government of Pakistan, is

been disclosed at paragraphs 30 and 31 of the SEF. After disclosure meeting held with Huvis Corporation, it commented on methodology used for determination of normal value. Huvis interpreted relevant provisions of the Ordinance and the Agreement on Antidumping differently than that of the Commission. However, the Commission has taken into account the comments/views of the Huvis in this final determination.

Submissions received from different interested parties have been taken into account in this investigation (paragraph 17 supra).

The issue has already been discussed at paragraph 17 supra. This is Commission's consistent practice to use information in an investigation obtained from different sources including PRAL, the exporters and the applicant. The Commission has followed the same practice in this investigation. Furthermore, the Commission is required to satisfy itself of the accuracy of the information to be used in an investigation. The Commission has complied with the requirements laid down in the Ordinance.

The Commission's investigation revealed that the information submitted by the Applicants and obtained from PRAL on imports of PSF was not complete as it did not contain information on imports cleared through Computerized Model Collectorate of Customs ("CARE").

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admissible for being considered in the Anti-Dumping Investigation as the imported quantity. Neither the Applicant domestic industry nor exporters/foreign producers are competent to give authentic and reliable details of imports that actually took place.”

“b) Price Effects. It is astonishing to note that ex-factory sales price for 2005-06 has been taken differently as evident from following table:-

Table-I
Ex-factory Sales Price of Domestic Like Product

Year	Table VII of SEF (Price Undercutting)	Table VIII of SEF (Price Depression)
2003-04	100.00	100.00
2004-05	123.52	123.52
2005-06	114.67	127.48

Note: all figures are indexed.

“The above table reveals that indexed figures of ex-factory sales price of domestic like product for 2005-06 have been taken differently in table VII and VIII of SEF. Hence results derived from such figures would obviously be misleading and will not thus be dependable.”

“c) Effects on Market Share. Here again import from Exporting Countries for 2003-04 and 2003-05 is based on PRAL data whereas import for 2005-06 is based on exporters data. It is requested that one source i.e. PRAL for all the three years should be used as per past practice of the Commission, as well as in keeping with the international practice (European Union *etel*) of taking the shipment date of exporters data for the calculation of dumping margin and actual import statistics for the purpose of determination of injury to the Applicant domestic industry.

It is stressed here that the ONLY source for import data is Pakistan Revenue Automation Limited (PRAL) the data processing arm of the Central Board of Revenue, Government of Pakistan. The Commission is requested to revise its market share analysis accordingly.

Another discrepancy in the analysis of the Commission is its disregard of the sales of the indifferent domestic industry. The Commission has erred in taking the total domestic market as only comprising the sales of the Applicant domestic industry and imports only. The Commission’s pleading of helplessness (para 33) with respect to non-availability of sales information of the indifferent domestic industry is inexplicable in view of the fact pointed out earlier too that the sales of the indifferent industry can very well be gathered by subtracting the sales of the Applicant domestic industry given in “Appendix 7” (of the Application) from the “Share of Local Industry in the Domestic Market” (i.e. the share of the Applicant as well as the indifferent domestic industry) given in “Appendix 6” of the Application.”

“d) Effects on sales, Production and Capacity Utilization. It

In calculating of the price depression, prices of the domestic like product have been taken without sales tax. This fact has clearly stated by adding footnote “***” at bottom of the table VIII of the SEF. While prices reported at Table VII of SEF for the purposes of price under cutting are inclusive of sales tax. The indexed value incidentally works out to be the same in the year 2004-05.

The issue has already been discussed in detail at paragraphs 17 and 18.ii supra. However, it may be noted that the market share of the domestic industry and sales of the domestic like product have been determined on the basis of total sales, including the sales of indifferent units (Paragraphs 33 and 34 infra)..

The Commission has examined and

is requested that alongwith the above factors, effect of PSF share lost to bumper cotton crop amongst other factors should also be discussed to see the major cause of shortfall if any in sales, production and capacity utilization.”

“e) Effects on Inventories. It seems favourable for 2005-06 as compared to 2004-05 as per table III of the SEF.”

“f) Effects on Profit/Loss. There is a cumulative effect of many factors on profit and loss position of the Applicants including bumper cotton crop, decline in exports etc. Effect of each factor may be quantified to assess the major cause of material injury if any caused to the domestic Industry.”

“g) Return on Investment. It remained more then 2.0% for all the 3 years, which seems satisfactory.”

“h) Other factors. While discussing other factors the Commission discussed following four other factors:

“i) Effects of Non-dumped Imports. It has been admitted in para 47.2 of the SEF that the domestic Industry suffered some injury due to non-dumped imports of the investigated product. Quantity of non dumped imports as per para Table XVIII of the SEF works out to 4274 MT as compared to dumped imports of 43193 MT.”

“ii) Effects of Bumper Cotton Crop. It has been revealed in para 47.3 of the SEF that in year 2005 (Jan-Dec) due to worldwide bumper cotton crop, there was contraction in PSF market. This bumper cotton crop also had an adverse impact on Pakistan’s PSF market with a number of spinning mills shifting either to cotton or cotton rich blends. But against this admission of fact, Table XIX of the SEF does not show the market share taken by bumper cotton crop. Last column of this table is showing total market of PSF as represented by domestic sales and imported PSF. Whereas total market should also show the share taken over by bumper cotton crop. In other words what would have been the total market, had there been no bumper cotton crop and its comparison with the present (2005-06) PSF market. The Applicants have themselves quantified this figure in its questionnaire (sub para (iv) para 10) as 45,930 MT during the POI. That figure can be taken for analysis purposes without any controversy.”

“iii) Effects of Changes in Tariff Structure of PSF Industry. The Commission has admitted the fact that tariff structure of the PSF industry was changed from 2005-06. However the Commission has concluded that as incidence of reduction of taxes was similar on the investigated as well as domestic like product, thus such tariff reduction has equal impact on both the imported PSF and domestically produced PSF. Contrary to this conclusion, as per table VII of the SEF it is evident that there was a substantial reduction in landed cost of imported PSF whereas ex-factory sales price of the domestic like product was not reduced to that extent. This indicates that Applicants did not fully pass on the effect of reduction in duty and tax to the user industry.....”

“iv) Decline in Export Sales. The Commission observed that

analysed effects of other factors including the bumper cotton crop and decline in exports of the domestic like product by the domestic industry (see paragraphs 34 and 45 infra).

The Commission has examined and analysed effects of other known factors, which, were injuring domestic industry during the POI in accordance with Section 18 of the Ordinance (paragraph 45 infra). On the basis of the examination and analysis, the Commission determined that the other factors were not significant cause of injury to domestic industry during the POI.

All the analysis of injury factors in SEF as well as in this final determination is conducted according to the POI (year wise from April to March) and not on calendar year except the effect of tariff changes, which is according to the financial year. Table XIX of SEF shows total market size of PSF in Pakistan and decline in the market in the year 2004-05 has been attributed to the bumper cotton crop.

In an investigation, the Commission is not obliged to use information submitted by the Applicants only rather it is required under the Ordinance to rely on the accurate information, which it gathers from different sources.

The Commission has examined and analysed the impact of tariff changes on landed cost of the investigated product and on prices of the domestic like product (paragraph 32.2 infra)

The Commission has examined the effect

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export sales which were 5.62% of total sales in 2003-04 were reduced to 4.13% in 2004-05 and were further reduced to 2.63% during 2005-06. This reduction in export sales also had some adverse effect on the financial health of the domestic industry. As per Appendix 7 of the questionnaire, PSF exported during 2005-06 was 9,444MT against export sales of 20,107 MT of PSF during 2004-05. Thus during the POI export sales were reduced by 10,663 MT.

of decline in exports of the domestic like product during the POI and has determined that this factor was not a significant to cause material injury to the domestic industry during the POI (paragraph 45.10 and 45.11 infra)

"6. "Other" factors acknowledged by Dewan Salman (Directors' Report, Annual Report 2005, pages 6 & 7) include

All these factors have already been identified by interested parties in their earlier submissions and have been discussed in detail at paragraph 17 supra.

"a) High Raw Material Prices

"... PSF producers were forced to procure raw material at high prices in order to maintain their operations."

"b) Decrease In PSF Sales And Reduction In Operations Resulting From High Domestic PSF Prices.

"While [PSF] prices started moving up, downstream started using their inventories thereby sales of PSF were dropped and inventories started piling up, resultantly PSF producers were forced to reduce operation."

"c) Further Reduction In Operations Resulting From Announced Impending Change In Tariff Structure.

The Government "announced that it will drastically reduce duties on PSF and its raw materials. This new situation brought a new challenge, downstream industries started depleting their inventories and PSF producers were forced to reduce their operations further with high inventories in hand".

"d) Repeated Moving Up Of Raw Material Prices Due To Hurricanes

"In July 2005 again the prices of raw material started moving up due to hurricane news, later on consecutive hurricanes caused loss of petrochemical production and again the prices were at very high levels...".

"e) "Misery" To The Applicants As A Result Of Increase In Fuel Oil Prices

"This unfavorable situation was compounded with the increase in fuel oil prices. The prices of furnace oil has (sic) jumped from Rs.12,000/ ton to about Rs. 20,000/ ton during the period. Similarly the diesel oil prices increase from Rs. 23.27/litre to Rs. 27.55/ litre during this period, which has also pushed the cost and added misery to the industry."

"f) Increase In Freight And Transportation Expenses On Both Procurement And Sales As A Result Of Further Increase In Prices Of Fuel Oil.

"Subsequent to Balance Sheet date prices of fuel oils are further increased to the level of Rs. 23,000/ton for furnace oil and Rs. 35.13/litre for HSD. This increase in prices has not only increased the fuel cost but has also pushed the freight and transportation expenses on both procurement and sales.""

"7. "Other" factors acknowledged by ICI (Report of the Directors, Annual Report 2005, pages 8 & 9) include

"a) Rising Crude Oil Prices

"2005 was a challenging year for the Polyester industry as it had to deal with the rising crude oil prices, which jumped from USD

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46 per barrel in January to approximately USD 60 per barrel in December, 2005 ...”

“b) Sharp Increase In The Raw Material Prices Of Both MEG And PTA

“c) Restricted Ability Of Polyester Manufacturers To Pass On The Full Impact Of Feedstock Price Increases To Downstream Customers Due To The Bumper Cotton Crop Etc.

“d) Impact On PSF Demand As A Result Of 13.1% Anti-Dumping Duty

“ ... 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)

“e) Negative Impact On Industry Profitability Due To Reduction In Net Effective Protection Available To The PSF Manufacturers From 8.5% To 6.5%.

“f) Removal Of Drawback Available On Purchase Of PSF From The Applicants”

iv. Views/Comments of Mahmood Textile Mills

“The Commission is requested to consider the earlier comments on the Preliminary Determination and to provide an opportunity to interested parties to comment upon its conclusions thereon before the Final Determination is made.”

“We urge that in determining injury DTRE imports be discounted from calculations of dumping as they do not enter the domestic market and hence the commerce of Pakistan and do not fall under the definition of dumping as provided in the Ordinance.

Imports made under the DTRE scheme call for being disregarded also as they did not compete with sales of the Applicants in the category where there was remission of duty drawback as deemed drawback was not available on local purchase of PSF.”

“The Commission has substituted exporters’ shipment data for actual imports into Pakistan. Only goods that have actually entered Pakistan through any port of entry fall within the definition of “imports” as provided under the law. For this reason only Customs data should be utilised. The method adopted by the Commission has completely distorted the various analyses and conclusions based thereon and has caused detriment to the interests of industrial users/re-exporters including Mahmood Textile Mills Limited. For injury determination actual import figures are used world-wide. The Commission is urged not to deviate from its own standard practice and the international norm in this regard.”

“We call upon the Commission to screen out the above-

The Commission has considered all information, views and comments submitted by interested parties in this investigation. Interested parties have been provided all available opportunities under the Ordinance to defend their interests.

The Commission has considered the arguments of different parties on imports under DTRE scheme (paragraph 31 infra).

The issue has already been discussed at paragraph 17 supra. This is Commission’s consistent practice to use information in an investigation obtained from different sources including PRAL, the exporters and the applicant. The Commission has followed the same practice in this investigation. Furthermore, the Commission is required to satisfy itself of the accuracy of the information to be used in an investigation. The Commission has complied with the requirements laid down in the Ordinance.

The Commission’s investigation revealed

pointed material irregularities in its Statement of Essential Facts and proceed to make a Final Determination only after giving interested parties an opportunity to present their views on its findings on submissions made on the Preliminary Determination.”

“It is our considered view that the PSF domestic industry is so well placed that the minor quantity of imports that took place from the “Exporting Countries” during the Period of Investigation are not likely to cause any injury, let alone material injury to it. According to assessment made by concerned quarters in the textile industry PSF manufacturers/ Applicants did not suffer any injury in respect of

- price and volume effects
- market share
- production
- utilization of production capacity
- sales
- profits
- export performance
- employment and staff costs and
- productivity, among others”

“We urge the Commission to consider the injury aspect more deeply and dispose of the investigation on the ground of ‘no injury to the domestic industry’.”

v. Views/Comments of the Applicants

“With reference to Paragraph 16.6 of the Statement of Essential Facts (A.D.C. No. 12/2006/NTC/PSF) dated 19 April 2007, insofar as the volume of imports stated in the Application (based on PRAL’s data) is lower compared to that received by the Commission from the exporters, we wish to clarify that PRAL’s import data does not include products cleared through the CARE system and, thus, understates actual imports to that extent. This position has been confirmed by PRAL, as evidenced by the attached correspondence between one of the Applicants and PRAL.”

“As contended by us at the hearing on 20 March 2007, under the Anti-dumping Ordinance and general principles of law, the Commission is required to rely on accurate, authentic and verified information. The Commission is not required to rely exclusively on PRAL data to the exclusion of data available from other sources. Indeed, exclusive reliance on PRAL data would be inconsistent with the requirements of the Anti-dumping Ordinance where there are cogent grounds (such as the one mentioned above) for believing that such data may understate actual imports. By relying on the data on volumes of exports to Pakistan provided by the exporters, the Commission has not contravened but, rather, complied with the Anti-dumping Ordinance.”

that the information submitted by the Applicants and obtained from PRAL on imports of PSF was not complete as that did not contain information on imports cleared through computerized model collectorate of Customs (“CARE”).

The Commission has determined material injury to the domestic industry in accordance with Part VI of the Ordinance. The Commission’s investigation revealed that the domestic industry suffered material injury during the POI and that injury was due to the dumped imports of the investigated product (Part C and D infra).

The issue has already been discussed at paragraph 17 supra. This is Commission’s consistent practice to use information in an investigation obtained from different sources including PRAL, the exporters and the applicant. The Commission has followed the same practice in this investigation. Furthermore, the Commission is required to satisfy itself of the accuracy of the information to be used in an investigation. The Commission has complied with the requirements laid down in the Ordinance.

B. DETERMINATION OF DUMPING

19. Dumping

19.1 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”.

20. Normal Value

20.1 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”.

20.2 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:

- “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:”.

20.3 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.”

21. Export Price

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”.

22. Dumping Determination

22.1 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 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.

22.2 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 11 supra). Dumping margins in this final determination are determined on the basis of the information provided by the above mentioned exporters/foreign producers.

23. Determination of Normal Value

23.1 The Commission received information on domestic sales and cost of production etc. of the like product from the five exporters/foreign producers (paragraph 11 supra) in responses to the questionnaire. Normal value in this final determination has been determined on the basis of that information.

23.2 In terms of Section 6(2) of the Ordinance the Commission is required to determine sufficient quantities of the sales of like product destined for consumption in domestic market of the exporting country for the purposes of determination of normal value. In preliminary determination of this case, sufficient quantities of the like product destined for consumption in domestic markets of the Exporting Countries were determined on the basis of total domestic sales of PSF during the POI. However, based upon comments received from interested parties, the Commission has determined sufficiency of the domestic sales in this final determination on the basis of sales of the comparable type⁵ only.

23.3 Determination of Normal Value for Indorama, Indonesia

23.3.1 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).

23.3.2 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.

23.3.3 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.

23.3.4 Indorama sold ***** kilo grams ("Kg") of PSF of different deniers and types in its domestic market during the POI including the types and deniers which were exported to Pakistan.

⁵ This is the widely adopted practice. See Judith Czako, Johann Human and Jorge Miranda, A Handbook on Antidumping Investigations, Cambridge University Press, 2003, p.173

23.3.5 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, as those sales were in sufficient quantities to determine normal value in terms of Section 6(2) of the Ordinance (more than 5 percent of the export sales of the investigated product exported by it to Pakistan during the POI). 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).

23.3.6 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.

23.3.7 To arrive at the ex-factory price of domestic sales, Indorama 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 was 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 as it contains confidential information).

23.4 Determination of Normal Value for Polysindo, Indonesia

23.4.1 Normal value for Polysindo is determined on the basis of the information provided by it in response to the questionnaire.

23.4.2 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.

23.4.3 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.

23.4.4 Polysindo sold ***** Kg of PSF of different deniers and types in its domestic market during the POI. However, it exported only 1.2 denier grade A type of the investigated product during the POI. Sales of this particular type, grade and denier in its domestic market were not in sufficient quantities to determine normal

value in terms of Section 6(2) of the Ordinance, as those sales were less than 5 percent of the export sales (1.82 percent) of the investigated product exported to Pakistan.

23.4.5 In the preliminary determination, normal value for Polysindo was determined on the basis of the domestic prices of comparable type of the like product (1.2 denier grade A). For this purpose, the Commission determined that the Polysindo's total domestic sales of PSF during the POI were in sufficient quantities in terms of Section 6(2) of the Ordinance to determine normal value, as those were 364.23 percent of its export sales of the investigated product to Pakistan. However, sales of the comparable type of the like product (1.2 denier grade A) in its domestic market were only 1.82 percent. Without prejudice to the dumping calculations done by the Commission in preliminary determination, Polysindo has shown reservations on determination of normal value on the basis of its domestic sales prices of comparable type of the like product (1.2 denier grade A) (paragraph 17.2 (iv) supra). Hence the sufficiency of the domestic sales in this final determination has been determined on the basis of sales of the comparable type (1.2 denier grade A) only.

23.4.6 Normal value for polysindo in this final determination has been determined on the basis of cost of production plus administrative, selling, general expenses and profits for production and sales of the like product during the POI in accordance with Section 8 of the Ordinance. For this purpose, information supplied by Polysindo in response to the Questionnaire is used. Calculations of normal value are placed at Annexure IV (Annexure omitted as it contains confidential information).

23.5 Determination of Normal Value for Huvis Corporation, Korea

23.5.1 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).

23.5.2 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.

23.5.3 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.

23.5.4 Huvis sold ***** Kg of PSF of different deniers and types in its domestic market during the POI including the types and deniers which were exported to Pakistan. Analysis of the information showed that the sales of the types and deniers, which were alike to the types and deniers of the investigated product were in sufficient quantities to determine normal value in terms of Section 6(2) of the Ordinance, as those were more than 5 percent of the export sales of the investigated product exported by it to Pakistan during the POI.

23.5.5 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 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.

23.5.6 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 V (Annexure omitted as it contains confidential information).

23.6 Determination of Normal Value for Thai Polyester Company, Thailand

23.6.1 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).

23.6.2 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.

23.6.3 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.

23.6.4 Thai Polyester Company sold ***** Kg of PSF of 1.20 and 1.30 deniers of different grades in its domestic market during the POI including the types and grades which were alike to the types and grades of the investigated product. Analysis of the information revealed that the sales of the types and grades/deniers which were alike to the investigated product were 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.

23.6.5 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.

23.6.6 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 was 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 as it contains confidential information).

23.7 Determination of Normal Value for Kangwal, Thailand

23.7.1 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).

23.7.2 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.

23.7.3 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.

23.7.4 Kangwal sold ***** Kg of PSF of different deniers and different grades in its domestic market during the POI including the types, which were alike to the types of the investigated product. Investigation showed that the sales of the types which were alike to the types of the investigated product were 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.

23.7.5 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. Section 7 of the Ordinance requires the Commission to determined 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). Normal value for 1.00 denier grade A and 1.20 denier grade A types has been determined on the basis of domestic sales. 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.

23.7.6 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 VII (Annexure omitted as it contains confidential information).

24. Determination of Export Price

24.1 The Commission received information on export sales of the investigated product from five exporters/foreign producers (paragraph 11 supra) in responses to the questionnaire. Export price for the investigated product in this final determination has been determined on the basis of the information provided by the exporters/foreign producers.

24.2 Determination of Export Price for Indorama, Indonesia

24.2.1 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).

24.2.2 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.

24.2.3 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 VIII (Annexure omitted as it contains confidential information).

24.3 Determination of Export Price for Polysindo, Indonesia

24.3.1 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).

24.3.2 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.

24.3.3 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 IX (Annexure omitted as it contains confidential information).

24.4 Determination of Export Price for Huvis Corporation, Korea

24.4.1 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).

24.4.2 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.

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

24.4.4 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 X (Annexure omitted as it contains confidential information).

24.5 Determination of Export Price for Thai Polyester Company, Thailand

24.5.1 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).

24.5.2 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.

24.5.3 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 XI (Annexure omitted as it contains confidential information).

24.6 Determination of Export Price for Kangwal, Thailand

24.6.1 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).

24.6.2 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.

24.6.3 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 **** 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.

24.6.4 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 XII (Annexure omitted as it contains confidential information).

25. Determination of Dumping for Non-cooperating Exporters

25.1 In preliminary determination, the Commission determined dumping margins for non-cooperating exporters on the basis of best information available in accordance with Section 32 of the Ordinance. For this purpose, the Commission considered the highest dumping margin determined for an investigated exporter from a particular country as the best information available for such exporters from that country who did not cooperate in this investigation. However, some exporters from the Exporting Countries expressed reservations in this regard (paragraphs 17.2 (i)⁶ and 17.2 (ii)⁷ supra). Hence, in this final determination, dumping for the exporters/foreign producers who did not cooperate with the Commission and did not supply necessary information or did not respond at all has been determined separately on the basis of best information available in accordance with Section 32 of the Ordinance. Details are given in following paragraphs.

⁶ “.....we noted that the Commission, instead of applying the “Best Information Available” treatment (“BIA”) to non-cooperating exporters, simply determined the other rate or the country rate based on the highest rate of the exporters for each subject country. This approach is truly unfair for the exporters who participated in this case” page 22 supra

⁷ “..... It is understood that Huvis fully cooperated in this investigation and we are surprised to note that even though an other exporter from Korea who did not cooperate at all throughout the investigation, the Commission has applied to this company the same dumping margin of 2.09% in spite of reliance on best information available in its case in pursuance of Section 32 of the Antidumping Duties Ordinance, 2000.....” page 23 supra

25.2 Determination of Dumping for Non-cooperating Exporters from Indonesia

25.2.1 As level of cooperation from Indonesia was very high (exporters who cooperated in this investigation exported 99.89 percent of imports of the investigated product from Indonesia during the POI). A residual dumping margin and antidumping duty rate for all other exporters from Indonesia is determined on the basis of best available information in terms of Section 32 of the Ordinance, which is the highest rate of dumping for individual exporters who cooperated from Indonesia among the investigated exporters/ foreign producers.

25.3 Determination of Dumping for Non-cooperating Exporters from Korea

25.3.1 Normal value for non-cooperating exporters from Korea is determined on the basis of the information supplied by Huvis in response to the questionnaire. The Commission considered that the information supplied by Huvis was the best information available for the purposes of determination of normal value for non-cooperating exporters on the basis that it was the largest exporter of the investigated product to Pakistan during the POI.

25.3.2 As information on types and deniers exported by the non-cooperating exporters are not available, normal value for them is determined on the basis of Huvis's cost of production plus administrative, selling, general and financial expenses and profits. Calculations are placed at Annexure XIII (Annexure omitted as it contains confidential information).

25.3.3 Information obtained from PRAL is used for the purposes of determination of export price for non-cooperating exporters from Korea. This is the only information available with the Commission on export sales of the investigated product by the non-cooperating exporters. Values in PRAL's information are reported at C&F level. The C&F export price has been adjusted to the ex-factory level. For this purpose same adjustments have been allowed which were allowed to Huvis for its own exports of the investigated product. Calculations of export price are placed at Annexure XIV (Annexure omitted as it contains confidential information).

25.4 Determination of Dumping for Non-cooperating Exporters from Thailand

25.4.1 Normal value for non-cooperating exporters from Thailand is determined on the basis of the information supplied by Kangwal in response to the questionnaire. The Commission considered that the information supplied by Kangwal was the best information available for the purposes of determination of normal value for non-cooperating exporters on the basis that it was the largest exporter of the investigated product to Pakistan during the POI.

25.4.2 As information on types and deniers exported by the non-cooperating exporters are not available, normal value for them is determined on the basis of Kangwal's cost of production plus administrative, selling, general and financial expenses and profits. Calculations are placed at Annexure XV (Annexure omitted as it contains confidential information).

25.4.3 Information obtained from PRAL is used for the purposes of determination of export price for non-cooperating exporters from Thailand. This is the only information available with the Commission on export sales of the investigated product by the non-cooperating exporters. Values in PRAL's information are reported at C&F level. The C&F export price has been adjusted to the ex-factory level. For this purpose same adjustments have been made which were reported by the Kangwal for its own exports of the investigated product. Calculations of export price are placed at Annexure XVI (Annexure omitted as it contains confidential information).

26 Dumping Margin

26.1 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.

26.2 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 established dumping margin by comparing weighted average normal value with a weighted average of price of comparable export transactions.

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

26.4 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 determined on the basis of individual dumping margins calculated for each exporter (paragraphs 26.6 and 50 infra).

26.5 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 (paragraph 25 supra).

26.6 Taking into account all the requirements set out above, the dumping margins have been determined as follows. Calculations of dumping margin are placed at Annexure XVII:

**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	0.56%	0.47%	0.00
2	Polysindo, Indonesia	5.45%	5.04%	5.04%
3	All others from Indonesia	5.45%	5.04%	5.04%
4	Huvis Corporation, Korea	1.51%	1.38%	0.00
5	All others from Korea	2.32%	2.14%	2.14%
6	Thai Polyester Co., Thailand	4.61%	4.34%	4.34%
7	Kangwal, Thailand	8.93%	8.32%	8.32%
8	All others from Thailand	11.19%	10.26%	10.26%

27. Negligible Volume of Dumped Imports

27.1 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 dumped 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.

27.2 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-IV

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

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	
Indonesia	*****	*****	9968.95	13.60%
Korea	*****	*****	12548.16	3.43%
Thailand	*****	*****	24518.84	51.47%
Other sources	-	*****	596.84	-
Total	32629.21	15003.58	47632.79	68.50%

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

* Non- dumped also includes imports at negligible dumping margin (less than 2 percent of export price, paragraph 26.6 infra).

27.3 The above table shows that the volume of dumped imports of the investigated product from the Exporting Countries was above the negligible threshold volume (less than three percent) of imports of the like product during the POI.

C. MATERIAL INJURY TO DOMESTIC INDUSTRY

28 Determination of Injury

28.1 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...”

28.2 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”.

28.3 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.

29. Domestic Industry

29.1 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.”

29.2 As stated earlier (paragraph 3.2 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

29.3 Three of these five constitute the “Applicants” (mentioned at S. Nos. i., ii., and iii., above). The two other units namely Rupali Polyester Limited, Lahore and Pakistan Synthetics Limited, Karachi that make up the entire domestic industry in Pakistan were indifferent in this investigation, as these two units have not responded in any manner including the notice of initiation or to the questionnaires sent subsequently. The information on production of the domestic like product by these two units has been obtained from their published annual reports and accounts, provided by the Applicants to the Commission. Details of the production during FY 2004 and FY 2005 were as follows:

Table-V (% share in total production)

Unit Name	FY 2005	FY 2004
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
Total	100.00	100.00

29.4 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 2004 and FY 2005 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 or importers involved in dumping of the investigated product into Pakistan.

29.5 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.

29.6 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 (paragraph 10.4 supra), but none 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 but was unable to do so due to the following:

- i. Both the units are multi product units¹ 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).

29.7 Therefore, the injury analysis carried out in this final determination in the following paragraphs is based on the information provided by the Applicants. Any inference derived in this regard from the data of the Applicants would apply to the entire industry as the Applicants account for more than 90 percent of total domestic production of the domestic like product.

30. Cumulation of Dumped Imports

30.1 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

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

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”.

30.2 Investigation by the Commission has revealed that the volume of dumped imports during the POI from the Exporting Countries was above the negligible quantity (i.e. less than 3 percent of total imports of PSF). Furthermore, the range of dumping margins for each country was also more than the negligible amount (i.e. less than 2 percent of export price). Following table shows the volume of dumped imports and dumping margin determined for the Exporting Countries. Calculations of volume of imports and dumping margins are placed at Annexure XVIII Unit Name:

Table-VI
Volume of Dumped Imports and the Range of Dumping Margins

Country	Percentage of total imports during POI@		Dumping margin
	Dumped	Non-dumped*	
Indonesia	13.60	7.33	From 0.56% to 5.45%
Korea	3.43	22.92	From 1.51% to 2.32%
Thailand	51.47	0.00	From 4.61% to 11.19%
Other sources	-	1.25	-
Total	68.50	31.50	-

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

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

30.3 It is evident from the weighted average export price charged by the exporters from the Exporting Countries during the POI (from 1st April 2005 to 31st March 2006) that there was a price competition between the imports of the investigated product. Weighted average export price of the investigated product during the POI is given in a table below. Calculations of weighted average C&F price of the investigated product are placed at Annexure XIX (Annexure omitted as it contains confidential information):

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

Table-VII
Weighted Average C&F Price of the Investigated Product

Country	Weighted Average C&F Price (US\$/MT)
Indonesia	1192.47
Korea	1253.79
Thailand	1193.96

30.4 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 31 to 45 infra.

30.5 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.

31. Volume of Dumped Imports

Facts

31.1 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.

31.2 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 2005-06 (POI for dumping) and production of the domestic like product by the Applicants for the above mentioned periods:

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

Year/Period*	Imports from the Exporting Countries		Domestic Production@
	Non-dumped	Dumped	
2003-04	2044.80	-	528064.47
2004-05	2768.76	-	457651.76
2005-06	14406.74**	32629.20**	415574.87

* Year/period is from 1st April to 31st March

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

@ Production of the Applicants only

Analysis

31.3 It appears from the above table that the dumped imports increased by 11.78 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.

31.4 In its submissions dated March 26, 2007, APTMA raised the issue that the PSF imported during the POI under Duty and Tax Remission for Exports (“DTRE”) scheme should not be considered part of the total imports for the purposes of this investigation. According to APTMA “..... PSF imported under DTRE having been imported only for value-addition and exclusively for purpose of re-export cannot be considered to have been introduced into the commerce of Pakistan.....”.

31.5 To examine the implications of the APTMA’s claim at paragraph 31.4 supra the imports of PSF under DTRE scheme were excluded from the total imports of the investigated product as shown in the table below:

Table-IX
Volume of Imports of and Domestic Production (MT)

Year/ Period*	Imports of the investigated product from Exporting Countries			Domestic production
	Imports excluding DTRE	Imports under DTRE scheme	Total imports	
2003-04	2044.80	0.00	2044.80	528064.47
2004-05	2768.76	0.00	2768.76	457651.76
2005-06	40856.94	6179.00	47035.94**	415574.87

* Year/period is from 1st April to 31st March

** 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.

Note: Information on volume of imports is obtained from PRAL, the exporters from Exporting Countries (who provided information). Information on imports under DTRE scheme has been provided by the APTMA

31.6 The above table shows that imports of the investigated product increased by 13.76 fold in the year 2005-06 over 2004-05 from the Exporting Countries even without taking into account the imports under DTRE scheme. It follows that imports under DTRE scheme do not materially affect the conclusion regarding increase in the volume of imports of the investigated product. In comparison, production of the domestic like product decreased by 9.19 percent in the year 2005-06 over the production of the previous year 2004-05.

Conclusion

31.7 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.

32. Price Effects

32.1 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).

32.2 Price undercutting

Facts

32.2.1 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 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 XX and XXI respectively (Annexures omitted as it contains confidential information). 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-X
 Calculations of Price Under-cutting (Rs./MT)**

Year/ Period*	Ex-factory sales price of domestic like product	Landed cost of imported PSF	Price under-cutting	
			Absolute	Percentage
2003-04	100.00	98.60	1.40	1.42%
2004-05	123.52	151.91	-	-
2005-06	114.67	109.34**	5.33	4.87%

* Year/period is from 1st April to 31st March

** Landed cost of dumped imports of the investigated product

Note: Actual figures have been indexed with respect to the ex-factory price of the domestic like product in the year 2003-04 by taking it equal to 100.

Analysis

32.2.2 The above table shows that the landed cost of the dumped imports of investigated product decreased by 28.02 percent in the year 2005-06 as compared to the landed cost 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 4.87 percent, whereas, there was no price undercutting in the year 2004-05.

32.2.3 The Government of Pakistan revised tariff structure on imported PSF, its inputs and locally produced PSF with effect from 1st 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 weighted average landed cost of the investigated product imported from the Exported Countries, incidence of taxes and duties on imports, weighted average ex-factory prices and incidence of taxes and duties on the domestic like product before (FY 2005) and after (FY 2006) tariff rationalization. Calculations are placed at Annexures XXII and XXIII respectively (Annexures omitted as it contain confidential information):

Table XI
Landed Cost, Ex-factory Price and Incidence of Taxes and Duties (Rs./MT)

	Investigated product		Domestic like product	
	FY 2005	FY 2006	FY 2005	FY 2006
Weighted average C&F price	83143.88	74001.01	-	-
Customs duty	16628.78	4810.07	7852.33*	0.00
Sales tax	14965.90	0.00	13038.15	0.00
Incidentals	4157.19	3700.05	-	-
Landed cost/ex factory price	118895.75	82511.13	99959.11	83239.81
Total tax and duty	31594.68	4810.07	20890.48	0.00

Note: FY is from July to June

* Customs duty on inputs (PTA and MEG)

Sources: PRAL and Applicants

32.2.4 The above table shows that, after tariff rationalization, the landed cost decreased by Rs. 36384.62/MT (30.60 percent) in FY 2006 over the landed cost of FY 2005. The ex-factory prices of the domestic like product decreased by Rs. 16719.30/MT (16.73 percent) in FY 2006 over the prices of FY 2005. The incidence of tax and duty on import of the investigated product decreased by Rs. 26784.61/MT (84.78 percent) in FY 2006 over the incidence of tax and duty of FY 2005. The incidence of tax and duty on sales of the domestic like product decreased by Rs. 20890.48/MT (100.00 percent) in the FY 2006 over the FY 2005.

32.2.5 The above facts shows that the C&F price of the investigated product from the Exporting Countries declined by Rs. 9142.87/MT (11.00 percent) in the FY 2006 over the C&F price of FY 2005. Thus decrease in landed cost was not only due to the reduction in taxes and duties. Landed cost of the investigated product decreased more by Rs. 5899.96/MT than the reduction in tax and duty.

Conclusion

32.2.6 On the basis of the above, the Commission has concluded that the change in tax/tariff structure of PSF was the only reason for reduction in landed cost of the investigated product. 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.

32.3 Price Depression

Facts

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

**Table-XII
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	-
2005-06	127.48	-

* Year/period is from 1st April to 31st March

** Prices exclusive of sales tax

Note: Actual figures have been indexed with respect to the ex-factory price of the domestic like product in the year 2003-04 by taking it equal to 100.

Analysis

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

Conclusion

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

32.4 Price Suppression

Facts

32.4.1 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 XXIV (Annexure omitted as it contains confidential information). 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-XIII
Calculations of Price Suppression (Rs./MT)**

Year/	Average cost to	Average ex-	Price Suppression

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Originating in and/or Exported from the Republic of Indonesia, the Republic of Korea and the Kingdom of Thailand

Period*	make & sell of domestic like product	factory price of domestic like product**	Increase/ (decrease) in cost to make & sell	Increase/ (decrease) in price
2003-04	96.43	100.00	-	-
2004-05	119.79	123.52	23.36	23.52
2005-06	125.05	127.48	5.26	3.96

* Year/period is from 1st April to 31st March

** Prices exclusive of sales tax

Note: Actual figures have been indexed with respect to the ex-factory price of the domestic like product in the year 2003-04 by taking it equal to 100.

Analysis

32.4.2 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

32.4.3 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 the domestic like product. Thus the dumped imports of the investigated product significantly suppressed the prices of the domestic like product during the POI.

33. Effects on Market Share

Facts

33.1 During the POI, domestic demand for PSF 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. Information on sales of the domestic like product by the entire domestic industry is provided 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 -XIV
Market Share (Percentage)

Year/ Period*	Share of domestic industry	Share of imports from	
		Exporting Countries	Other Countries
2003-04	99.13%	0.40%	0.47%
2004-05	99.07%	0.57%	0.36%
2005-06	90.44%	9.43%	0.12%

* Year/period is from 1st April to 31st March

Analysis

33.2 The above table shows that the domestic industry lost its market share from 99.13 percent and 99.07 percent in the years 2003-04 and 2004-05 respectively to 90.44 percent in the year 2005-06. Market share of the imports of PSF from the Exporting Countries increased 0.57 percent in the year 2004-05 to 9.43 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, 69.37 percent of which were dumped imports.

Conclusion

33.3 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.

34. Effects on Sales

Facts

34.1 Sales of the domestic like product by the entire domestic industry in domestic market during the POI was as follows:

Table -XV
Sales of the Domestic Like Product

Period*	Sales by domestic industry (MT)	Change in sales
2003-04	100.00	-
2004-05	95.02	-4.98%
2005-06	88.38	-6.99%

* Year/period is from 1st April to 31st March

Note: Actual figures have been indexed with respect to the sales of the domestic like product in the year 2003-04 by taking it equal to 100.

Analysis

34.2 The above table shows that the sales of the domestic like product by the domestic industry decreased by 4.98 percent and 6.99 percent in years 2004-05 and 2005-06 respectively.

34.3 Some interested parties submitted that there was a decline in the domestic consumption of PSF due to availability of relatively cheap cotton, which was a result of bumper cotton crop during the POI (paragraph 17.2 supra). Thus the decline in sales of the domestic like product during the POI was as a result of bumper cotton crop. The Commission examined and analysed the impact of bumper cotton crop on the domestic consumption/market of PSF during the POI (paragraphs 45.3 and 45.4 infra).

34.4 The investigation showed that there was a decline of 4.92 percent in domestic market of PSF in the year 2004-05 over the domestic market of the year 2003-04. However, there was an increase of 1.88 percent in the domestic market of PSF during the year 2005-06 over the market of the year 2004-05 (paragraph 33 supra). Whereas sales of the domestic like product declined by 4.98 percent in the year 2004-05, which corresponds with the reduction in domestic market for PSF. However, in the year 2005-06, there was an increase in the total domestic market of PSF by 1.88 percent, but domestic industry lost its sales of the domestic like product by 6.99 percent. Thus lost in sales during the POI for dumping (2005-06) was not due to bumper cotton crop, rather that was due to the imports of the investigated product.

Conclusion

34.5 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 for dumping, and suffered material injury on this account. Decline in sales during the year 2004-05 was due to reduction in consumption/market of PSF, which was a result of bumper cotton crop. However, decline in sales of the domestic like product during the year 2005-06 (POI for dumping) was due to imports of the investigated product.

35. Effects on Production and Capacity Utilization

Facts

35.1 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-XVI
Production and Capacity Utilization (MT)**

Year/ Period*	Installed Capacity	Capacity Utilization
2003-04	578600	91.27%
2004-05	578600	79.10%
2005-06	578600	71.82%

* Year/period is from 1st April to 31st March

Analysis

35.2 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.

35.3 Investigation by 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.

Conclusion

35.4 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.

36. Effects on Inventories

Facts

36.1 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 XXV (Annexure omitted as it contains confidential information). The data for opening and closing inventories for the domestic like product is given in the following table:

Table-XVII
Inventories of Domestic Like Product (MT)

Year/Period*	Opening Inventory	Closing Inventory
2003-04	25267.00	230.42
2004-05	230.42	214.40
2005-06	214.40	203.17

* Year/period is from 1st April to 31st March

Note: Actual figures have been indexed with respect to the opening inventory of the domestic like product in the year 2003-04 by taking it equal to 100.

Analysis

36.2 The data given in the table above shows that the inventory level of the domestic like product decreased throughout the POI. This decline was a result of curtailed production of the domestic like product (paragraph 35 supra).

Conclusion

36.3 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.

37. Effects on Profits/Loss

Facts

37.1 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 XXVI (Annexure omitted as it contain confidential information). The table below shows the profit and loss position of the domestic industry during the POI:

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Table -XVIII
Profit/(Loss) of Domestic Industry

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

* Year/period is from 1st April to 31st March

Note: Actual figures have been indexed with respect to the profits of the domestic industry in the year 2003-04 by taking it equal to 100.

Analysis

37.2 The above table shows that the domestic industry earned profits on sales of the 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:

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

38. Effects on Cash Flow

Facts

38.1 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 XXVII (Annexure omitted as it contains confidential information). Net cash flow position of the domestic industry during the POI is given in table below:

Table -XIX
Cash Flow Position

Year/Period*	Net cash inflow/ (outflow) from operations (Million Rs.)
2003-04	2539.93
2004-05	51.97
2005-06	53.99

* Year/period is from 1st April to 31st March

Note: Actual figures have been indexed with respect to the net cash inflow in the year 2003-04 by taking it equal to 100

Analysis

38.2 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

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

39. Effects on Employment and Productivity

Facts

39.1 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 XXVIII (Annexure omitted as it contains confidential information). The employment, productivity, salaries and wages of the domestic industry were as follows:

**Table -XX
Employment and Productivity**

Year/ Period*	Number of Employees	Total salaries and wages (Mill. RS)	Domestic production (MT)	Productivity per worker in MT	Salaries & wages Rs. per MT
2003-04	100.00	100.00	100.00	100.00	100.00
2004-05	100.51	104.49	86.67	87.06	119.41
2005-06	100.45	106.18	78.70	77.25	136.84

* Year/period is from 1st April to 31st March

Note: Actual figures have been indexed with respect to the figures of the year 2003-04 by taking them equal to 100

Analysis

39.2 The above table shows that the productivity per worker decreased by 12.94 percent in the year 2004-05 and 11.27 percent in year 2005-06 due to decrease in production.

39.3 Salaries and wages per MT for production of the domestic like product increased 19.41 percent and 14.60 percent 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.

Conclusion

39.3 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.

40. Effects on Return on Investment

Facts

40.1 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 XXIX (Annexure omitted as it contains confidential information).

Table -XXI
Investment and Return on Investment

Year*	Total Investment	Return on Investment
2003-04	100.00	2.57%
2004-05	92.24	2.81%
2005-06	85.49	2.40%

* Year/period is from 1st April to 31st March

Note: Actual figures have been indexed with respect to the figure of total investment in the year 2003-04 by taking it equal to 100

Analysis

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

Conclusion

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

41. Effects on Growth and Investment

Facts/analysis

41.1 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.

41.2 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

41.3 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.

42. Ability to Raise Capital

Facts/analysis

42.1 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

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

43. Summing up of Material Injury

43.1 The facts and analysis in the preceding paragraphs (paragraphs 29 to 42 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.

43.2 During the POI, dumped imports of the investigated product increased sharply while productions of the domestic like product decreased (paragraph 31 supra).

43.3 The Applicants could not increase its prices of the domestic like product to accommodate the rising cost of production 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.

43.4 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.

43.5 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.

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

D. CAUSATION

44. Effect of Dumped Imports

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 its 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.

45. Other Factors

45.1 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.

45.2 The investigation by 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

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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 1st April 2005 to 31st March 2006):

Table -XXII
Volume and C&F Prices of Imported PSF

	Quantity (MT)	C&F Price (US\$/MT)
Dumped Imports from the Exporting Countries	32629.20	1205.87
Non-dumped Imports from the Exporting Countries	14406.74	1218.06
Imports from other sources	596.84	1439.82

Note: Non- dumped are the imports at negligible dumping margin (less than 2 percent of export price).

45.3 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, relatively cheaper cotton was available due to a worldwide bumper cotton crop, resultantly there was a contraction in PSF market/consumption. 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 -XXIII
Volume of Sales by Domestic Industry and Imported PSF

Year/ Period*	Domestic industry		Volume of PSF Imports (MT)	Total market	
	Quantity sold (MT)	% Decline in sales		Quantity (MT)	Percentage decline
2003-04	510161.76	-	4473.95	514635.71	-
2004-05	484747.63	4.98%	4543.05	489290.68	4.92%
2005-06	450867.91	6.99%	47632.78@	498500.69	-

* Year/period is from 1st April to 31st 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 or reached Pakistan during the POI.

45.4 The above table revealed that the domestic market of PSF declined by 4.92 percent in the years 2004-05 and increased by 1.88 percent in the year 2005-06. The sales of the domestic like product decreased by 4.98 percent in the year 2004-05, which shows a corresponding decline in total market. Thus this decline was a result of bumper cotton crop. However in the year 2005-06 sales of the domestic like product declined by 6.99 percent (paragraph 34 supra) as compared to the increase in domestic market by 1.88 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 (11.78 times) (paragraph 31 supra) in the year 2005-06 despite bumper cotton crop.

45.5 Some interested parties including exporters, importers and their Association submitted to the Commission that the decline in landed cost of the investigated product was due to the reduction in customs tariff by the Government of Pakistan. The Commission has examined and analysed the impact of tax and tariff changes on imported and domestically produced PSF.

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

**Table XXIV
 Tariff Structure**

	FY 2005		FY 2006	
	Customs duty	Sales Tax	Customs duty	Sales Tax
<u>On import of PSF</u>	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 1st July to 30th June

45.7 The Commission's investigation revealed that incidence of taxes and duties on imported PSF declined by 82.89 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 XXV
 Incidence of Taxes and Duties on Imported PSF**

Description	FY 2005	FY2006
Average C&F price	83143.88	83143.88
Customs Duty	16628.78	5404.35
Sales Tax	14965.90	0.00
Total duty & tax	31594.68	5404.35
% reduction in duty & tax		82.89%

**Table XXVI
 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	13038.15	0.00
Total duty & tax	20890.48	0.00

% reduction in duty & tax		100.00%
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45.8 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 82.89 percent of the taxes and duties levied before this tariff rationalization. The customs duty on major inputs (PTA and MEG) and sales tax on locally produced PSF have been completely (i.e. 100 percent) abolished. Thus such tariff reduction has similar impact on both the imported PSF and domestically produced PSF.

45.9 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.

45.10 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 -XXVII
Distribution of Sales by the Applicants
(% share of total sales)

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

* Year/period is from 1st April to 31st March.

45.11 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, share of export as a proportion of total 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). The percentage share of export sales declined by 1.50 percent (from 4.13 percent to 2.63 percent) only in the year 2005-06 (the POI for dumping).

45.12 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.

45.13 The other 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

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

- i. the application was filed on behalf of domestic industry as the Applicants represent major proportion of the total 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;
- viii. 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;
- ix. the dumping margins expressed as a percentage of weighted average adjusted export is ranging between 0.50 percent to 9.91 percent for exporters/foreign producers from the Exporting Countries;
- x. 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
- xi. there was a causal relationship between dumped imports of the investigated product and the material injury suffered by the domestic industry during the POI.

F. IMPOSITION OF DEFINITIVE ANTIDUMPING DUTY

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

48. 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 definitive rate for antidumping duty for these exporters is determined on the basis of individual dumping margins.

49. 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.

50. In terms of Section 50 of the Ordinance, definitive 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 51 infra) for a period of five years effective from February 09, 2007. The definitive antidumping duty rates are determined on C&F value in *ad val.* terms. The definitive antidumping duties at C&F value are equivalent to the final dumping margins determined at ex-factory price level. The dumped investigated product is classified under PCT heading No. 5503.2010:

Table-XXVIII
Definitive Antidumping Duty Rates

S. No.	Exporter Name	Anti-dumping duty rate
1	Polysindo, Indonesia	5.04%
2	All others from Indonesia	5.04%
3	All others from Korea	2.14%
4	Thai Polyester Co., Thailand	4.34%
5	Kangwal, Thailand	8.32%
6	All others from Thailand	10.26%

51. Definitive anti-dumping duty has not been imposed on following exporters/foreign producers of the investigated product from the Exporting Countries as dumping margins for these exporters/foreign producers were 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
- ii. Huvis Corporation, Seoul Korea.

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

53. 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.

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

55. The definitive 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.

56. The Commission had imposed provisional antidumping duties on the investigated product vide official gazette (extra ordinary) dated February 9, 2007 for a period of four months effective from February 9, 2007. In terms of Section 55(2) of the Ordinance, 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.

57. In cases where the definitive anti-dumping duties imposed on the exporters/producers of Exporting Countries are lower than the amount of provisionally determined anti-dumping duties, the difference shall be refunded. The importers of PFY are directed to send their requests for refund of antidumping duty (if any) that may have been paid (under the Commission's Provisional Determination) on imports of the investigated product from the 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 notice of this final determination.

(Muhammad Ikram Arif)
Member
June 05, 2007

(Faizullah Khilji)
Chairman
June 05, 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 th 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 th floor, Ploenchit Tower, 898 Ploenchit Road, Bangkok, Thailand
9.	Tuntex (Thailand) Public Company Limited	Thailand	B.B Building, 20 th 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 th Floor, Harindhorn Tower, 54 North Sathron Road, Bangkok, Thailand
12.	Meiyo Corporation	Thailand	Not available

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

Annexure-II

List of Parties who Attended Hearing

	Name of the Companies/Embassies	Representative
1.	Embassy of Indonesia in Pakistan (Participants from Jakarta)	(i) Mr. Achmad Tarmidzi Sayib (Deputy Director, Practical Trade) (ii) Mr. Muhammad Yani (Head of Section for Lost Scrutiny)
2.	Embassy of Korea in Pakistan	(iii) Mr. Hankyu Kim (Head of Economic Affairs Section) (iv) Mr. Shamshair Khan (Secretary Economic Affairs)
3.	Embassy of Thailand in Pakistan	(v) Ms. Sudarat Choovej (Second Secretary)
4.	Applicants: ICI, Pakistan Dewan Salman Ibrahim Fibres	(vi) Mr. Ali Zaman (vii) Ms. Maleeha Amin (viii) Mr. Mazhar Jawaid (ix) Mr. Shahid Raza (Orr Dignam) (x) Mr. Umair Hafeez Ghori (Orr Dignam)
5.	All Pakistan Textile Mills Association (APTMA)	(xi) Mr. Saifullah Khan
6.	Crescent Sugur Mills & Distillery Ltd	Mr. Saifullllah Khan
7.	Bilal Fibres Ltd	
8.	PT Indorama Synthetics	
9.	International Textile Limited	
10.	Crescent Textile Mills Ltd	
11.	Huvis Corporation	
12.	Gadoon Textile Mills Limited	(xii) Syed Tasneem Ahmed
13.	Salfi and Island Textile Mills Limited	
14.	Ellcot Spinning Mills Limited	(xiii) Mr. Salman Asher Shaikh
15.	Khalid Shafique Spinning Mills Limited	(xiv) Mr. Shargeel Khalid

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