



**Government of Pakistan
National Tariff Commission**

REPORT

ON

**FINAL DETERMINATION AND LEVY OF DEFINITIVE
ANTIDUMPING DUTY ON IMPORT OF POLYESTER FILAMENT
YARN ORIGINATING IN AND/OR EXPORTED FROM THE
REPUBLIC OF INDONESIA, THE REPUBLIC OF KOREA,
MALAYSIA AND THE KINGDOM OF THAILAND.**

**A.D.C No.07/2005/NTC/PFY
March 16, 2006**

TABLE OF CONTENTS

<u>S.No</u>	<u>Description</u>	<u>Page No.</u>
A.	PROCEDURE	4
1.	Receipt of Application	4
2.	Evaluation and Examination of the Application	4
3.	Exporters/Foreign Producers Involved in Alleged Dumping of the PFY	5
4.	Applicant's Views	6
5.	Initiation of Investigation	6
6.	Investigated Product, Like Product and Domestic Like Product	7
7.	Period of Investigation	8
8.	Sampling and Information/Data Gathering	9
9.	Questionnaire(s) Response by the Exporters/Foreign Producers	12
10.	Voluntary Submission of Information by the Foreign Producers for Individual Dumping Margin	18
11.	Public File	19
12.	Confidentiality	20
13.	Negligible Volume of Imports	20
14.	Preliminary Determination and Levy of Provisional Antidumping Duty	20
15.	Disclosure after Preliminary Determination	21
16.	Hearing	23
17.	Price Undertaking	24
18.	Written submissions by the Interested Parties on Preliminary Determination	25
19.	Disclosure of Essential Facts	34
B	DETERMINATION OF DUMPING	38
20.	Determination of Dumping	38
21.	Normal Value	39
22.	Export Price	54
23.	Dumping Margin	60
C.	INJURY TO DOMESTIC INDUSTRY	62
24.	Determination of Injury	62
25.	Domestic Industry	62
26.	Cumulation of Dumped Imports	63
27.	Volume of Dumped Imports	65
28.	Price Effects	65
29.	Effects on Market Share	68
30.	Effects on Sales	68
31.	Effects on Production and Capacity Utilization	69
32.	Effects on Inventories	70
33.	Effects on Profits/Loss	70

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

34.	Effects on Cash Flow	71
35.	Effects on Employment and Productivity	71
36.	Effects on Return on Investment	72
37.	Effects on Growth and Investment	73
38.	Ability to Raise Capital	73
39.	Summing up of Material Injury	73
D	CAUSATION	74
40.	Effect of Dumped Imports	74
41.	Other Factors	74
E.	CONCLUSIONS	75
F.	IMPOSITION OF DEFINITIVE ANTIDUMPING DUTY	76

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

The National Tariff Commission (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 Filament Yarn Manufacturers Association, No. 104-106, First Floor, Hotel Imperial Building, Molvi Tamizuddin Khan Road, Karachi (the "Applicant") on behalf of the domestic industry producing Polyester Filament Yarn (hereinafter referred to as "PFY") on March 30, 2005. The Applicant alleged that PFY produced in the Republic of Indonesia, (hereinafter referred to as "Indonesia"), the Republic of Korea (hereinafter referred to as "Korea"), Malaysia, and the Kingdom of Thailand (hereinafter referred to as "Thailand") (hereinafter collectively referred to as the "Exporting Countries") is exported to Pakistan at dumped prices. The Embassies of the Exporting Countries in Islamabad were informed through note verbales dated April 2, 2005, sent through the Ministry of Foreign Affairs, Pakistan, of the receipt of application in accordance with the requirements of Section 21 of the Ordinance.

2. Evaluation and Examination of the Application

2.1 The examination of the application showed that it met the requirements of Section 20 of the Ordinance as it contained sufficient evidence of dumping of PFY 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.

2.2 The application fulfils the requirements of Section 24 of the Ordinance which enjoins upon the Commission to assess the standing of the domestic industry on the basis of the degree of support for or opposition to the application expressed by the domestic producers of the like product. In terms of Section 24(1) of the Ordinance, an application shall be considered to have been made by or on behalf of the domestic

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

2.3 The domestic PFY industry consists of nineteen units. Out of total nineteen units in the industry, nine are operating units. Out of these nine operating units, the Applicant has filed an application on behalf of four units representing 43.06 percent of the domestic production of PFY. Domestic industry's production during the Financial Year ("FY") 2004 is given below in Table-I.

Table-I
Unit-wise Production of PFY during FY 2004.

S.No.	Name of the Unit	Percentage Share in Domestic Production	Status
1.	S.G. Fibers Ltd., Karachi	10.91	Applicant
2.	Polyron Ltd., Karachi	3.38	Applicant
3.	Rupafil Ltd., Lahore	22.28	Applicant
4.	Spintex Ltd., Lahore	6.49	Applicant
5.	Rupali Polyester Ltd.	10.96	Indifferent
6.	Gatron (Ind.) Ltd.	39.05	Indifferent
7.	Dawood Lawrencepur Ltd.	1.83	Indifferent
8.	Sind Industries	0.36	Indifferent
9.	Ahsan+Ahmad Industries	4.73	Indifferent
	Total	100	

2.4 The above table shows that, four out of nine operating units have filed the application, other five units were indifferent. None of the units in the domestic industry has opposed the application. Therefore, the application is considered to be made by the domestic industry as it is supported by 100 percent of the total production of the like product produced by that portion of the domestic industry expressing its opinion. The application, therefore, fulfils the requirement of Section 24(1) of the Ordinance.

2.5 The application also fulfils the requirement of Section 24(2) of the Ordinance, as the domestic producers expressly supporting this application account for 43.06 percent of total production of the domestic like product produced by domestic industry during FY 2004.

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

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

The Applicant identified 38 exporters/foreign producers involved in alleged dumping of PFY from the Exporting Countries with complete addresses of all the 38 exporters. Upon initiation of the investigation copy of the notice of initiation was sent to all exporters/foreign producers on May 12, 2005 identified by the Applicant.

4. Applicant's Views

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

- i. PFY imported from the Exporting Countries into Pakistan and the PFY produced in Pakistan by the domestic industry are like products;
- ii. the exporters from the Exporting Countries are exporting the PFY to Pakistan at dumped prices; and
- iii. export of the PFY by the exporters from the Exporting Countries to Pakistan at dumped prices has caused and is causing material injury to the domestic industry producing PFY, mainly through:
 - a. increase in volume of alleged dumped imports (both in absolute as well as relative to domestic production);
 - b. loss in market share;
 - c. price undercutting;
 - d. price suppression;
 - e. price depression;
 - f. increase in inventories;
 - g. decrease in return on investment;
 - h. negative effect on cash flow;
 - i. negative effect on growth and investment; and
 - j. negative effect on employment.

5. Initiation of Investigation

5.1 The Commission upon examining the accuracy and adequacy of the evidence provided in the application established that there is sufficient evidence of alleged dumping and injury to justify initiation of an investigation. Consequently, the Commission decided to initiate an investigation on May 10, 2005. In terms of Section 27 of the Ordinance, the Commission issued a notice of initiation, which was published in the Official Gazette¹ of Pakistan and in two widely circulated national newspapers² (one in English language and one in Urdu Language) on May 12, 2005. Investigation concerning imports of PFY into Pakistan (classified under PCT³ Nos.

¹ The official Gazette of Pakistan (Extraordinary) dated May 12, 2005.

² The 'Daily DAWN' and the 'Daily Express' of May 12, 2005 issue.

³ "PCT" is the abbreviation for Pakistan Customs Tariff. PCT heading in Pakistan is equivalent to Harmonized Commodity Description and Coding System up to six-digit level.

5402.3300 and 5402.4300) contained in the First Schedule of Customs Act, 1969 (IV of 1969) originating in and/or exported from the Exporting Countries was thus initiated on May 12, 2005.

5.2 The Commission notified the embassies of the Exporting Countries in Pakistan (by sending a copy of the Notice of Initiation through Ministry of Foreign Affairs, Pakistan) on May 12, 2005. 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 Applicant on May 12, 2005, in accordance with the requirements of Section 27 of the Ordinance.

5.3 In accordance with Section 28 of the Ordinance, on May 14, 2005, the Commission also sent copies of full text of the written application (non-confidential version) to the embassies of the Exporting Countries in Pakistan through the Ministry of Foreign Affairs, Pakistan.

6. Investigated Product, Like Product and Domestic Like Product

6.1 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”.

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

i. Investigated Product:

The investigated product is PFY originating in and/or exported from the Exporting Countries into Pakistan. It is classified under PCT Nos. 5402.3300 and 5402.4300. The investigated product is an industrial raw material, mainly used in the manufacturing of art silk fabrics and garments.

ii. Domestic Like Product

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

The domestic like product is PFY produced by the domestic industry in Pakistan. The domestic like product is also classified under PCT Nos. 5402.3300 and 5402.4300. The domestic like product is used for the manufacturing of art silk fabrics and garments. Major uses of the domestic like product are, therefore, identical to those of the investigated product.

iii. Like Product:

The like product is PFY imported into Pakistan from the countries other than the Exporting Countries and PFY sold by the exporters/foreign producers of the Exporting Countries in their domestic markets. The like product is classified under PCT/H.S Nos. 5402.3300 and 5402.4300. Major uses of the like product are identical to those of the investigated product.

6.3 In order to establish whether the investigated product, the domestic like product and the like product are alike products, as contended by the Applicant, the Commission reviewed all the relevant information received/obtained from various sources including the Applicant, 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 identical (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 same/similar colours and appearance;
- ii. all the three products are substitutable in use. They are mainly used as raw material in the manufacturing of art silk fabrics and garments; and
- iii. all the three products are classified under the same PCT/HS Nos. 5402.3300 and 5402.4300

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

7. Period of Investigation

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

- "a) for the purposes of an investigation of dumping, an investigation period shall normally cover twelve months preceding the month of initiation

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

of the investigation for which data is available and in no case the investigation period shall be shorter than six months.

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

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

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

Investigation of dumping from January 1, 2004 to December 31, 2004;

Investigation of injury from July 1, 2001 to December 31, 2004.

8. Sampling and Information/Data Gathering

8.1 Sampling

8.1.1 In view of the apparent large number of exporters/foreign producers from the Exporting Countries involved in this investigation (paragraph 3 supra), sampling was envisaged in the notice of initiation, in accordance with Section 14(2) of the Ordinance.

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

8.1.3 Following thirteen exporters/foreign producers from the Exporting Countries responded to the notice of initiation, within the given time period of fifteen days (i.e. till May 27, 2005), and showed their willingness to be included in the sample:

- i. PT. Indorama Synthetics Tbk., Indonesia;
- ii. P.T. Sulindafin, Indonesia;
- iii. P.T. Polysindo EKA Perkasa, Indonesia;
- iv. HK Corporation, Korea;
- v. Hyosung Corporation, Korea;
- vi. Tongkook Corporation, Korea;
- vii. Hualon Corporation (M) Sdn Bhd, Malaysia;
- viii. Jong Stit Co. Limited, Thailand;
- ix. Chiem Patana Synthetic Fibers Co. Ltd., Thailand;
- x. Teijin Polyester (Thailand) Limited, Thailand;

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

- xi. Sunflag (Thailand) Ltd., Thailand;
- xii. Siam Moderntex Co., Ltd., Thailand; and
- xiii. Tuntex (Thailand) Public Company limited, Thailand.

8.1.4 After examination of the information received from the above mentioned exporters/foreign producers and the information available with the Commission, the Commission decided that it was impracticable to determine individual margin of dumping for each known exporter or producer concerned of PFY. Therefore, the Commission resorted to the use of sampling, so that a reasonable number of exporters or producers are investigated in this investigation. On the basis of the criteria set out in Section 14 (2) of the Ordinance⁴ and the information provided by the exporters/foreign producers and other information available to the Commission, following thirteen exporters/foreign producers of PFY from the Exporting Countries were selected on the basis of the largest percentage of volume of exports of PFY from country in question to be investigated in this investigation:

Table-II
Exporters/Foreign Producers Selected in Sampling

S. No.	Exporter/ Foreign Producer	Exporting Country	Share in exports from respective Country (%)
1.	P.T S.K Keris	Indonesia	15.34
2.	P.T. Indorama Synthetics Tbk	Indonesia	12.07
3.	P.T PanAsia Indosyntec Tbk	Indonesia	9.84
4.	P.T. Sulindafin	Indonesia	6.05
5.	Tongkook Corporation	Korea	43.77
6.	Hyosung Corporation	Korea	18.85
7.	Hualon Corporation Sdn	Korea	6.65
8.	Hualon Corporation (M) Sdn Bhd.	Malaysia	45.00
9.	Global Trade Well P.T.E Ltd.	Malaysia	14.12
10.	Fotex Trading	Malaysia	8.18
11.	Jong Stit Co. Limited	Thailand	36.65
12.	Tuntex (Thailand) Public Company Ltd	Thailand	28.94
13.	Chiem Patana Synthetic Fibers Co. Ltd	Thailand	11.08

8.2 Information Gathering

⁴ Criteria/provisions of Section 14(2): "Notwithstanding anything contained in sub-section (1), where the Commission is satisfied that the number of exporters, producers or importers, or type 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 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".

8.2.1 The Commission sent questionnaires alongwith full text of the written application (non confidential version) on May 31, 2005 to ten exporters/foreign producers, whose complete addresses were available with the Commission (mentioned at S.No. 1 to 6, 8 and 11 to 13 of Table II supra) out of thirteen exporters/foreign producers selected in the sampling for submission of information/data, were asked to respond within 37 days of the dispatch of the questionnaires i.e by July 7, 2005. The other three exporters/foreign producers namely (i) Hualon Corporation Sdn, Korea, (ii) Global Trade Well P.T.E Ltd., Malaysia, and (iii) Fotex Trading, Malaysia, whose mailing addresses were not available, questionnaires were sent to their respective embassies in Pakistan on May 31, 2005 requesting them to forward it to the concerned exporters/foreign producers.

8.2.2 Seven exporters/foreign producers out of thirteen who were asked for information/data, requested for an extension in time period for submission of response to the questionnaire. The Commission acceded to their requests for extension, after taking into account the reasons given by them in their requests. The other six exporters/foreign producers did not respond to the questionnaire including one who requested for an extension in time period to submit information. The rest, seven exporters/foreign producers submitted information/data in response to the questionnaire (paragraph 9 infra), which was accepted by the Commission for the purposes of this investigation. However, after preliminary determination in this investigation (paragraph 14 infra), the Commission afforded an opportunity to any foreign producer who was not selected in sampling and subsequently not investigated if wants an individual dumping margin in terms of Section 14(4) of the Ordinance, it may voluntarily submit necessary information to the Commission. Four new exporters/foreign producers submitted information/ data in response to that offer (paragraph 10.3 infra)

8.2.3 After preliminary determination the embassy of the Republic of Korea in Islamabad approached the Commission and stated vide a letter dated December 20, 2005 that Hualon Corporation did not exist in Korea and should be excluded from the sampled exporters. The Commission took up this issue with Central Board of Revenue ("CBR"), Government of Pakistan and found that Hualon Corporation was inadvertently included in Korea's export of PFY. Thus the Commission excluded Hualon Corporation, Korea from sampled exporters.

8.2.4 On May 14, 2005 questionnaires were sent to thirty-three Pakistani importers known to the Commission and these importers were asked to respond to the Commission within 37 days of the dispatch of the questionnaires. Only one importer namely M.Y. Traders, Karachi provided partial information in response to the questionnaire. On May 14, 2005, questionnaires were sent to five indifferent domestic producers to gather information on injury factors and were asked to respond to the Commission within 37 days of the dispatch of the questionnaires. None of them responded to the questionnaire.

8.2.5 The Commission maintains a database of import statistics, obtained on quarterly basis, from the Pakistan Revenue Automation Limited (“PRAL”) the data processing arm of the CBR. For the purpose of this final determination the Commission has also used import data obtained from PRAL in addition to the information provided by the Applicant and the exporters/foreign producers.

8.2.6 In order to verify the information/data provided by the Applicant and to obtain further information (if any), on-the-spot investigations were conducted at the offices and plants of the domestic producers (four units who submitted information/data in application) from June 14 to June 21, 2005. To verify information/data submitted by the seven exporters/foreign producers in response to the questionnaire from the Exporting Countries (paragraph 9 infra) 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 September 15 to October 04, 2005.

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

9. Questionnaire(s) Response by the Exporters/Foreign Producers

9.1 P.T SK Keris (“SK Keris”), Indonesia

9.1.1 Questionnaire response from SK Keris was received in the Commission on August 03, 2005. According to the information provided in response to the questionnaire by SK Keris, it was 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 the PFY to Pakistan as well as to other countries and in its domestic market during the POI.

9.1.2 The information submitted by SK Keris in response to the questionnaire was analyzed at the Commission and certain deficiencies were identified. Accordingly, those data deficiencies were communicated to SK Keris vide Commission’s letter dated August 10, 2005.

9.1.3 SK Keris was asked to provide the deficient information/data no later than August 15, 2005, so as to enable the Commission to consider and analyze the same for the purposes of this investigation. SK Keris responded to the deficiencies vide its letter dated August 15, 2005. However, response of SK Keris did not contain all the required information. The Commission obtained required information during on-the-spot investigation conducted at the premises of SK Keris from September 23 to September 24, 2005.

9.1.4 After preliminary determination in this investigation (paragraph 14 *infra*) SK Keris submitted further information and views/comments on Commission's provisional dumping calculation (paragraph 15.6 *infra*). SK Keris requested the Commission for further adjustments in normal value and export price, which were not identified and requested by it in its earlier response to the questionnaire. The Commission considered and acceded to the request of SK Keris.

9.1.5 The Commission accepted the information supplied by the SK Keris, Indonesia for the purposes of this investigation and dumping of the investigated product (paragraphs 21.6, 22.2 and 23.5 *infra*) for SK Keris is determined on the basis of that information.

9.2 P.T Indorama Synthetics Tbk. ("Indorama"), Indonesia

9.2.1 Questionnaire response from Indorama was received in the Commission on August 03, 2005. 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 the PFY to Pakistan as well as to other countries and in its domestic market during the POI.

9.2.2 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 August 04, 2005.

9.2.3 Indorama was asked to provide the deficient information/data no later than August 09, 2005, 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 August 09, 2005.

9.2.4 The Commission accepted the information supplied by the Indorama, Indonesia for the purposes of this investigation and dumping of the investigated product (paragraphs 21.7, 22.3 and 23.5 *infra*) for Indorama is determined on the basis of that information.

9.3 P.T PanAsia Indosyntec Tbk ("PanAsia"), Indonesia

9.3.1 Questionnaire response from PanAsia was received at the Commission on July 09, 2005. According to the information submitted by PanAsia, it has been involved in the manufacture and export of the PFY to Pakistan as well as to other countries and in its domestic market during the POI.

9.3.2 The information submitted by PanAsia in response to the questionnaire was analyzed at the Commission and certain deficiencies were identified. Accordingly, those data deficiencies were communicated to PanAsia vide Commission's letter dated July 20, 2005.

9.3.3 PanAsia was asked to provide the deficient information/data no later than August 01, 2005, so as to enable the Commission to consider and analyze the same for the purposes of this investigation. PanAsia responded to the deficiencies vide its letter dated July 29, 2005 but its response did not contain all the deficient information. However, the deficient information was obtained during on-the-spot investigation conducted at the offices of PanAsia from September 19 to 20, 2005.

9.3.4 After preliminary determination in this investigation (paragraph 14 *infra*) PanAsia submitted further information and views/comments on Commission's provisional dumping calculations (paragraph 15.8 *infra*). PanAsia requested the Commission for further adjustments in normal value and export price, which were not identified and requested by it in its earlier response to the questionnaire. The Commission considered and acceded to the request of PanAsia.

9.3.5 The Commission accepted the information supplied by the PanAsia, Indonesia for the purposes of this investigation and dumping of the investigated product (paragraphs 21.8, 22.4 and 23.5 *infra*) for PanAsia is determined on the basis of information supplied by it.

9.4 P.T. Sulinfadin ("Sulindafin"), Indonesia

9.4.1 Sulindafin responded to the notice of initiation vide its letter dated May 26, 2005 and submitted requisite information. The Commission sent questionnaire on May 31, 2005 with a request to respond within 37 days. On July 04, 2005 the Commission received a letter from Sulindafin stating that it will fully cooperate in the proceedings of this investigation and requested for extension in time period up to July 23, 2005 for submission of information in response to the questionnaire, which was granted. However, Sulindafin did not respond to the questionnaire.

9.4.2 The Commission, after expiry of the time period given to respond, informed Sulindafin through a letter of July 26, 2005 that in case of no response by July 30, 2005, the Commission would be constrained to make its determination based on the 'Best Information Available' in terms of Section 32 of the Ordinance and Article 6.8 and Annex II of the Agreement on Antidumping. Indonesian embassy in Pakistan was also informed on August 08, 2005 accordingly of the use of 'Best Information Available' for determination of dumping for Sulindafin. However after preliminary determination, the Commission provided an opportunity to Sulindafin to submit necessary information. Questionnaire response from Sulindafin was received at the Commission on December 21, 2005. According to the information submitted by Sulindafin, it has been involved in the manufacture and export of the PFY to Pakistan as well as to other countries and in its domestic market during the POI.

9.4.3 The information submitted by Sulindafin in response to the questionnaire was analyzed at the Commission and certain deficiencies were identified. Accordingly, those data deficiencies were communicated to Sulindafin vide Commission's letter dated December 22, 2005.

9.4.4 Sulindafin was asked to provide the deficient information/data no later than December 26, 2005, so as to enable the Commission to consider and analyze the same for the purposes of this investigation. Sulindafin responded to the deficiencies vide its letter dated December 26, 2005.

9.4.5 The Commission has accepted the information supplied by the Sulindafin, Indonesia for the purposes of this investigation and dumping of the investigated product (paragraphs 21.9, 22.5 and 23.5 infra) for Sulindafin is determined on the basis of information supplied by it.

9.5 Tongkook Corporation ("Tongkook"), Korea

9.5.1 Questionnaire response from Tongkook was received in the Commission on July 30, 2005. According to the information provided in response to the questionnaire by Tongkook, it is a corporation incorporated in Korea. It has been involved in the manufacture, sale and export of the PFY to Pakistan as well as to other countries and in its domestic market during the POI.

9.5.2 The information submitted by Tongkook in response to the questionnaire was analyzed at the Commission and certain deficiencies were identified. Accordingly, those data deficiencies were communicated to Tongkook vide Commission's letter dated August 03, 2005.

9.5.3 Tongkook was asked to provide the deficient information/data no later than August 08, 2005, so as to enable the Commission to consider and analyze the same for the purposes of this investigation. Tongkook responded to the deficiencies vide its letter dated August 08, 2005.

9.5.4 The Commission accepted the information supplied by the Tongkook, Korea for the purposes of this investigation and dumping of the investigated product (paragraphs 21.10, 22.6 and 23.5 infra) for Tongkook is determined on the basis of that information.

9.6 Hyosung Corporation ("Hyosung"), Korea

9.6.1 Hyosung responded to the notice of initiation vide its letter dated May 30, 2005 and stated that it will fully cooperate in this investigation. The Commission sent questionnaire on May 31, 2005 with a request to respond within 37 days. However, it did not respond to the questionnaire.

9.6.2 The Commission, after expiry of the time period given to respond, informed Hyousung through a letter of July 23, 2005 that in case of no response by July 30, 2005, the Commission would be constrained to make its determination based on the 'Best Information Available' in terms of Section 32 of the Ordinance and Article 6.8 and Annex II of the Agreement on Antidumping. Korean embassy in Pakistan was also informed on August 08, 2005 accordingly of the use of 'Best Information Available' for determination of dumping for Hyousung.

9.6.3 However, after preliminary determination Hyosung offered price undertaking, which is under consideration by the Commission. If the Commission accepts its price undertaking, definitive anti-dumping duty levied on imports of the investigated product from Hyosung will cease (paragraph 17 infra). Dumping of the investigated product (paragraphs 21.12, 22.8 and 23.5 infra) for Hyousung, Korea is determined on the basis of the 'Best Information Available' in terms of Section 32 of the Ordinance.

9.7 Hualon Corporation (M) Sdn Bhd ("Hualon"), Malaysia

9.7.1 Questionnaire response from Hualon was received in the Commission on July 27, 2005. According to the information provided in response to the questionnaire by Hualon, it is a private limited company. It has been involved in the manufacture, sale and export of the PFY to Pakistan as well as to other countries and in its domestic market during POI.

9.7.2 The information submitted by Hualon in response to the questionnaire was analyzed at the Commission and certain deficiencies were identified. Accordingly, those data deficiencies were communicated to Hualon vide Commission's letter dated July 28, 2005.

9.7.3 Hualon was asked to provide the deficient information/data no later than August 05, 2005, so as to enable the Commission to consider and analyze the same for the purposes of this investigation. Hualon responded to the deficiencies vide its letter dated August 02, 2005.

9.7.4 After preliminary determination in this investigation (paragraph 14 infra) Hualon submitted further information and views/comments on Commission's provisional dumping calculations (paragraph 15.4 infra). Hualon requested the Commission for further adjustments in normal value and export price, which were not identified and requested by it in response to the questionnaire. The Commission considered and acceded to the request of Hualon.

9.7.5 The Commission accepted the information supplied by the Hualon, Malaysia for the purposes of this investigation and dumping of the investigated product

(paragraphs 21.13, 22.9, and 23.5 *infra*) for Hualon is determined on the basis of that information.

9.8 Global Trade Well P.T.E Ltd. (“Global Trade Well”), Malaysia

9.8.1 As stated earlier (paragraph 8.2.1 *supra*), the mailing address of Global Trade Well, Malaysia was not available with the Commission, and, therefore, questionnaire was sent to the embassy of Malaysia in Pakistan on May 31, 2005 with a request to forward it to Global Trade Well.

9.8.2 No response from Global Trade Well, Malaysia was received. Malaysian embassy in Pakistan was informed on August 08, 2005 that Global Trade Well, has not responded to the questionnaire, thus the Commission is constrained to make its determination of dumping for Global Trade Well, Malaysia on the basis of ‘Best Information Available’ in terms of Section 32 of the Ordinance and Article 6.8 and Annex II of the Agreement on Antidumping.

9.8.3 Thus the dumping of the investigated product for Global Trade Well, Malaysia is determined (paragraphs 21.14, 22.10 and 23.5 *infra*) on the basis of the ‘Best Information Available’ in terms of Section 32 of the Ordinance.

9.9 Fotex Trading, Malaysia

9.9.1 As stated earlier (paragraph 8.2.1 *supra*) that the mailing address of Fotex Trading, Malaysia was not available with the Commission, questionnaire was sent to the embassy of Malaysia in Pakistan on May 31, 2005 with a request to forward it to Fotex Trading, Malaysia.

9.9.2 No response from Fotex Trading, Malaysia was received. Malaysian embassy in Pakistan was informed on August 08, 2005 that Fotex Trading, Malaysia, has not responded to the questionnaire, thus the Commission is constrained to make its determination of dumping for Fotex Trading, Malaysia on the basis of ‘Best Information Available’ in terms of Section 32 of the Ordinance and Article 6.8 and Annex II of the Agreement on Antidumping.

9.9.3 Thus the dumping of the investigated product for Fotex Trading, Malaysia is determined (paragraphs 21.15, 22.11 and 23.5 *infra*) on the basis of the ‘Best Information Available’ in terms of Section 32 of the Ordinance.

9.10 Jong Stit Co. Limited (“Jong Stit”), Thailand

9.10.1 Questionnaire response from Jong Stit was received at the Commission on July 21, 2005. According to the information submitted by Jong Stit, it is a private company. It has been involved in the manufacture, sale and export of the PFY to Pakistan as well as to other countries and in its domestic market during the POI.

9.10.2 The information submitted by Jong Stit in response to the questionnaire was analyzed at the Commission and certain deficiencies were identified. Accordingly, those data deficiencies were communicated to Jong Stit vide Commission's letter dated July 26, 2005.

9.10.3 Jong Stit was asked to provide the deficient information/data no later than August 02, 2005, so as to enable the Commission to consider and analyze the same for the purposes of this investigation. Jong Stit responded to the deficiencies vide its letter dated August 01, 2005.

9.10.4 The Commission accepted the information supplied by the Jong Stit, Thailand for the purposes of this investigation and dumping of the investigated product (paragraphs 21.16, 22.12 and 23.5 infra) for Jong Stit is determined on the basis of that information.

9.11 Tuntex (Thailand) Public Company Ltd. ("Tuntex"), Thailand

9.11.1 Questionnaire response from Tuntex was received in the Commission on July 19, 2005. According to the information submitted by Tuntex, it is a public limited company incorporated under the "Public Company Act" of Thailand. It is a state-owned enterprise. It has been involved in the manufacture, sale and export of the PFY to Pakistan as well as to other countries and in its domestic market during the POI.

9.11.2 The information submitted by Tuntex in response to the questionnaire was analyzed at the Commission and certain deficiencies were identified. Accordingly, those data deficiencies were communicated to Tuntex vide Commission's letter dated July 22, 2005:

9.11.3 Tuntex was asked to provide the deficient information/data no later than August 01, 2005, so as to enable the Commission to consider and analyze the same for the purposes of this investigation. Tuntex responded to the deficiencies vide its letter dated August 05, 2005.

9.11.4 The Commission accepted the information supplied by the Tuntex, Thailand for the purposes of this investigation and dumping of the investigated product (paragraphs 21.19, 22.15 and 23.5 infra) for Tuntex is determined on the basis of that information. However, after preliminary determination, Tuntex, Thailand offered price undertaking, which is under consideration by the Commission. If the Commission accepts its price undertaking, definitive anti-dumping duty levied on imports of the investigated product from Tuntex will cease (paragraph 17 infra).

9.12 Chiem Patana Synthetic Fibers Co. Ltd ("Chiem Patana"), Thailand

9.12.1 Chiem Patana, Thailand responded to the notice of initiation vide its letter dated May 21, 2005 and stated that it will cooperate in this investigation. The Commission sent questionnaire on May 31, 2005 with a request to respond within 37 days. However, it did not respond to the questionnaire.

9.12.2 The Commission, after expiry of the time period given to respond, informed Chiem Patana, Thailand through a letter of July 23, 2005 that in case of no response by July 30, 2005, the Commission would be constrained to make its determination based on the 'Best Information Available' in terms of Section 32 of the Ordinance and Article 6.8 and Annex II of the Agreement on Antidumping. Thai embassy in Pakistan was also informed on August 08, 2005 accordingly of the use of 'Best Information Available' for determination of dumping for Chiem Patana, Thailand.

9.12.3 The dumping of the investigated product (paragraphs 21.20, 22.16 and 23.5 infra) for Chiem Patana, Thailand is determined on the basis of the 'Best Information Available' in terms of Section 32 of the Ordinance. However, after preliminary determination Chiem Patana offered price undertaking, which is under consideration by the Commission. If the Commission accepts its price undertaking, definitive anti-dumping duty levied on imports of the investigated product from Chiem Patana will cease (paragraph 17 infra).

10. **Voluntary Submission of Information by the Foreign Producers for Individual Dumping Margin**

10.1 As stated earlier (paragraph 8.2.2 supra) after the preliminary determination, the Commission afforded an opportunity to any foreign producer who was not selected in sampling and subsequently not investigated but desired an individual dumping margin in terms of Section 14(4) of the Ordinance, to voluntarily file a request along with the necessary information to the Commission.

10.2 In the response of this offer, following foreign producers requested for individual dumping margins:

**Table-III
Individual Dumping Margin Requests**

Country	Exporter Name
Indonesia	P.T. Sulindafin
	P.T. Mitra Lintas International,
	P.T. Polysindo Eka Perkasa
	Pt. Mutu Gading Tekstil,
Korea	Hyosung Corporation
	Jeil Synthetic Fibers Co. Ltd.,
	Saehan Industries Inc.,
	Toray Saehan Inc.,
Thailand	Woo Dug Co. Ltd.,
	Capital Rayon Co. Ltd.,
	Sunflag (Thailand) Limited,
	Fenatex International Company Limited,
	Teijin Polyester (Thailand) Limited,

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

10.3 Out of the thirteen exporters/foreigns producer mentioned above who requested for individual dumping margin following five foreign producers provided the requisite information to the Commission:

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

10.4 Request for individual dumping margin of P.T. Mutu Gading Tekstil, Indonesia has not been acceded to, as this exporter did not export the investigated product to Pakistan during the POI. However, it can request the Commission for new shipper's review in terms of Section 60 of the Ordinance and Article 11 of the Agreement on Antidumping. The Commission has acceded to the requests of the foreign producers/exporters mentioned at paragraph 10.3(ii) to 10.3(v) for individual dumping margin and individual dumping margins for these exporters/producers have been determined in this final determination (paragraphs 21.9, 21.11, 21.17, 21.18, 22.5, 22.7, 22.13, 22.14 and 23.5).

11. Public File

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

12. 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.

13. Negligible Volume of Imports

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

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

13.2 In this regard, data and information available with the Commission on volume of imports of PFY during the POI (from January 01 to December 31, 2004) is given in a table below:

Table-IV
Volume of Imports of PFY During Jan-Dec 2004

S. No.	Imports from	Percentage share in total imports
1.	Indonesia	18.56
2.	Korea	18.15
3.	Malaysia	17.13
4.	Thailand	38.02
5.	Others Sources	08.14
6.	Total	100.00

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

14. Preliminary Determination and Levy of Provisional Antidumping Duty

14.1 The Commission made its preliminary determination in this case on November 11, 2005 and in terms of Section 37 of the Ordinance, the Commission issued a notice of preliminary determination, which was published in the official Gazette of Pakistan¹ and in two widely circulated national newspapers² (one in English language and one in Urdu Language) on November 12, 2005 notifying the imposition of provisional antidumping duty on the investigated product ranging between zero percent to 36.56 percent ad val of C&F price importable from the Exporting Countries for a period of four months effective from November 12, 2005. The Commission besides sending the notice of preliminary determination to the Embassies of the Exporting Countries in Islamabad also sent the notice of preliminary determination to the known exporters/foreign producers of the Exporting Countries, the Applicant, the domestic producers, and the known Pakistani importers in accordance with the requirements of Section 37(4) of the Ordinance.

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

- i. the application was filed on behalf of domestic industry as the Applicant represents major proportion of the production of domestic like product;
- ii. the investigated product and the domestic like product are like products;

¹ The official Gazette of Pakistan (Extraordinary) of November 12, 2005 issue.

² 'Daily Times' and 'Express' of November 12, 2005 issues.

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

- 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, were above the negligible and *de minimis* levels respectively;
- v. the dumping margin expressed as a percentage of weighted average CIF export ranged between -0.37 percent to 36.56 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, negative return on investment, losses on its operations, negative effect on cash flow, reduction in employment, and negative effect on growth and investment (in terms of Section 15 and 17 of the Ordinance); and
- vii. there is a causal relationship between dumped imports and the material injury suffered by the domestic industry.

15. Disclosure after Preliminary Determination

15.1 In terms of Rule 11 of the Rules, the Commission, upon request made by a foreign producer/exporter within fifteen days of the publication of notice of preliminary determination, shall hold disclosure meeting with the foreign producer or exporter to explain dumping calculation methodology applied for that exporter/producer. The Commission shall also provide an opportunity to exporter/producer or their legal representatives to examine and receive copies of the dumping calculations done by the Commission for their exports. Following five exporters/foreign producers requested for disclosure meeting/disclosure documents:

- i. Tuntex (Thailand) Public Limited Company, Thailand
- ii. Hualon Corporation, Malaysia
- iii. P.T. SK Keris, Indonesia,
- iv. P.T. PanAsia, Indonesia; and
- v. P.T. Sulindafin, Indonesia

15.2. Tuntex (Thailand) Public Limited Company, Thailand requested the Commission vide a letter dated November 15, 2005 for disclosure documents. Disclosure documents, containing dumping calculations were sent to the Tuntex (Thailand) Public Limited Company, Thailand on November 21, 2005, explaining the methodology used in calculation of dumping for Tuntex (Thailand) Public Limited

Company. No comments/views in this respect were received by the Commission from Tuntex (Thailand) Public Limited Company, Thailand.

15.3 Hualon Corporation, Malaysia requested the Commission for disclosure meeting through its attorney on November 22, 2005. Disclosure meeting with its attorney and Marketing Manager was held on December 06, 2005 at the offices of the Commission. The Commission's investigating staff explained the methodology used in dumping calculations for Hualon Corporation, Malaysia. The representative of Hualon Corporation, Malaysia obtained copies of the dumping calculations.

15.4 Hualon Corporation, Malaysia, submitted further information and views/comments on Commission's provisional dumping calculation on January 27, 2006, and requested the Commission for further adjustments in normal value and export price, which were not identified and requested by it earlier in its response to the questionnaire. The Commission considered and acceded to the request of Hualon Corporation. Thus dumping margin for Hualon Corporation, Malaysia in this final determination, has been determined after taking into account the information submitted after disclosure meeting alongwith the information submitted by it in response to the questionnaire.

15.5 P.T. SK Keris, Indonesia requested the Commission for disclosure meeting through its attorney on November 22, 2005. Disclosure meeting with its attorney was held on December 17, 2005 at the offices of the Commission. The Commission's investigating staff explained the methodology used in dumping calculations for P.T. SK Keris, Indonesia. Attorney of P.T. SK Keris obtained copies of the dumping calculations.

15.6 P.T. SK Keris, Indonesia submitted further information and views/comments on Commission's provisional dumping calculation on January 28, 2006, and requested the Commission for further adjustments in normal value and export price, which were not identified and requested by it earlier in its response to the questionnaire. The Commission considered and acceded to the request of P.T. SK Keris. Thus dumping margin for P.T. SK Keris, Indonesia in this final determination, has been determined after taking into account information submitted after disclosure meeting alongwith the information submitted by it in response to the questionnaire.

15.7 P.T. PanAsia, Indonesia requested the Commission for disclosure meeting through its attorney on November 24, 2005. Disclosure meeting with its attorney was held on December 17, 2005 at the offices of the Commission. The Commission's investigating staff explained the methodology used in dumping calculations for P.T. PanAsia, Indonesia. Attorney of P.T. PanAsia obtained copies of the dumping calculations.

15.8 P.T. PanAsia, Indonesia submitted further information and views/comments on Commission's provisional dumping calculation on January 27, 2006, and requested the Commission for further adjustments in normal value and export price,

which were not identified and requested by it earlier in its response to the questionnaire. The Commission considered and acceded to the request of P.T. PanAsia. Thus dumping margin for P.T. PanAsia, Indonesia in this final determination, has been determined after taking into account information submitted after disclosure meeting alongwith the information submitted by it in response to the questionnaire.

15.9 P.T. Sulindafin, Indonesia requested the Commission for disclosure meeting through its attorney on November 26, 2005. Disclosure meeting with its attorney was held on December 17, 2005 at the offices of the Commission. The Commission's investigating staff explained the methodology used in dumping calculations for P.T. Sulindafin, Indonesia. Attorney of P.T. Sulindafin obtained copies of the dumping calculations.

15.10 As stated earlier, P.T. Sulindafin, Indonesia did not submit information in response to the questionnaire (paragraph 9.4.1 supra). Thus dumping margin in the preliminary determination for P.T Sulindafin was determined on the basis of Best Information Available under Section 32 of the Ordinance and Article 6.8 and Annex II of the Agreement on Antidumping. However, after preliminary determination, it supplied necessary information to the Commission. The Commission considered the information and dumping margin for P.T. Sulindafin, Indonesia in this final determination, has been determined on the basis of the information submitted by it.

16. Hearing

16.1 In terms of Rule 14 of the Rules, the Commission shall, upon request by an interested party made not later than thirty days after publication of notice of preliminary determination, hold a hearing at which all interested parties may present information and arguments.

16.2 Hearing in this investigation was held on December 27, 2005 upon the request of the Pakistan Yarn Merchant,s Association ("PYMA"). Submissions of the parties during the hearing have also been considered in this final determination.

17. Price Undertaking

17.1 After the preliminary determination the following ten exporters/foreign producers offered price undertaking(s) under Section 46 of the Ordinance:

- i. P.T Polyfin Canggih, Indonesia;
- ii. P.T. Mitral Lintas International, Indonesia;
- iii. P.T. Mitra Dutanusa Sejati, Indonesia;

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

- iv. Hyosung Corporation, Korea;
- v. HK Corporation, Korea;
- vi. Hanswill Co. Ltd., Korea;
- vii. Chiem Patana, Thailand;
- viii. Siam Moderntex Co., Thailand;
- ix. Tuntex (Thailand) Compay Limited, Thailand; and
- x. S.K Filament, Malaysia

17.2 Section 46 of the Ordinance states that:

“(1) Where the Commission has made a preliminary affirmative determination of dumping and injury in accordance with the provisions of this Ordinance, the Commission may suspend or terminate an investigation without imposition of anti-dumping duties, whether preliminary or definitive, upon receipt of satisfactory price undertaking from an exporter to revise its prices or to cease export to the area in question at dumped prices so that the Commission is satisfied that injurious effect of dumping in question is eliminated:

“Provided that the Commission shall not seek or accept any price undertaking from an exporter unless the Commission has made a preliminary affirmative determination of dumping and injury in accordance with the provisions of this Ordinance.

“(2) Price increases under such price undertakings shall not be higher than necessary to eliminate dumping margin and shall be less than the provisionally determined dumping margin set forth in the notice of preliminary determination referred to in sub-section (2) of section 37 if, the Commission determines that such lesser price increase would be adequate to remove injury to domestic industry.”

17.3 However, Section 47(2) of the Ordinance provides for as follows:

“(2) Notwithstanding anything contained in this section, the decision to accept a price undertaking shall rest with the Commission.

“**Explanation.** - The Commission may not accept a price undertaking if it considers the acceptance thereof to be impractical because the number of actual or potential exporters is too great, or for reasons of general policy or for any other reason.”

17.4 Offers of the price undertakings made by the exporters mentioned in paragraph 17.1 supra are under consideration by the Commission and if the Commission decides to accept price undertakings, definitive anti-dumping duties levied on imports of the investigated product from these exporters/foreign producers will cease.

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

18.1 The Commission received written submissions/comments from following eight interested parties after the preliminary determination made by the Commission in this investigation:

- i. Tuntex (Thailand) Public Company Limited, Thailand
- ii. Pakistan Yarn Merchant's Association, Karachi
- iii. The Gujranwala Art Silk Yarn Merchants Association, Gujranwala
- iv. All Pakistan Power Looms Association, Karachi;
- v. Muhammad Khalid, Karachi
- vi. Padela Twisting (Pvt) Ltd., Karachi;
- vii. Asif Textile Trading, Karachi; and
- viii. Ministry of International Trade and Industry, Government of Malaysia

18.2 The comments received and germane to the investigation under the Ordinance are reproduced in Column A below and the Commission's response thereto are set out in Column B as follows:

Column A

Column B

Views/Comments of Tuntex (Thailand) Public Company Limited, Thailand

"Failure to evaluate all mandatory factors as required by Article 3.4 ADA

"..... the Preliminary Determination is lacking of several factors that should have been evaluated by the Pakistani investigating authorities to determine injury. Factors which have not been examined by the Commission and are not mentioned in the Preliminary Determination Disclosure Document are:

- a) actual and potential decline in sales,
- b) profits,
- c) output,
- d) utilization of capacity;
- e) the magnitude of the margin of dumping;
- f) actual and potential negative effects on inventories,
- g) wages, and
- h) ability to raise capital."

"Causation

"TUNTEX notes that at page 2 of the Preliminary Determination document, the Commission stated that it "examined factors other than dumped imports which were causing injury to the domestic industry". TUNTEX submits that a mere statement that "other factors", within the meaning of Article 3.5 ADA and Section 18.2 of the Ordinance, have been analyzed, does not satisfy the standard of Article 3.5 ADA. The Commission in this respect, failed to conduct a

The Commission has examined and evaluated all injury factors listed at Sections 15 and 17 of the Ordinance and Article 3.4 of the Agreement on Antidumping. Injury factors mentioned by the Tuntex are analysed and discussed at paragraphs 25 through 33 of the Commission's Preliminary Determination Report (non-confidential), which is available at Commission's web site www.ntc.gov.pk.

The Commission has examined and discussed in detail the factors other than dumped imports, which were causing injury to the domestic industry during the POI at paragraph 36 of the Report of Preliminary (non-confidential). Tuntex accordingly is referring to the notice of preliminary determination and not to the report on preliminary determination.

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

meaningful analysis and/or to indicate which other factors have been analyzed and what examination/analysis has been performed.”

“TUNTEX also wishes to point out that the Preliminary Determination is inconsistent with Articles 6.1, 6.2 and 6.4 because it fails to provide to interested parties an opportunity to examine the Commission’s findings for the purpose of defending their interests. Further, it violates Article 12.2.1 ADA by failing to set forth, or make available, sufficient and detailed explanations on causation for the purpose of a preliminary determination on injury.”

“Right of Defense

“TUNTEX is of the view that, even if the Commission had evaluated all the factors mentioned in Articles 3.1, 3.4 and 3.5 ADA and Sections 15, 17 and 18 of the Ordinance, this would not be sufficient to satisfy the standards of the ADA and of the Ordinance. The Commission, after evaluating the factors listed above, should have published its analysis in the Preliminary Determination disclosure documents and make its analysis known to interested parties for them to enjoy a full opportunity of defence. By failing to set forth all relevant information available for the interested parties, and TUNTEX in particular, to gain opportunity to defend themselves, the Commission violated Articles 6.2 and 6.4 ADA.”

“Deficiencies in the Notice of Preliminary Determination

“TUNTEX submits that the Preliminary Determination is inconsistent with Article 12.2.1 ADA, read in conjunction with Article 3 ADA. Article 12.2.1 ADA provides in relevant part as follows:

“12.2.1 A public notice of the imposition of provisional measures shall set forth, or otherwise make available through a separate report, sufficiently detailed explanations for the preliminary determinations on dumping and injury and shall refer to the matters of fact and law which have led to arguments being accepted or rejected. Such a notice or report shall, due regard being paid to the requirement for the protection of confidential information, contain in particular:

“(IV) considerations relevant to the injury determination as set out in Article 3

“This provision is self-explanatory. It is therefore clear

Tuntex assumingly is referring the notice of preliminary determination, which was published in the official gazette and national press in Pakistan. A copy of the notice of preliminary determination was also sent to all interested parties including Tuntex, Thailand. The notice contained summary of facts and law in terms of Article 12.2 of Agreement on Antidumping while details are available in the report on preliminary determination. For the convenience of all interested parties, it is clearly mentioned in the notice of preliminary determination that report on preliminary determination is placed at the public file and posted at Commission’s web site.

The Commission has examined and evaluated all injury factors listed at Sections 15 and 17 of the Ordinance and Article 3.4 of the Agreement on Antidumping in part C of report on Preliminary Determination (paragraphs 20 to 34). Non-confidential version of report on preliminary determination is placed in the public file and is also available at Commission’s web site www.ntc.gov.pk.

The notice contained summary of facts and law in terms of Article 12.2.1 of Agreement on Antidumping while details are available in report on preliminary determination. It is clearly mentioned in the notice of preliminary determination that the report on preliminary determination is placed in the public file and posted at Commission’s web site.

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

that by way of merely listing some of the factors out of 15 required by Article 3.4, the Preliminary Determination is lacking of sufficient and detailed explanations of those 15 factors and is lacking of "considerations" of these factors relevant to the injury determination. The preliminary determination is inconsistent with Articles 12.2.1 and 3.1, 3.4 and 3.5 ADA, and Section 37 (2) of the Ordinance which is the implementing the provisions to Article 12.2.1 ADA."

Views/Comments of Pakistan Yarn Merchant's Association, Karachi

"The domestic PFY industry

"M/s. S.G Fibers Ltd, Karachi who is the major applicant unit in this case (representing 52% of the Applicant Industry) itself is the importer of the investigated product..... As per Section 2(d) of the Antidumping Duties Ordinance 2000 ("the Ordinance")

"The domestic producers of the domestic like product would be excluded from the definition of domestic industry if they are themselves importers of the allegedly dumped investigated product....."

"Therefore, M/s. S.G. Fibers Ltd, may be excluded from the list of applicant units and after its exclusion we request the Commission to examine whether the remaining applicant units justify the standing of the applicant domestic industry as per Section (24) of the Ordinance or not."

As stated in paragraph 2.3 supra, S.G Fibres Ltd. was one of the four units who filed the application. It accounts for 10.91 percent of total the domestic production in FY 2004. All the four units on whose behalf of application was filed account for 43.06 percent of total production of PFY in FY 2004. Even after exclusion of S.G Fiber Ltd. from the definition of the domestic industry in terms of Section 2(d) of the Ordinance, the application fulfilled the standing requirements under Section 24 of the Ordinance. Furthermore, investigation of the Commission revealed that S.G Fiber performed well during the POI. Its exclusion from the definition of domestic industry will further support to the domestic industry in terms of material injury. The Commission also noted that it has not behaved differently as compared to the other units in domestic industry. Thus the Commission has decided not to exclude S.G Fiber from the definition of domestic industry.

"Investigated Product and Domestic Like Product

"The Commission has considered all types of PFY imported under PCT No. 5402.3300 and 5402.4300 as alike to the domestic like product. However, following is the list of PFY specialty products which are not produced locally, hence these may specifically be excluded from the purview of levy of antidumping duty:-

1. DFT-180-96 & DFT-95-36 is specialty for texturising.
2. FDY Bright -Trilobal in Deniers above 75D i.e.100D,150D, 200D & 300D.
3. Polyester Dope Dyed Black Yarns(FDY & DTY All Deniers.
4. Polyester Cationic Yarns (FDY & DTY All Deniers).
5. Polyester Monofilament Yarns (FDY All Deniers).
6. All Deniers of specialized yarns (Spandex Like Yarn, Viscose Like Yarn
7. Nylon Like Yarn, Fire resistant yarn, Carbon yarn

The issue was taken up with the domestic industry, which confirmed that all types of PFY were and are being produced by it.

etc.)”

“Sampling:

“As per para 8.1.3 of the report, thirteen exporters/foreign producers from exporting countries showed their willingness to be included in the sample. However, as per Para 8.1.4 of the same report the Commission decided that it was impracticable to determine individual margin of dumping for each known producer of PFY. Therefore, the Commission resorted to the use of sampling, so that a **reasonable number of exporters or producers** are investigated. This conveys the message that sampled exporters or producers would be lesser than the thirteen numbers.”

“The Commission however, at the end selected the same number of thirteen exporters or producers based on volume of exports and thus deprived the following five exporters/producers from claiming individual dumping margin and levied provisional antidumping on these exporters unnecessarily.

1. PT. Polysindo EKA Perkasa, Indonesia.
2. HK Corporation, Korea.
3. Teijin Polyester (Thailand) Limited, Thailand.
4. Sunflag (Thailand) Ltd, Thailand.
5. Siam Moderntex Co., Ltd., Thailand.”

“Non-Cooperation from the Profit Earning Units:

“The report states that on May 14, 2005, questionnaires were sent to the five indifferent domestic producers to gather information on injury factors. However none of them responded to the questionnaire. Their non-cooperation from injury point of view was obvious, as these units were not sustaining injury due to alleged dumping of PFY.”

“It is obvious that at a certain point of time, if some units of an industry are earning huge profits and some are incurring losses, there must be some reasons other than dumping for such losses, otherwise the whole industry should have been incurring losses.”

“One major reason for loss by the closed units is their abnormal low capacities, which worldwide are unviable. The total capacity of 10 closed units was only 20,135 MT per annum with an average capacity of 2,000 MT per annum. Worldwide the capacities range from 50,000 to 150,000 MT per annum for each company.”

“Increase in Sales by Domestic Industry

“As per para 15 of the application filed by the applicant, the applicant units admitted that their sales increased during 2003-04 and 2004-05. The applicant units also admitted that the reason for increase in sales was share lost by the closing units. **Thus it is evident that the closed units were in competition with the other domestic units. Hence closure of these smaller 10 units (total annual capacity of 20,135 MT) should**

Initially, the Commission selected exporters/foreign producers based on the largest percentage of volume of exports of PFY from country in question under Section 14 (2) of the Ordinance (paragraph 8 of the report on preliminary determination). However, after preliminary determination, the Commission afforded an opportunity to any foreign producer who was not selected in sampling and subsequently not investigated if wants an individual dumping margin in terms of Section 14(4) of the Ordinance, it may voluntarily submit necessary information to the Commission. In response to this offer, number of foreign producers approached the Commission (paragraph 10 of this report). Individual dumping margin has been determined for all the exporters/foreign producers who have submitted necessary requisite information.

The application was filed on behalf of four units that otherwise fulfilled the requirements of Section 24 of the Ordinance excluding the five indifferent units of the domestic industry (paragraphs 2.2 to 2.5 supra). The Commission asked the other five indifferent units in the domestic industry to provide information on injury factors. Neither of them provided the requisite information (paragraph 8.2.3 supra and 21.4 infra). However, these units did not oppose the application.

Neither the closed units in the domestic industry were part of the application nor they have been investigated. Furthermore, PYMA did not submit any evidence on viable capacity level for a PFY unit.

The Commission’s investigation showed that the domestic industry lost its market share by 5 percent, 4 percent and 19 percent during FY 2003, 2004 and period from July to December 2004 respectively. Market share of imports of PFY from the Exporting Countries increased by 5 percent, 4 percent and 16 percent during

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

not be attributed to the alleged dumping from the four countries."

FY 2003, 2004 and period from July to December 2004 respectively (paragraph 29 infra).

It is worth mentioning here that neither the closed units in the domestic industry were part of the application nor the Commission has investigated reasons for closure of those units. As the Applicant Units form the domestic industry (paragraph 25 infra), the Commission has investigated and determined material injury on the basis of the information for the Applicant Units.

"Sales on "NO CLAIM" basis by the Domestic Industry:

"Most of the domestic industry units are selling with "NO CLAIM" marks on its packing. This is not only affecting the domestic user industry but at the same time is also adversely affecting Pakistan's exports. Thus the user industry is constrained to import PFY to maintain quality of its products for export purposes. Although, there is lot of potential for exports in this area."

The Commission's investigation did not reveal such practice by the domestic industry.

"Outdated Technology of Domestic Industry:

"Technology employed by the local manufacturers is outdated. Most of the modern plants produce yarn directly from MEG/PTA without producing chips. In Pakistan most of the local yarn producers are chip based. Due to extra processes involved and outdated technology employed, the costs of local yarn manufacturers are much higher as compared to the more modern plants in Indonesia, Korea, Thailand and Malaysia."

The investigation showed that both types of technologies are being employed in production of PFY through out the world.

"The Commission asked the other five indifferent units in the domestic industry including the two identified by the exporters /importers (Gatron industries Ltd, and Rupali Polyester Ltd.) to provide information in injury factors. Neither of them provided the requisite information.

The application was filed on behalf of four units that otherwise fulfilled the requirements of Section 24 of the Ordinance excluding the five indifferent units in the domestic industry (paragraph 2 supra). However, the Commission asked the other five indifferent units in the domestic industry including the two identified by the exporters/importers (Gatron Industries Ltd., and Rupali Polyester Ltd.) to provide information on injury factors. Neither of them provided the requisite information (paragraph 25.4 infra).

"They did not respond because they know there is no injury to them. However, we expect that the Commission will take strict notice of this non-cooperation strategy of the profitable in-different units before final determination. We further request the Commission to take into account the revised injury factors, which will obviously change due to following two reasons:

1. Exclusion of S.G. Fibers from the applicant industry.
2. Exclusion of imports from three non-dumped foreign producers declared as such in the preliminary determination. The volume of imports from three companies which did not face any provisional antidumping duty ranges from 12.07% to 43.77% from the respective countries."

In terms of Section 16 of the Ordinance, where imports of a like product from more than one country are the subject of simultaneous investigation, the Commission may cumulatively assess the effects of such imports on the domestic

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

industry if it determines that dumping margin in relation to an investigated product from each country is more than the negligible amount and volume of dumped imports from each investigated country is not less than the negligible quantity.

After investigation, the Commission has determined that dumping margin and volume of dumped imports from each investigated country were more than negligible amount and negligible quantity respectively (paragraph 26.2 infra). Thus the Ordinance does not provide for exclusion of imports of the investigated product from any individual exporter, whose dumping margin is de minimis or negative from cumulated imports.

"The Commission selected in sampling M/s. Hualon Corporation from Korea.....

"In fact no company with this name exists in Korea."

The investigation revealed that Hualon Corporation was inadvertently included in sampled exporters (paragraph 8.2.3 supra). It has been excluded from sampled exporters.

"Volume of Dumped Imports and Domestic Production:

"Dumped imports from the exporting countries should be arrived at after deducting the imports from the 3 foreign producers against whom no dumping was proved and no antidumping duty was levied as per preliminary determination by the Commission."

In terms of Section 16 of the Ordinance, where imports of a like product from more than one country are the subject of simultaneous investigation, the Commission may cumulatively assess the effects of such imports on the domestic industry if it determines that dumping margin in relation to an investigated product from each country is more than the negligible amount and volume of dumped imports from each investigated country is not less than the negligible quantity.

After investigation, the Commission has determined that dumping margin and volume of dumped imports from each investigated country were more than negligible amount and negligible quantity respectively (paragraph 26.2 infra). Thus there is no need to exclude imports of the investigated product from any specific exporter, whose dumping margin is de minimis or negative from cumulated imports.

"Price effects (Price Undercutting, and Price Suppression):

"Price effects (price undercutting, and price suppression) may be re-examined after working out the revised landed cost, which should be based on the actual export price of the investigated

The examination of the import data obtained from PRAL's showed a lower declared export price as compared with the export price reported by the

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

exporters/producers as there may be few errors in the PRAL data and now the actual export data is available with the Commission. We feel that PRAL data provides indication or we can say range of variability in prices and quantities.....”

“Effects on Market Share and Sales:

“Imports from dumped sources need change due to zero dumping margin from three exporters. Hence injury factor of effects on market share needs revision accordingly. It is understood that market share for the applicant is based on quantity of sales of domestic like product. As admitted by the Commission that there is no injury on account of production and capacity utilization. At the same time there is no injury on account of inventories, then there cannot be injury on account of market share. When production is higher and inventories are lower, it means whatever was produced was sold, then there is no question of injury on market share as imports are coming just to meet the difference between the domestic demand and domestic sales. Moreover, reasonable part of imports are from non-dumped sources/companies. Even if there is any effect on market share of imports, it should not be attributed to the alleged dumped imports all together.”

“Effects on Growth & Investment:

“Demand of PFY is around 130,000 to 136,000 MT per annum, whereas installed capacity of nine operational units is 84,865 MT which are operating almost at 100% capacity utilization. Of course the balance demand is to be met from exporting countries. As regards closed 10 units, their collective capacity was only 20,135 MT and they closed their operations due to competition with operational units coupled with their own uneconomically low capacities. Units with some what higher capacities are still operational and bigger unit like Gatron are earning huge profits inspite of loss by smaller units. It is thus evident that loss if sustained by any unit is due to uneconomical size and other reasons and not owing to imports from the four exporting countries.”

“Other Factors Causing Injury to the Domestic Industry.

“In view of our earlier comments on the issue, we hereby request the Commission to consider the cumulative effect of following other factors, which have caused injury to the domestic industry during the POI. Resultantly, the applicant domestic industry (comprising of three units only after excluding S.G Fibers from the definition of domestic industry) has sustained significant injury due to these other factors and this injury should not be attributed to dumped imports from the four exporting countries:

a) Lower capacities of most of the domestic industry

exporters/foreign producers. If price effects (price undercutting and price suppression) would have been determined on the basis of export prices reported by the exporters/foreign producers, the effect of dumped imports on prices of the domestic like product would have been more.

In terms of Section 17 of the Ordinance market share, sales , production, capacity utilization and inventory are different factors to assess material injury of the domestic industry. The investigation revealed that market share of domestic industry decreased during the POI, whereas market share of dumped imports increased.

Examination of the information obtained from PRAL revealed that, during the POI, major share of imports (ranged between 91 percent to 95 percent of total imports) of PFY were from the Exporting Countries.

Investigation of the Commission revealed that domestic market of PFY is increasing while there was no growth and investment in domestic industry during the POI. Thus Commission determined that the domestic industry suffered on account of growth and investment.

The Commission has examined in preliminary determination (paragraph 36) as well as in this final determination (paragraph 41 infra) the factors other than dumped imports, which were at the same time causing injury to the domestic industry. The Commission has determined that the injury caused by other factors cannot be considered significant and has not been attributed to dumped imports.

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

- units.
- b) Outdated technology as compared to latest technology adopted by producers in the exporting countries.
 - c) Competition from Pakistani indifferent industrial units not supporting the application.
 - d) Higher cost of PFY in Pakistan due to start from chips (intermediate product) instead of PTA & MEG by most of the industrial units in exporting countries.
 - e) Production of "B" grade with "no claim marks" on packing affects the price. It also effects the user export industry.
 - f) All types/qualities of PFY are not produced locally.
 - g) Smuggling of PFY during the POI (2004) adversely affected the domestic industry as duties were slashed only in current budget effective from 01-07-2005."

Views/Comments of Gujranwala Art Silk Merchants Association

"During the period of injury duly stated by the NTC is/was absolutely incorrect, because there were very high tariffs of custom duty, sales tax and income tax on the import of Polyester Filament yarn.....
"In the presence of above tariffs, the question of injury of the local polyester filament yarn does not arise.
"TO CRY BEFORE ONE IS HURT. The period of investigation should have been started from 01.07.2005 and not before, because before this date, there was absolutely no injury to them."

"ALL THE TEN UNITS WHICH WENT OUT OF PRODUCTION AND ARE YET OUT OF PRODUCTION, CLOSED MUCH BEFORE THE REFERRED PERIOD. THE REASON WAS NOT THE DUMPING OF YARN BUT WAS DIFFERENT. ALL THE CLOSED PLANTS HAD TO PURCHASE CHIPS AT MUCH HIGHER RATES FROM RUPALI AND GATRON AND AFTER CONVERSION, THEY WERE NOT ABLE TO COMPLETE WITH THE SAID BIG UNITS I.E. RUPALI AND GATRON. YOU MA INVESTIGATE THE CLOSURE DATES OF THESE SMALLER PLANTS, WHICH ARE FOR BEHIND THE DATES WHEN THE IMPORT OF FILAMENT YARN IN BULK QUANTITY BEGUN, THEREFORE, THE QUESTION OF SO-CALLED DUMPING OF YARN DOES NOT ARISE AS THEIR CLOSURES WERE WELL BEFORE THE DUMPING PERIOD OF YAR THEIR CLAIM THAT THE CLOSED UNITS WAS ON ACCOUNT OF DUMPING IS/WAS FAKE."

"DYED POYESTER FILAMENT YARN

"The Local manufacturers of polyester filament yarns are producing raw-white only and there was no reason

As stated in paragraph 1 supra, the Commission received application on March 30, 2005. The Commission selected POI for determination of dumping and injury in accordance with Section 36 of the Ordinance.

As stated in paragraph 2 supra, the application was filed on behalf of four units, which were/are operative. Neither the closed units were part of the application nor they have been investigated for the purposes of determination of injury to domestic industry.

This issue was raised with the domestic industry who confirmed that all types

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

to include dyed yarn in the levied anti-dumping duties."

"The demand of Polyester Filament Yarn in Pakistan is rising gradually and rapidly. The local producers of polyester filament yarn can hardly meet 50% of the total consumption."

"Should this duty is not withdrawn, running textile machinery will be scrapped and a large number of labor engaged in the textile industry will lose jobs and un-employment will increase considerably."

Views/Comments of Ministry of International Trade and Industry ("MITI"), Malaysia

"MITI would like to make the following comments:

"(a) Sales, Production and Inventories Item 25.3 - Effects on Market Share and Sales states that:

"...the Commission has concluded that the domestic industry...experienced significant decrease in its sales of the domestic like product due to dumped imports of the investigated product during POI..."(emphasis added).

"Item 26.2 - Effects on Production and capacity Utilization states that:

"The production increased in FY 2004 by 3417MT and capacity utilization also increased from 85 percent to 94 percent." (emphasis added).

"Item 27.2 - Effects on Inventories states that:

"The data given in the table above shows that the inventory level of the domestic like product decreased throughout the POI." (emphasis added).

"MITI finds these statements contradictory in nature i.e. if the production were to increase and sales were to decrease, the stock level should have increased and not decreased as reported in the findings.

"(a) Profit/Loss Figures

"MITI would like to bring the Commission's attention concerning information in Table-XX Profit/(Loss) of Domestic Industry where the loss per MT reduced from Rs.363.17 in FY2003 to Rs359.85 in FY2004 and the loss increased from Rs.368.62 million in FY2003 to Rs.386.00 million in FY2004. However, computation made based on information presented in Table-XVII Market Share and Table-XXIV Volume and C&F Prices of Imported PFY shows sales volume had decreased from FY2003 to FY2004.

"Given the fact that the sales volume decreased and the loss increased from FY2003 to FY2004, the loss per MT should have increased and not decreased as reported in the findings."

including dyed filament yarns are being produced by it.

The Commission's investigation revealed that domestic market for PFY is increasing but there was no growth and investment in domestic industry during the POI due to dumping of the investigated product (paragraph 37 infra).

The Commission is not required to assess public interest under the Ordinance. Under the Ordinance, the Commission is only required to determine dumping, injury and causal link between dumping and injury through an antidumping investigation.

Paragraph 25 of the report on preliminary determination shows sales of domestic like product by the entire industry (9 operative units). Whereas production and capacity utilization at paragraph 26 is determined for the Applicant Units.

Investigation of the Commission revealed that domestic market for PFY was increasing during POI. In spite of increase in production and capacity utilization by the domestic industry during the POI, it was not able to maintain its market share due to dumped imports of the investigated product.

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

"4. MITI requests these observations highlighted be examined by the Commission in arriving at a final decision. MITI reserves her right to raise these and any other issues concerning the investigation at a later date.

Views/Comments of All Pakistan Power Looms Association, Asif Textile Trading, Karachi, Mr. Muhammad Khalid, Karachi and Padela Twisting (Pvt) Ltd., Karachi.

Views/comments received from All Pakistan Power Looms Association, Karachi, Asif Textile Trading, Karachi, Muhammad Khalid, Karachi, and Padela Twisting (Pvt) Ltd., Karachi did not specifically relate to this investigation. However they raised the following points relating to this investigation:

- i. Technology employed by the domestic industry is outdated. Resultantly, the cost of production of PFY produced in the country is on the higher side. (The Commission's investigation did not find such situation in domestic industry)
- ii. Fabrics manufacturing industry in the country is suffering due to inefficiencies of the domestic PFY industry. (No comments)

19. Disclosure of Essential Facts

19.1 In terms of Rule 14(8) of the Rules and Article 6.9 of Agreement on Antidumping, the Commission disclosed the essential facts, and in this context dispatched Statement of Essential Facts (hereinafter referred to as the "SEF") on February 15, 2006 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.

19.2 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 written submissions/ comments from following two exporters/foreign producers on the facts disclosed in the SEF:

- i. Tuntex (Thailand) Public Company Limited, Thailand
- ii. Jong Stit Company Limited, Thailand

19.3 The comments received and germane to the investigation under the Ordinance are reproduced in Column A below and the Commission's response thereto are set out in Column B as follows:

Column A

Column B

Views/Comments of Tuntex (Thailand) Public Company Limited

"I Comments on Injury

"TUNTEX notes from the examination of economic factors for injury determination by the NTC, the Applicant failed to sufficiently prove that the Pakistan industry suffered injury from the imports of PFY from the countries concerned and in particular Thailand. This can be explained by the following:

"a. Effect on Production Capacity Utilization

"As per Table XX of the SEF, the production capacity utilization of the Applicant increased 3% from 2002 to 2004. There was no sign of injury suffered by the Applicant in this respect. On the contrary, the Applicant has been performing well in the Pakistan domestic market and in the second half year of 2004, the Applicant's capacity utilization reached 96% which was almost 100% utilization.

"b. Effect on Profits

"As per Table XXII of the SEF, the profits of the Applicant grew 286 Million Rupees ("Rs") from 2002 (100 Million Rs.) to 2004 (386 Million Rs.). The growth of 286% in profits of the Applicant clearly shows that the Applicant was in an extremely positive business position and was not suffering any injury from imports of the product concerned.

"c. Effect on Cash Flow

"As per Table XXIII of the SEF, the cash flow of the Pakistani domestic industry developed from 100 (2002) to 310.45 (2004) on an indexed basis, which again showed no injury from the imports of the product from the countries concerned and in particular Thailand.

"d. Effect on Employment and Productivity

"As indicated in Table XXIV of the SEF, total salaries and wages, production and productivity per worker of Pakistan domestic industry together showed increases during 2002-2004. Among those, 14% growth was found in the productivity per worker along with a slight decrease in the number of employees. This indicates an improvement of labor and production efficiency of the Pakistan domestic industry.

"In light of this, the Pakistan domestic industry increased salaries/wages for employee and productivity per worker, showing no sign of

After investigation, the Commission has concluded that domestic industry did not suffer material injury on account of capacity utilization (paragraph 26 of the report on preliminary determination and paragraph 31 infra).

Indexed figures reported in table XXII of the SEF reflects negative value in brackets i.e (). Thus domestic industry suffered losses on its operations during the POI and not earned profits as ascertained by Tuntex.

Indexed value reported for FY 2004 in table XXIII of the SEF reflects negative value in brackets i.e (), while cash flows for FY 2003 was positive. Investigation of the Commission revealed that the domestic industry suffered material injury on account of cash flows during the POI.

Investigation of the Commission revealed that employment in domestic industry decreased during FY 2004 and July to December 2004. However, productivity increased during the same period due to decrease in employment and increase in production. Thus the Commission concluded the domestic industry suffered material injury on account of employment. (Paragraph 30 of the report on preliminary determination and paragraph 35 infra).

injury from imports of the product concerned.

"e. Effect on Growth of Pakistan domestic industry

"Information provided by the Applicant indicates a prosperous Pakistani domestic market, the profits of which rose 286% after an investment of around Rs. 30 billion, with a reasonable 10% return on the investment. Furthermore, the Pakistan domestic industry cut down a negligible percentage of the number of employees and increased worker productivity by 14% and the total salaries/wages for employees by more than 3%.

"It is evident that the situation of the Pakistani domestic industry shows strong likelihood of growth in the future with respect to the above positive records.

"f. Ability to Raise Capital

"The NTC noted that the Applicant failed to provide evidence in support of its allegations of difficulty in raising capital. TUNTEX submits that this claim from the Applicant shall be dismissed in accordance with Article 3.1 ADA.

"Article 3.1 of the AD Agreement provides that a determination of injury shall be based on "positive evidence" and "involve an objective examination". TUNTEX reads from this provision that where the Applicant fails to provide positive evidence for the NTC to operate an objective examination, no injury determination shall be made on the basis of the Applicant's allegations. Therefore, the Applicant's claim of the difficulty in raise capital shall be dismissed by the NTC."

"III Public Interest

"TUNTEX fails to find in the SEF any analysis of the factual aspects of the Pakistani national interest. It is extremely important to stress here again further to our injury submission after the initiation and comments on the Preliminary Determination in this proceeding, that the Pakistani National Interest will not be fulfilled by imposing this anti-dumping measure on PFY.

"TUNTEX noted that the Pakistani government has recently lowered import duties on polyester products, such as DTY, with the declared purpose of helping the development of the domestic fabric, weaving and knitting sectors. Imposition of anti-dumping duties on PSF would be contrary to this purpose. In light of the above, TUNTEX wishes to highlight the importance also for the Pakistani downstream industries, that cheap imports of their raw materials be made available at non-dumped prices. Hence the importance of the minimum price undertaking proposed by the

As stated in response to "b" above the domestic industry suffered losses and did not earn profits during the POI. The investigation also revealed that the domestic industry's return on investment became negative during the POI. Furthermore, Domestic industry's market share decreased during the POI. Ten out of nineteen units closed down in the domestic industry. In such a situation there is little likelihood of further growth and investment in the industry. Thus the Commission concluded that the domestic industry suffered material injury on account of growth and investment. (Paragraphs 30 and 31 of the report on preliminary determination and paragraph 37 infra).

After investigation the Commission has determined that the domestic industry did not suffer material injury on account of "ability to raise capital" (paragraph 33 of the report on preliminary determination and paragraph 38 infra).

The Commission is not required to determine/asses public interest under the Ordinance or under the Agreement on Antidumping.

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

Company, which would safeguard both the Pakistani PFY industry and the downstream industries, avoiding discontinuance of supply to Tuntex customers.”

Views/Comments of Jong Stit Co., Thailand

“..... we found that the statement does not contain essential information to the sufficient level that would allow us to follow and clearly understand the Commission’s consideration on certain issues, in particular details concerning investigation procedures carrying out under the Anti-Dumping Duties Ordinance 2000 (the “Ordinance”).”

In terms of Rule 14(8) of the Rules and Article 6.9 of Agreement on Antidumping, the Commission is required to disclose essential facts only and not the details of investigation procedure. Rule 14(4) of the Rules sets out: “the Commission shall inform of the essential facts under consideration which shall form the basis of a decision whether to apply definitive measures under the Ordinance:

“Provided that such information shall not indicate whether a final determination is affirmative or negative.”

“Request for Individual Dumping Rate of an Unqualified Exporter

“At the preliminary stage, the Notice of Preliminary Determination clearly provided any foreign producer who was not selected in sampling and subsequently not investigated to request for an individual dumping margin. We understand that such request could be made in accordance with Section 14(4) of the Ordinance..... However, having read the statement, we are of the opinion that the Commission’s determination to establish individual dumping rate for the five foreign exporters/producers is contrary to legal intention of Section 14(4). From our viewpoint, the determination of an individual dumping margin under Section 14(4) should be made only in case that:

- “(1) a requesting exporter/producer was not selected in sampling; and
- “(2) such exporter/producer voluntarily submit to the Commission:
 - i. necessary information;
 - ii. in time.

“According to the Statement, we noted that the Commission received thirteen requests for individual dumping margin from foreign exporters/producers and determined to establish individual dumping margin at the final determination for five exporters, who provided the requisite information to the Commission. It appears that some of these five exporters/producers are those who were selected but did not cooperate prior to the preliminary determination..... This must be emphasized that, under the ADA, the investigating authority shall determine individual dumping margins for such exporter/producer “not initially selected”.

“Based on the foregoing, the Commission should not have accepted the information submitted after the preliminary determination., in order to determine an individual dumping margin as this constitutes an incorrect application of Section 14(4). Moreover, it will be completely unfair to JSC and other exporters who had put strenuous efforts to gathering data required and submitted their questionnaire response within a very limited time and had to spend considerable amount of time and manpower going through on the spot verification.

The Commission’s interpretation of article 6.10 of the Agreement on Antidumping and Section 14 of the Ordinance is that, as a rule, an investigating authority has to determine individual dumping margin for each known exporter/producer. However if it is impracticable, the authority may limit its examination to a reasonable number of exporters/producers by using samples or to the largest percentage of the volume of the exports from the country in question, which can reasonably be investigated. However, In cases where an investigating authority has limited its investigation to a limited number of exporters/producers, it shall nevertheless determine an individual dumping margin for any exporter or producer not initially selected who submits the necessary information in time for that information to be considered during the course of the investigation, except where the number of exporters or producers is so large that individual examinations would be unduly burdensome to the authority and prevent the timely completion of the investigation. Voluntary responses shall not be discouraged.

The Commission clearly stated in the notice of preliminary determination that it will consider the information, submitted by any foreign producer for individual dumping margin if not unduly burdensome and does not prevent timely completion of this investigation.

In response to the Commission’s offer for individual dumping margin, necessary information was submitted by five exporters/producers (paragraph 10.3 supra). Out of those five, one was initially selected in sampling and did not supply the requisite information before preliminary determination. The Commission considered the information received and determined that it was not unduly burdensome and will not prevent timely completion of this investigation. The Commission acceded to the request of those exporters and individual dumping margins have been determined for them in this final determination.

“ Limitation of Time to Submit the Information

“Even though Section 14(4) allows any exporter or producer to submit the necessary information in time during the course of an investigation, the Preliminary Notice clearly stated that foreign producers shall submit necessary information to the Commission within a period of fifteen days from the date of publication of the notice. Therefore, the above fifteen days period must have elapsed on November 27, 2005.

“..... It is obvious that the information was provided to the Commission much later than 15-day deadline as provided in the Preliminary Submission. We believe that the necessary information was not submitted “in time”. Such submission should be considered invalid and the information should indeed be disregarded.

All the exporters/foreign producers who requested for individual dumping margin approached the Commission with stipulated time period of 15 days. However, the Commission allowed them to submit information after fifteen days considering good causes shown in their requests for extension in time period to submit information. Furthermore, the Commission determined that this would not prevent timely completion of the investigation.

“ Price Undertaking

“..... Eight foreign producers/exporters have offered price undertakings. These exporters include three exporters from Thailand, i.e. Chiem Patana, Siam Moderntex and Tuntex. With regard to Chiem Patana, we noted that it was selected to respond to this investigation but it did not provide sufficient information and the Commission has determined the dumping margin for Chiem Patana on best information available (“BIA”). It appeared to us that Chiem Patana had indeed not to disclose necessary information which would allow the Commission to review and examine the correctness of the information which otherwise the Commission might have determined an excessive dumping margin based on the company’s own information. Therefore, we would like to oppose the decision of the Commission to consider the price undertaking offer of Chiem Patana at this present time.

“In the event of the price undertakings that will be negotiated between individual subject exporters and the Commission, we respectfully reserve our rights to comment on the form and content of such price undertakings, to the extent permissible, should the opportunity arise in the near future.”

Some exporters/producers have shown intension to offer price undertaking (paragraph 17 supra) in terms of Section 46 of the Ordinance and Article 8 of Agreement on Antidumping, which are under consideration of the Commission. The Commission will take decision in accordance with the provisions of the Ordinance and the Agreement on Antidumping.

B. DETERMINATION OF DUMPING

20. Determination of Dumping

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

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

“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”.

21. Normal Value

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

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

However, Section 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:”.

21.2 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 -

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

“(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.”

21.3 Normal value for the exporters/foreign producers (i.e. P.T SK Keris, P.T Indorama, P.T Slundifin and P.T PanAsia from Indonesia, Tongkook Corporation and Saehan Industries Inc., from Korea, Hualon from Malaysia, Jong Stit, Capital Rayon Co. Ltd., Sunflag (Thailand) Limited and Tuntex public limited Company from Thailand) who submitted information in response to the questionnaire(s) or voluntarily, submitted the necessary information has been determined on the basis of information supplied by them.

21.4 Normal value for the exporters/foreign producers (i.e. Hysoung from Korea, Global Trade Well P.T.E Ltd. and Fotex Trading from Malaysia, and Chiem Patna from Thailand) selected in the sample but did not provide information in response to the questionnaire has been determined on the basis of the best information available in terms of Section 32 of the Ordinance and Article 6.8 and Annex II of the Agreement on Antidumping. Section 32 of the Ordinance provides as follows:

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

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

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

21.5 It is important to identify here that the Commission duly informed the two exporters/foreign producers (i.e. Global Trade and Fotex from Malaysia) through Embassy of Malaysia in Islamabad (Pakistan) on August 08, 2005 (as the Commission does not have addresses of these exporters/foreign producers) of its resort to the best information available due to their “non-response”.

21.6 **Determination of Normal Value for P.T S.K Keris, Indonesia**

21.6.1 Normal value for P.T S.K Keris, Indonesia is determined on the basis of the information provided by it on its domestic sales made during the POI (obtained during on-the-spot investigation and submitted after preliminary determination) (Paragraph 9.1 supra).

21.6.2 According to the information, P.T S.K Keris sold different types of PFY in its domestic market including the types, which were alike to the types of the investigated product (BSY 130, BSY 135, SDY-SD 75 and SSY 135), during the POI. For the purposes of like to like comparison, normal value is determined only for those types which were comparable to the types of the investigated product.

21.6.3 All sales of P.T S.K Keris in its domestic market, during the POI, were to un-related parties.

21.6.4 Analysis of the information revealed that some sales of the comparable types were not in ordinary course of trade in terms of Section 7(2) of the Ordinance (paragraph 21.2 supra). Following table shows the data on sales of the comparable types, made by P.T S.K Keris in its domestic market during the POI:

Table-V
Sales of Comparable Types by P.T S.K Keris During the POI

Product	Below costs sales		
	Percentage of total sales	Weighted average gross price (US\$/MT)*	Weighted average cost to make & sell (US\$/MT)*
BSY 130	4.86%	100.00	116.95
BSY 135	5.04%	100.00	122.79
SDY-SD 75	13.63%	100.00	110.95
SSY 135	30.50%	100.00	105.19

* Actual figures have been indexed by taking gross price equal to 100.00

21.6.5 The above table shows that the below costs sales of SSY 135 were in substantial quantities in terms of Section 7(2) of the Ordinance. Furthermore, the investigation also revealed that the below costs sales were for an extended period of time and its prices did not provide for the recovery of all costs within a reasonable period of time in accordance with Section 7 of the Ordinance. Thus the Commission disregarded below costs sales of SSY 135 in determination of normal value.

21.6.6 For the purposes of determination of normal value, after excluding below costs sales of SSY 135, the Commission assessed whether remaining sales were in sufficient quantities in terms of Section 6(2) of the Ordinance (paragraph 21.1 supra). Analysis of the information revealed that the remaining quantities (sales in ordinary course of trade) of SSY 135 and total (profitable and below costs) sales of BSY 130, BSY 135 and SDY-SD 75 were in sufficient quantities as those were more than 5 percent of the export sales of BSY 130, BSY 135, SDY-SD 75, and SSY 135 to Pakistan during the POI. Thus normal value for SSY 135 type is calculated on the basis of profitable sales only made in domestic market (Indonesia) during the POI. However, during the POI,

below costs sales of BSY 130, BSY 135 and SDY-SD 75 were not in substantial quantities. Thus normal value for these types has been determined on the basis of total (profitable and below costs) sales during the POI.

21.6.7 To arrive at the ex-factory level, P.T S.K Keris has reported adjustments on account of credit cost, discount, and freight. The Commission has accepted these adjustments and the normal value at ex-factory level is worked out by deducting values reported for these adjustments from the gross value of sales transactions.

21.7 Determination of Normal Value for P.T Indorama, Indonesia

21.7.1 Normal value for P.T 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).

21.7.2 According to the information, P.T Indorama sold different types of PFY in its domestic market including the types, which were alike to the types of the investigated product (DTY 75, DTY 100, DTY 150, DTY 300, FDY 75, and FDY 200), during the POI. For the purposes of like to like comparison, normal value is determined only for those types which were comparable to the types of the investigated product.

21.7.3 All sales of P.T Indorama in its domestic market, during the POI, were to un-related parties.

21.7.4 Analysis of the information revealed that some sales of the comparable types were not in ordinary course of trade in terms of Section 7(2) of the Ordinance (paragraph 21.2 supra). Following table shows the data on sales of the comparable types, made by P.T Indorama in its domestic market during the POI:

**Table-VI
Sales of Comparable Types by P.T Indorama During the POI**

Product	Below costs sales		
	Percentage of total sales	Weighted average gross price (US\$/MT)*	Weighted average cost to make & sell (US\$/MT)*
DTY 75	56%	100.00	108.18
DTY 100	87%	100.00	110.76
DTY 150	46%	100.00	106.37
DTY 300	12%	100.00	101.45
FDY 75	01%	100.00	107.01
FDY 150	01%	100.00	103.74

* Actual figures have been indexed by taking gross price equal to 100.00

21.7.5 The above table shows that the below costs sales of DTY 75, DTY 100 and DTY 150 were in substantial quantities in terms of Section 7(2) of the Ordinance. Furthermore, the investigation also revealed that the below costs sales were in extended period of time and the prices did not provide for the recovery of all costs within a reasonable period of time in accordance with Section 7 of the Ordinance.

Thus the Commission has disregarded below costs sales of DTY 75, DTY 100 and DTY 150 in determination of normal value.

21.7.6 For the purposes of determination of normal value, after disregarding below costs sales of DTY 75, DTY 100 and DTY 150, the Commission assessed whether remaining sales were in sufficient quantity in terms of Section 6(2) of the Ordinance (paragraph 21.1 supra). Analysis of the information revealed that the remaining quantities (sales in ordinary course of trade) of DTY 75, DTY 100 and DTY 150 were in sufficient quantities as those were more than 5 percent of the export sales of DTY 75, DTY 100 and DTY 150 to Pakistan during the POI. Thus normal value for these types (of DTY 75, DTY 100 and DTY 150) is calculated on the basis of profitable sales only which were made in the domestic market (Indonesia) during the POI. However, during the POI, below costs sales of DTY 300, FDY 75, and FDY 150 were not in substantial quantities. Thus normal value for these types has been determined on the basis of total (profitable and below costs) sales during the POI.

21.7.7 To arrive at the ex-factory level, P.T Indorama has reported adjustments on account of credit cost, bank charges, discount, freight, and insurance. 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.

21.8 Determination of Normal Value for PanAsia, Indonesia

21.8.1 Normal value for PanAsia 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 and submitted after preliminary determination.) (Paragraph 9.3 supra).

21.8.2 According to the information, PanAsia sold different types of PFY (DTY, DTF, ITY, FOY and POY) in its domestic market including the types, which were comparable to the types of the investigated product (DTY 75, DTY 150, DTF 95, DTY 180, ITY 195 and ITY 200), exported by it to Pakistan during the POI. For the purposes of like to like comparison, normal value is determined only for those types which were comparable to the types of the investigated product.

21.8.3 PanAsia sold comparable types to related and un-related parties in its domestic market during the POI. However analysis of the information revealed that sales to related parties were at arm's length. Thus in determination of normal value, sales of the comparable types to both, related and un-related, parties have been taken into account.

21.8.4 Analysis of the information revealed that some sales of the comparable types were not in ordinary course of trade in terms of Section 7(2) of the Ordinance (paragraph 21.2 supra). Following table shows the data on sales of the comparable types, made by PanAsia in its domestic market during the POI:

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

Table-VII
Sales of Comparable Types by PanAsia During the POI

Product	Below costs sales		
	Percentage	Weighted average gross price (IDR/MT)*	Weighted average cost to make & sell (IDR/MT)*
DTY 75	10.53%	100.00	105.00
DTY 150	18.97%	100.00	108.04
DTF 95	100.00%	100.00	127.40
DTF 180	100.00%	100.00	139.77
ITY 195	100.00%	100.00	129.84
ITY 200	-	-	-

* Actual figures have been indexed by taking gross price equal to 100.00

21.8.5 The above table shows that the below costs sales of DTY 75 and DTY 150 were not in substantial quantities, however below cost sales of DTF 95, DTF 180 and ITY 195 were in substantial quantities in terms of Section 7(2) of the Ordinance. Furthermore, the investigation also revealed that the below costs sales were in extended period of time and its prices did not provide for the recovery of all costs within a reasonable period of time in accordance Section 7 of the Ordinance. Thus the Commission disregarded below costs sales of DTF 95, DTF 180 and ITY 195 in determination of normal value.

21.8.6 For the purposes of determination of normal value, the Commission assessed whether sales of comparable types were in sufficient quantities in terms of Section 6(2) of the Ordinance (paragraph 21.1 supra). Analysis of the information revealed that sales in ordinary course of trade of DTY 75 and DTY 150 were in sufficient quantities as those were more than 5 percent of the export sales of DTY 75 and DTY 150 to Pakistan during the POI. Thus normal value for these types (DTY 75 and DTY 150) is calculated on the basis of the sales in domestic market (Indonesia) during the POI. However, all sales of DTF 95, DTF 180 and ITY 195 were made at loss (below costs) during the POI. Thus normal value for these types and ITY 200 have been constructed on the basis of cost of production plus admin, selling and general costs, financial expenses and profits, on the basis of the information supplied by the PanAsia in response to the questionnaire.

21.8.7 To arrive at the ex-factory level, PanAsia has reported adjustments on account of freight, insurance and rebate on advance/early payment. 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.

21.9 Determination of Normal Value for P.T Sulindafin, Indonesia

21.9.1 As stated earlier that P.T Sulindafin did not respond to the Commission's questionnaire and did not provide requisite information. However, after preliminary determination it supplied necessary information (paragraph 9.4 supra). The Commission considered the information and normal value for P.T

Sulindafin in this final determination is determined on the basis of the information provided by it on its domestic sales made during the POI.

21.9.2 According to the information, P.T Sulindafin sold different types of PFY in its domestic market including the types, which were comparable to the types of the investigated product (PT 75, PT150, and SDY 75), exported by it to Pakistan during the POI. For the purposes of like to like comparison, normal value is determined only for those types which were comparable to the types of the investigated product.

21.9.3 P.T Sulindafin sold comparable types of PFY to related and un-related parties in its domestic market during the POI. However analysis of the information revealed that sales to related parties were at arm's length. Thus in determination of normal value, sales of the comparable types to both, related and un-related, parties have been taken into account.

21.9.4 Analysis of the information revealed that some sales of the comparable types were not in ordinary course of trade in terms of Section 7(2) of the Ordinance (paragraph 21.2 supra). However, investigation revealed that sales at loss were not in substantial quantities in terms of Section 7(2) of the Ordinance. Thus in determination of normal value total (profitable and below costs) sales have been taken into account.

21.9.6 For the purposes of determination of normal value, the Commission assessed whether sales of comparable types were in sufficient quantities in terms of Section 6(2) of the Ordinance (paragraph 21.1 supra). Analysis of the information revealed that sales in ordinary course of trade of all the comparable types were in sufficient quantities. Thus normal value is calculated on the basis of the sales of comparable types made in domestic market (Indonesia) during the POI.

21.9.7 To arrive at the ex-factory level, P.T Slundafin has reported adjustments on account of freight, insurance, credit cost and commission. 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.

21.10 Determination of Normal Value for Tongkook Corporation, Korea

21.10.1 Normal value for Tongkook Corporation, Korea 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).

21.10.2 According to the information, Tongkook Corporation sold different types of PFY in its domestic market including the types, which were alike to the types of the investigated product (PSY 135, PSY 195, SDY 75, and SDY 75) during the POI. For the purposes of like to like comparison, normal value is determined only for those types which were comparable to the types of the investigated product.

21.10.3 All sales of Tongkook Corporation in its domestic market, during the POI, were to un-related parties.

21.10.4 Analysis of the information revealed that some sales of the comparable types were not in ordinary course of trade in terms of Section 7(2) of the Ordinance (paragraph 21.2 supra). Following table shows the data on sales of the comparable types, made by Tongkook Corporation in its domestic market during the POI:

**Table-VIII
Sales of Comparable Types by Tongkook Corporation During the POI**

Product	Below costs sales		
	Percentage	Weighted average gross price (KW/MT)*	Weighted average cost to make & sell (KW/MT)*
PSY 135	41.72%	100.00	107.41
PSY 195	18.68%	100.00	231.18
SDY 50	11.13%	100.00	119.59
SDY 75	20.55%	100.00	108.51

* Actual figures have been indexed by taking gross price equal to 100.00

21.10.5 The above table shows that the below costs sales of PSY 135 and SDY 75 were in substantial quantities in terms of Section 7(2) of the Ordinance. Furthermore, the investigation also revealed that these below costs sales were in extended period of time and the prices did not provide for the recovery of all costs within a reasonable period of time in accordance with Section 7 of the Ordinance (paragraph 21.2.supra). Thus the Commission has disregarded below costs sales of PSY 135 and SDY 75 in determination of normal value.

21.10.6 For the purposes of determination of normal value, after disregarding below costs sales of PSY 135 and SDY 75, the Commission assessed whether remaining sales were in sufficient quantities in terms of Section 6(2) of the Ordinance (paragraph 21.1 supra). Analysis of the information revealed that the remaining quantities (sales in ordinary course of trade) of PSY 135 and SDY 75 were in sufficient quantities as those were more than 5 percent of the export sales of PSY 135 and SDY 75 to Pakistan during the POI. Thus normal value for these types (PSY 135 and SDY 75) is calculated on the basis of profitable sales only made in domestic market (Korea) during the POI. However, during the POI, below costs sales of PSY 195, and SDY 50 were not in substantial quantities. Thus normal value for these types has been determined on the basis of total (profitable and below costs) sales during the POI.

21.10.7 To arrive at the ex-factory level, Tongkook Corporation has reported adjustments on account of credit cost, duty draw back 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.

21.11 Determination of Normal Value for Sehan Industries Inc., Korea

21.11.1 After preliminary determination Sehan Industrires Inc., Korea requested for individual dumping margin and submitted necessary information (paragraph 10.4

supra). The Commission considered the information submitted by Sehan Industrires Inc., Korea and normal value for it is determined on the basis of the information supplied on domestic sales made during the POI.

21.11.2 According to that information, Sehan Industrires Inc., Korea sold different types of PFY in its domestic market including the types, which were alike to the type of the investigated product (DTY 150/48) during the POI. For the purposes of like to like comparison, normal value is determined only for the type, which was comparable to the type of the investigated product (DTY 150/48).

21.11.3 Sehan Industrires Inc., Korea sold DTY 150/48 to related and un-related parties in its domestic market during the POI. However analysis of the information revealed that sales to related parties were at arm's length. Thus in determination of normal value, sales to both, related and un-related, parties have been taken into account.

21.11.4 Analysis of the information revealed that some sales were not in ordinary course of trade in terms of Section 7(2) of the Ordinance (paragraph 21.2 supra). Following table shows the data on sales of the comparable types, made by Sehan Industrires Inc., Korea in its domestic market during the POI:

Table-IX
Sales of Comparable Types by Sehan Industrires Inc. During the POI

Product	Below costs sales		
	Percentage	Weighted average gross price (won/MT)*	Weighted average cost to make & sell (won/MT)*
DTY 150	30.80%	100.00	120.48

* Actual figures have been indexed by taking gross price equal to 100.00

21.11.5 The above table shows that the below costs sales of DTY 150 were in substantial quantities in terms of Section 7(2) of the Ordinance. Furthermore, the investigation also revealed that the below costs sales were in extended period of time and its prices did not provide for the recovery of all costs within a reasonable period of time in accordance Section 7 of the Ordinance. Thus the Commission disregarded below costs sales in determination of normal value.

21.11.6 For the purposes of determination of normal value, the Commission assessed whether sales of DTY types were in sufficient quantities in terms of Section 6(2) of the Ordinance (paragraph 21.1 supra). Analysis of the information revealed that sales in ordinary course of trade of DTY 150 were in sufficient quantities as those were more than 5 percent of the export sales of DTY 150 to Pakistan during the POI. Thus normal value is calculated on the basis of the sales in domestic market (Korea) during the POI.

21.11.7 To arrive at the ex-factory level, Sehan Industries Inc. Korea has reported adjustments on account of freight, credit cost and handling/other charges. 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.

21.12 Determination of Normal Value for Hyosung Corporation, Korea

21.12.1 As stated earlier that Hyosung Corporation, Korea did not respond to the Commission's questionnaire and did not provide requisite information (paragraph 9.6 supra). It is important to identify here that the Commission had duly informed Hyosung Corporation of its constraint to rely on the best information available (paragraph 9.6.2 supra). Thus, the normal value for Hyosung Corporation is determined on the basis of the best information available to the Commission in terms of Section 32 of the Ordinance, and Article 6.8 and Annex II of the Agreement on Antidumping.

21.12.2 The Commission has constructed normal value for Hyosung Corporation on the basis of the cost of production in the exporting country plus a reasonable amount for administrative, selling and general costs and for profits in terms of Section 6(1)(b) of the Ordinance.

21.12.3 For the purposes of construction of normal value for Hyosung Corporation, the information provided by Tongkook Corporation, Korea on cost of production plus admin, selling and general costs, financial expenses and profits, in response to the questionnaire is used. The Commission is of the view that it is the best available information for this purpose as:

- i. Tongkook Corporation is a major producer of PFY in Korea;
- ii. Tongkook Corporation produces PFY from basic raw materials i.e. PTA and MEG; and
- iii. Tongkook Corporation was the largest exporter of the investigated product from Korea to Pakistan during the POI.

21.13 Determination of Normal Value for Hualon Corporation (M) Sdn Bhd, Malaysia

21.13.1 Normal value for Hualon Corporation, Malaysia is determined on the basis of the information provided by it in response to the questionnaire and submitted after preliminary determination (Paragraph 9.7 supra).

21.13.2 According to that information, Hualon Corporation, Malaysia sold coloured and raw PFY in its domestic market during the POI to related and un-related parties.

21.13.3 Analysis of the information revealed that sales of the like product made by the Hualon Corporation, Malaysia in its domestic market were not in sufficient quantities in terms of Section 6(2) of the Ordinance, as those were less than 5 percent of the export sales of the investigated product to Pakistan during the POI. Thus normal value for Hualon Corporation, Malaysia has been constructed on the basis of cost of

production plus admin, selling and general costs, financial expenses and profits, on the basis the information supplied by the Hualon Corporation.

21.14 Determination of Normal Value for Global Trade Well P.T.E Ltd, Malaysia

21.14.1 As stated earlier that Global Trade Well, Malaysia did not respond to the Commission's questionnaire and did not provide requisite information (paragraph 9.8 supra). It is important to identify here that the Commission had duly informed Global Trade Well, Malaysia (through Malaysian Embassy in Pakistan) of its constraint to rely on the best information available (paragraph 21.4 supra). Thus, the normal value for Global Trade Well, Malaysia is determined on the basis of the best information available to the Commission in terms of Section 32 of the Ordinance, and Article 6.8 and Annex II of the Agreement on Antidumping.

21.14.2 The Commission has constructed normal value for Global Trade Well, Malaysia on the basis of the cost of production in the exporting country plus a reasonable amount for administrative, selling and general costs and for profits in terms of Section 6(1)(b) of the Ordinance.

21.14.3 For the purposes of construction of normal value for Global Trade Well, Malaysia, the information provided by Hualon Corporation, Malaysia on cost of production plus admin, selling and general costs, financial expenses and profits, in response to the questionnaire is used. The Commission is of the view that it is the best available information for this purpose on the following grounds:

- i. Hualon Corporation is a major producer of PFY in Malaysia;
- ii. Hualon Corporation produces PFY from basic raw materials i.e. PTA and MEG;
- iii. Hualon Corporation was the largest exporter of the investigated product from Malaysia to Pakistan during the POI; and
- iv. It is the only information that is available to the Commission on cost of production, admin, selling and general costs, financial expenses and profits in exporting country (Malaysia).

21.15 Determination of Normal Value for Fotex Trading, Malaysia

21.15.1 As stated earlier that Fotex Trading, Malaysia did not respond to the Commission's questionnaire and did not provide requisite information (paragraph 9.9 supra). It is important to identify here that the Commission had duly informed Fotex Trading, Malaysia (through Malaysian Embassy in Pakistan) of its constraint to rely on the best information available (paragraph 21.4 supra). Thus, the normal value for Fotex Trading, Malaysia is determined on the basis of the best information available to the Commission in terms of Section 32 of the Ordinance, and Article 6.8 and Annex II of the Agreement on Antidumping.

21.15.2 The Commission has constructed normal value for Fotex Trading, Malaysia on the basis of the cost of production in the exporting country plus a reasonable amount for administrative, selling and general costs and for profits in terms of Section 6(1)(b) of the Ordinance.

21.15.3 For the purposes of construction of normal value for Fotex Trading, Malaysia, the information provided by Hualon Corporation, Malaysia on cost of production plus admin, selling and general costs, financial expenses and profits, in response to the questionnaire is used. The Commission is of the view that it is the best available information for this purpose on the following grounds:

- i. Hualon Corporation is a major producer of PFY in Malaysia;
- ii. Hualon Corporation produces PFY from basic raw materials i.e. PTA and MEG;
- iii. Hualon Corporation was the largest exporter of the investigated product from Malaysia to Pakistan during the POI; and
- iv. It is the only information that is available to the Commission on cost of production, admin, selling and general costs, financial expenses and profits in exporting country (Malaysia).

21.16 Determination of Normal Value for Jong Stit Company Ltd., Thailand.

21.16.1 Normal value for Jong Stit Company Ltd., Thailand 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).

21.16.2 According to the information, Jong Stit Company Ltd., Thailand sold different types of PFY in its domestic market including the types, which were alike to the types of the investigated product (I 100, I 150, T 75, T 100, T150, T 300 and NT 100) during the POI. For the purposes of like to like comparison, normal value is determined only for those types which were comparable to the types of the investigated product.

21.16.3 Jong Stit Company Ltd., Thailand sold comparable types to related and unrelated parties in its domestic market during the POI. However analysis of the information revealed that sales to related parties were at arm's length. Thus in determination of normal value, sales of the comparable types to both, related and unrelated, parties have been taken into account.

21.16.4 Analysis of the information revealed that some sales of the comparable types were made at loss (below costs). However, below costs sales were not in substantial quantities in terms of Section 7(2) of the Ordinance (paragraph 21.2 supra). Thus the normal value is determined on the basis of total sales of comparable types made during the POI.

21.16.5 For the purposes of determination of normal value, the Commission also assessed whether sales made in domestic market were in sufficient quantities in terms of Section 6(2) of the Ordinance (paragraph 21.1 supra). Analysis of the information revealed that the sales were in sufficient quantities as those were more than 5 percent of the export sales of the investigated product to Pakistan during the POI. Thus normal value for comparable types is calculated on the basis of the total sales made in the domestic market (Thailand) during the POI. However, there were no sales of one comparable type (T 300 coloured) in domestic market during the POI. Thus normal value for this type has been determined on the basis of cost of production plus admin, selling and general costs, financial expenses and profits, submitted in response to the questionnaire.

21.16.6 To arrive at the ex-factory level, Jong Stit Company Ltd., has reported adjustments on account of VAT, credit cost, discount, and freight. The Commission has accepted these adjustments and the normal value at ex-factory level is worked out by deducting values reported for these adjustments from the gross value of sales transactions.

21.17 Determination of Normal Value for Capital Rayon Limited (“Capital Rayon”), Thailand.

21.17.1 After preliminary determination Capital Rayon requested for an individual dumping margin and submitted necessary information (paragraph 10.4 supra). The Commission considered the information submitted by Capital Rayon and normal value for it is determined on the basis of the information supplied on domestic sales made during the POI.

21.17.2 According to that information, Capital Rayon sold different types of PFY in its domestic market including the types, which were alike to the types of the investigated product (DTY 75/36 and DTY 150/48) during the POI. For the purposes of like to like comparison, normal value is determined only for the types, which were comparable to the types of the investigated product (DTY 76/36 and DTY 150/48).

21.17.3 Capital Rayon sold comparable types (DTY 75/36 and DTY 150/48) to related and un-related parties in its domestic market during the POI. Analysis of the information revealed that sales to related parties were not at arm’s length as the prices charged from related parties were significantly lower than the prices charged from un-related parties. Thus in determination of normal value, the Commission has disregarded sales to related parties.

21.17.4 Analysis of the information showed that, during the POI, all sales of comparable types were in ordinary course of trade in terms of Section 7(2) of the Ordinance (paragraph 21.2 supra) as no sales were made at loss.

21.17.5 For the purposes of determination of normal value, the Commission assessed whether sales of comparable types were in sufficient quantities in terms of Section 6(2) of the Ordinance (paragraph 21.1 supra). Analysis of the information revealed that sales of DTY 150/48 were in sufficient quantities as those were more than 5 percent of the export sales of DTY 150/48 to Pakistan during the POI. However, sales of DTY 75/36 were not in sufficient quantities. Thus normal value for DTY 150/48 is calculated on the basis of the sales in domestic market (Thailand) during the POI, while normal value for DTY 75/36 has been constructed on the basis of cost of production plus admin, selling and general costs, financial expenses and profits, on the basis the information supplied by Capital Rayon, Thailand.

21.17.6 To arrive at the ex-factory level, Capital Rayon has reported adjustments on account of freight and handling cost. 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.

21.18 Determination of Normal Value for Sunflag (Thailand) Limited ("Sunflag"), Thailand.

21.18.1 After preliminary determination Sunflag requested for an individual dumping margin and submitted necessary information (paragraph 10.4 supra). The Commission considered the information submitted by Sunflag and normal value for it is determined on the basis of the information supplied on domestic sales made during the POI.

21.18.2 According to the information, Sunflag sold FDY 70, FDY 75, FDY 100, FDY 150, DTY 100 and DTY 150 in its domestic market during the POI. Sunflag's exports to Pakistan during the POI were also of the same types. Thus normal value is determined for FDY 70, FDY 75, FDY 100, FDY 150, DTY 100 and DTY 150 on the basis of its domestic prices.

21.18.3 The information revealed that during the POI, major sales of Sunflag were to un-related parties. However, some sales (1.81 percent) of DTY 150 were made to related parties. Analysis of the information revealed that sales to related parties were also at arm's length as the prices charged from related parties were similar to the prices charged from un-related parties. Thus in determination of normal value sales to related and un-related parties have been taken into account.

21.18.4 Analysis of the information showed that, during the POI, all sales were in ordinary course of trade in terms of Section 7(2) of the Ordinance (paragraph 21.2 supra).

21.18.5 For the purposes of determination of normal value, the Commission assessed whether Sunflag's sales in its domestic market were in sufficient quantities in terms of Section 6(2) of the Ordinance (paragraph 21.1 supra). Analysis of the information revealed that sales of all types were in sufficient quantities as those were more than 5

percent of the export sales to Pakistan during the POI. Thus normal value for all types is calculated on the basis of the sales made in domestic market (Thailand) during the POI.

21.18.6 To arrive at the ex-factory level, Sunflag reported adjustments on account of credit cost, duty draw back/other costs, freight and insurance. 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.

21.19 Determination of Normal Value for Tuntex (Thailand) Public Company Limited, ("Tuntex Thailand")Thailand.

21.19.1 Normal value for Tuntex Thailand 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).

21.19.2 According to the information, Tuntex Thailand sold different types of PFY in its domestic market including the types, which were alike to the types of the investigated product (PSY DTY 75 raw, DTY 100 raw, DTY 150 raw, DTY 300 raw, DTY 75 coloured and DTY 150 coloured) during the POI. For the purposes of like to like comparison, normal value is determined only for those types which were comparable to the types of the investigated product.

21.19.3 Tuntex Thailand sold comparable types to related and un-related parties in its domestic market during the POI. Analysis of the information revealed that sales of DTY 75 raw and DTY 100 raw were not at arm's length as the prices charged from related parties were significantly lower than the prices charged from un-related parties. Thus in determination of normal value for these types, the Commission has disregarded sales made to related parties. However sales of DTY 150 raw, DTY 300 raw, and DTY 150 coloured to related parties were at arm's length as the prices charged from them were in the same range of the prices charged from un-related parties. Thus in determination of normal value, sales of these comparable types to both, related and un-related, parties have been taken into account.

21.19.4 Analysis of the information provided by Tuntex Thailand on its domestic sales revealed that some sales of the comparable types (DTY 75 raw, DTY 100 raw, DTY 150 raw, DTY 300 raw and DTY 150 coloured) were not in ordinary course of trade in terms of Section 7(2) of the Ordinance (paragraph 21.2 supra). Following table shows the data on sales of these comparable types, made by it in its domestic market during the POI:

**Table-X
Sales of Comparable Types by Tuntex Thailand During the POI**

Product	Below costs sales		
	Percentage	Weighted average gross price (B/MT)*	Weighted average cost to make & sell (B/MT)*
DTY 75 raw	70.34%	100.00	111.91

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

DTY 100 raw	79.87%	100.00	115.82
DTY 150 raw	77.70%	100.00	120.64
DTY 300 raw	59.49%	100.00	106.41
DTY 150 coloured	50.10%	100.00	109.12

* Actual figures have been indexed by taking gross price equal to 100.00

21.19.5 The above table shows that the below costs sales of comparable types (DTY 75 raw, DTY 100 raw, DTY 150 raw, DTY 300 raw and DTY 150 coloured) were in substantial quantities in terms of Section 7(2) of the Ordinance. Furthermore, the investigation also revealed that these below costs sales were in extended period of time and its prices did not provide for the recovery of all costs within a reasonable period of time in accordance with Section 7 of the Ordinance (paragraph 21.2 supra). Thus the Commission has disregarded below costs sales of these types in determination of normal value.

21.19.6 For the purposes of determination of normal value, after disregarding below costs sales, the Commission assessed whether remaining sales were in sufficient quantities in terms of Section 6(2) of the Ordinance (paragraph 17.1 supra). Analysis of the information revealed that the remaining quantities (sales in ordinary course of trade) of comparable types (DTY 75 raw, DTY 100 raw, DTY 150 raw, DTY 300 raw and DTY 150 coloured) were in sufficient quantities as those were more than 5 percent of the export sales of DTY 75 raw, DTY 100 raw, DTY 150 raw, DTY 300 raw and DTY 150 coloured to Pakistan during the POI. Thus normal value for these types is calculated on the basis of profitable sales only made in domestic market (Thailand) during the POI.

21.19.7 To arrive at the ex-factory level, Tuntex Thailand has reported adjustments on account of credit cost, commission, duty draw-back, level of trade, billing discount and freight. The Commission has accepted these adjustments and the normal value at ex-factory level is worked out by deducting values reported for these adjustments from the gross value of sales transactions.

21.20 Determination of Normal Value for Chiem Patana Synthetic Fibers Co. Ltd, ("Chiem Patana")Thailand.

21.20.1 Chiem Patana responded to the notice of initiation and stated that it will cooperate in this investigation but it did not respond to the Commission's questionnaire and did not provide requisite information. It is important to identify here that the Commission had duly informed Chiem Patana of its constraint to rely on the best information available (paragraph 9.12 supra). Thus, the normal value for Chiem Patana is determined on the basis of the best information available to the Commission in terms of Section 32 of the Ordinance, and Article 6.8 and Annex II of the Agreement on Antidumping.

21.20.2 The Commission has constructed normal value for Chiem Patana on the basis of the cost of production in the exporting country plus a reasonable amount for

administrative, selling and general costs and for profits in terms of Section 6(1)(b) of the Ordinance.

21.20.3 For the purposes of construction of normal value for Chiem Patana, the information provided by Tuntex (Thailand) Public Company Ltd., Thailand on cost of production plus admin, selling and general costs, financial expenses and profits, in response to the questionnaire is used. The Commission is of the view that it is the best available information for this purpose on the following grounds:

- i. Tuntex Public Company Ltd., is a major producer of PFY in Thailand;
- ii. Tuntex Public Company Ltd., produces PFY from basic raw materials i.e. PTA and MEG; and
- iii. Tuntex Public Company Ltd., is among the largest exporter of the investigated product from Thailand to Pakistan during the POI.

22. Export Price

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

22.2 Determination of Export Price for P.T S.K Keris (“S.K Keris”), Indonesia

22.2.1 Export price for S.K Keris 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).

22.2.2 According to the information, S.K Keris exported BSY 130, BSY 135, SDY-SD 75, and SSY 135 types of the investigated product to Pakistan during the POI. Its total exports of the investigated product to Pakistan during the POI were ****³ MT. All export sales to Pakistan, during the POI, were to un-related parties.

22.2.3 To arrive at the ex-factory level, S.K Keris has reported adjustments on account of handling charges, bank charges, 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 the sales transactions.

22.3 Determination of Export Price for P.T Indorama, Indonesia

22.3.1 Export price for P.T 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).

³ Actual figures have been omitted for confidentiality reasons.

22.3.2 According to the information, P.T Indorama exported DTY 75, DTY 100, DTY 150, DTY 300, FDY 75, and FDY 150 types of the investigated product to Pakistan during the POI. Its total exports of the investigated product to Pakistan during the POI were **** MT. All export sales to Pakistan, during the POI, were to un-related parties.

22.3.3 To arrive at the ex-factory level, P.T Indorama has reported adjustments on account of credit cost, bank charges, inland freight in Indonesia, insurance, 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 the sales transactions.

22.4 Determination of Export Price for P.T PanAsia, Indonesia

22.4.1 Export price for P.T PanAsia 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).

22.4.2 According to the information, P.T PanAsia exported DTY 75, DTY 150, DTF 95, DTF 180, ITY 195, and ITY 200 types of the investigated product to Pakistan during the POI. Its total exports of the investigated product to Pakistan during the POI were **** MT. All export sales to Pakistan, during the POI, were to un-related parties.

22.4.3 To arrive at the ex-factory level, P.T PanAsia has reported adjustments on account of commission paid, bank charges, inland freight in Indonesia, insurance, ocean freight, and terminal handling cost. 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 the sales transactions.

22.5 Determination of Export Price for P.T Sulindafin, Indonesia

22.5.1 Export price for P.T Sulindafin, Indonesia is determined on the basis of the information provided by it on its export sales to Pakistan made during the POI (provided after preliminary determination (paragraph 10.3 supra).

22.5.2 According to the information, P.T Sulindafin exported PT 150, PT 75 and SDY 75 types of the investigated product to Pakistan during the POI. Its total exports of the investigated product to Pakistan during the POI were **** MT. All export sales to Pakistan, during the POI, were to un-related parties.

22.5.3 To arrive at the ex-factory level, P.T Sulindafin reported adjustments on account of commission paid, bank charges, inland freight in Indonesia, insurance, 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 the sales transactions.

22.6 Determination of Export Price for Tongkook Corporation, Korea

18.6.1 Export price for Tongkook Corporation 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).

22.6.2 According to the information, Tongkook Corporation exported PSY 135, PSY 195, SDY 50, and SDY 75 types of the investigated product to Pakistan during the POI. Its total exports of the investigated product to Pakistan during the POI were **** MT. All export sales to Pakistan, during the POI, were to un-related parties.

22.6.3 To arrive at the ex-factory level, Tongkook Corporation has reported adjustments on account of, commission paid, ocean freight, insurance, inland freight in Korea, handling cost, customs brokerage charges, and bank charges. 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 the sales transactions.

22.7 Determination of Export Price for Sehan industries Inc., Korea

22.7.1 After preliminary determination Sehan Industrires Inc., Korea requested for individual dumping margin and submitted necessary information (paragraph 10.3 supra). The Commission considered the information submitted by Sehan Industries Inc., Korea and the export price for it is determined on the basis of the information supplied on export sales of the investigated product made during the POI.

22.7.2 According to the information, Sehan Industrires Inc. exported DTY 150/48 type of the investigated product to Pakistan during the POI. Its total exports of the investigated product to Pakistan during the POI were **** MT. All export sales to Pakistan, during the POI, were to un-related parties.

22.7.3 To arrive at the ex-factory level, Sehan Industrires Inc. reported adjustments on account of freight only. The Commission has accepted this adjustment and the export price at ex-factory level is worked out by deducting values reported for this adjustment from the gross value of the sales transactions.

22.8 Determination of Export Price for Hyosung Corporation, Korea

22.8.1 As stated earlier that Hyosung Corporation, Korea did not respond to the Commission's questionnaire and did not provide requisite information (paragraph 9.6 supra). Thus, the export price for Hyosung Corporation is determined on the basis

of the best information available to the Commission in terms of Section 32 of the Ordinance, and Article 6.8 and Annex II of the Agreement on Antidumping.

22.8.2 To determine export price for Hyosung Corporation, the Commission has used import data obtained from PRAL. According to the data, Hyosung Corporation exported **** MT of the investigated product to Pakistan during the POI. CIF prices of these exports ranged between US\$ **** per MT to US\$ **** per MT. Weighted average CIF export price works out to be US\$ **** per MT.

22.8.3 To arrive at the ex-factory level, weighted average CIF export price has been adjusted on account of the same adjustments which have been reported by Tongkook Corporation, Korea (credit cost, commission paid, ocean freight, insurance, inland freight in Korea, handling cost, and bank charges) and the information provided by Tongkook Corporation, Korea is used for this purpose.

22.9 Determination of Export Price for Hualon Corporation (M) Sdn Bhd, Malaysia

22.9.1 Export price for Hualon Corporation, Malaysia 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).

22.9.2 According to the information, Hualon Corporation, Malaysia exported FDY raw and FDY coloured of different types to Pakistan during the POI. Its total exports of the investigated product to Pakistan during the POI were **** MT. All export sales to Pakistan, during the POI, were to un-related parties.

22.9.3 To arrive at the ex-factory level, Hualon Corporation, Malaysia has reported adjustments on account of commission paid, ocean freight, insurance, inland freight in Malaysia, handling cost, and bank charges. 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 the sales transactions.

22.10 Determination of Export Price for Global Trade Well P.T.E Ltd, Malaysia

22.10.1 As stated earlier that Global Trade Well P.T.E Ltd, Malaysia did not respond to the Commission's questionnaire and did not provide requisite information (paragraph 9.8 supra). Thus, the export price for Global Trade Well P.T.E Ltd, Malaysia is determined on the basis of the best information available to the Commission in terms of Section 32 of the Ordinance, and Article 6.8 and Annex II of the Agreement on Antidumping.

22.10.2 To determine export price for Global Trade Well P.T.E Ltd, Malaysia, the Commission has used import data obtained from PRAL. According to the data, Global Trade Well P.T.E Ltd, Malaysia exported **** MT of the investigated product to Pakistan during the POI. CIF prices of these exports ranged between US\$ **** per

MT to US\$ **** per MT. Weighted average CIF export price works out to be US\$ **** per MT.

22.10.3 To arrive at the ex-factory level, weighted average CIF export price has been adjusted on account of the same adjustments which have been reported by Hualon Corporation, Malaysia (commission paid, ocean freight, insurance, inland freight in Malaysia, handling cost, and bank charges) and the information provided by Hualon Corporation, Malaysia is used for this purpose.

22.11 Determination of Export Price for Fotex Trading, Malaysia

22.10.1 As stated earlier that Fotex Trading, Malaysia did not respond to the Commission's questionnaire and did not provide requisite information (paragraph 9.9 supra). Thus, the export price for Fotex Trading, Malaysia is determined on the basis of the best information available to the Commission in terms of Section 32 of the Ordinance, and Article 6.8 and Annex II of the Agreement on Antidumping.

22.11.2 To determine export price for Fotex Trading, Malaysia, the Commission has used import data obtained from PRAL. According to the data, Fotex Trading, Malaysia exported **** MT of the investigated product to Pakistan during the POI. CIF prices of these exports ranged between US\$ **** per MT to US\$ **** per MT. Weighted average CIF export price works out to be US\$ **** per MT.

22.11.3 To arrive at the ex-factory level, weighted average CIF export price has been adjusted on account of the same adjustments which have been reported by Hualon Corporation, Malaysia (commission paid, ocean freight, insurance, inland freight in Malaysia, handling cost, and bank charges) and the information provided by Hualon Corporation, Malaysia is used for this purpose.

22.12 Determination of Export Price for Jong Stit Company Ltd., Thailand

22.12.1 Export price for Jong Stit Company Ltd., Thailand 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).

22.12.2 According to the information, Jong Stit Company Ltd., Thailand exported I 100 raw, I 150 raw, T 75 raw, T 100 raw, T 150 raw, T 300 raw, NT 100 raw, T 75 colour, T 100 colour, T 150 colour, and T 300 colour types of the investigated product to Pakistan during the POI. Its total exports of the investigated product to Pakistan during the POI were **** MT. All export sales to Pakistan, during the POI, were to unrelated parties.

22.12.3 To arrive at the ex-factory level, Jong Stit Company Ltd. has reported adjustments on account of commission paid, ocean freight, inland freight in Thailand, handling cost, and bank charges. 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 the sales transactions.

22.13 Determination of Export Price for Capital Rayon, Thailand

22.13.1 After preliminary determination Capital Rayon, Thailand requested for individual dumping margin and submitted necessary information (paragraph 10.3 supra). The Commission considered the information submitted by Capital Rayon and the export price for it is determined on the basis of the information supplied on export sales of the investigated product made during the POI.

22.13.2 According to the information, Capital Rayon exported DTY 75 and DTY 150 types of the investigated product to Pakistan during the POI. Its total exports of the investigated product to Pakistan during the POI were **** MT. All export sales to Pakistan, during the POI, were to un-related parties.

22.13.3 To arrive at the ex-factory level, Capital Rayon reported adjustments on account of inland freight in Thailand, ocean freight, handling cost, commission and bank chagres. 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 the sales transactions.

22.14 Determination of Export Price for Sunflag (Thailand) Ltd., Thailand.

22.14.1 After preliminary determination Sunflag, Thailand requested for individual dumping margin and submitted necessary information (paragraph 10.3 supra). The Commission considered the information submitted by Sunflag and the export price for it is determined on the basis of the information supplied on export sales of the investigated product made during the POI.

22.14.2 According to the information, Sunflag exported FDY 70, FDY 75, FDY 100, FDY 150, DTY 100 and DTY 150 types of the investigated product to Pakistan during the POI. Its total exports of the investigated product to Pakistan during the POI were **** MT. All export sales to Pakistan, during the POI, were to un-related parties.

22.14.3 To arrive at the ex-factory level, Sunflag reported adjustments on account of inland freight in Thailand, ocean freight, credit cost and bank chagres. 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 the sales transactions.

22.15 Determination of Export Price for Tuntex (Thailand) Public Company Limited, ("Tuntex Thailand") Thailand

22.15.1 Export price for Tuntex Thailand 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).

22.15.2 According to the information, Tuntex Thailand exported DTY 75 raw, DTY 100 raw, DTY 150 raw, DTY 300 raw, DTY 75 colour, and DTY 150 colour types of the investigated product to Pakistan during the POI. Its total exports of the investigated product to Pakistan during the POI were **** MT. All export sales to Pakistan, during the POI, were to un-related parties.

22.15.3 To arrive at the ex-factory level, Tuntex Thailand has reported adjustments on account of commission paid, ocean freight, inland freight in Thailand, handling cost, and bank charges. 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 the sales transactions.

22.16 Determination of Export Price for Chiem Patana Synthetic Fibers Co. Ltd, ("Chiem Patana")Thailand.

22.16.1 As stated earlier that Chiem Patana, Thailand did not respond to the Commission's questionnaire and did not provide requisite information (paragraph 9.12 supra). Thus, the export price for Chiem Patana, Thailand is determined on the basis of the best information available to the Commission in terms of Section 32 of the Ordinance, and Article 6.8 and Annex II of the Agreement on Antidumping.

22.16.2 To determine export price for Chiem Patana, Thailand, the Commission has used import data obtained from PRAL. According to the data, Chiem Patana, Thailand exported **** MT of the investigated product to Pakistan during the POI. CIF prices of these exports ranged between US\$ **** per MT to US\$ **** per MT. Weighted average CIF export price works out to be US\$ **** per MT.

22.16.3 To arrive at the ex-factory level, weighted average CIF export price has been adjusted on account of the same adjustments which have been reported by Tuntex Thailand (Commission, inland freight paid in Thailand, ocean freight, bank charges and handling cost) and the information provided by Tuntex Thailand is used for this purpose.

23. Dumping Margin

23.1 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.

23.2 The Commission had limited its investigation to fifteen exporters/foreign producers from the Exporting Countries, who were either selected in sampling or requested for an individual dumping margin after preliminary determination (paragraph 10.3 supra). Individual dumping margins have been determined for the investigated exporters/foreign producers and the rate for antidumping duty for these exporters/foreign producers is established on the basis of individual dumping margins (paragraph 23.5 infra). Rate of antidumping duty for the other exporters/foreign producers from the Exporting Countries, who have not been investigated in this investigation, is determined in accordance with Sections 51(3), 51(4) and 51(7) of the Ordinance (paragraph 48 infra).

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

23.4 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”.

23.5 Taking into account all requirements set out above, the dumping margins have been determined as follows.

**Table-XI
Dumping Margin**

S. No.	Exporter/Foreign Producer Name	Dumping margin as percentage of	
		Adjusted export price	C&F export price
01	P.T S.K Keris, Indonesia	2.53	2.36
02	P.T Indorama, Indonesia	-0.36	-0.37
03	P.T PanAsia, Indonesia	16.07	14.64
04	P.T Sulindafin, Indonesia	-4.61	-4.31
05	Tongkook Corporation, Korea	1.72	1.52
06	Hyosung Corporation, Korea	33.58	29.07
07	Sehan Industries int., Korea	-5.05	-5.00
08	Hualon Corporation (M) Sdn, Malaysia	1.03	0.96

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

09	Global Trade Well, Malaysia	25.15	22.62
10	Fotex Trading, Malaysia	23.06	20.78
11	Jong Stit Co., Thailand	-0.31	-0.25
12	Tuntex, Thailand	20.63	18.93
13	Chiem Patana, Thailand	32.79	29.68
14	Capital Rayon, Thailand	1.40	1.30
15	Sunflag, Thailand	-2.86	-2.63

C. INJURY TO DOMESTIC INDUSTRY

24 Determination of Injury

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

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

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

Section 15 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 factors as it considers relevant for the determination of injury”.

24.2 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.

25. Domestic Industry

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

“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.”

25.2 The domestic industry manufacturing domestic like product consists of nineteen units. Out of total nineteen units nine units are operative while ten are closed. Installed production capacity of nine operating units is around 85000 MT per

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

annum (on the basis of 75 denier PFY). Out of the nine operating units four units namely: (i) SG Fiber Ltd., Karachi (ii) Polyron Ltd., Karachi (iii) Rupafil Ltd., Lahore, and (iv) Spintex Ltd., Lahore have filed the application with the Commission through its Association (hereinafter collectively referred to as the "Applicant Units"). Installed production capacity of the Applicant Units is around 38,300 MT per annum (on the basis of 75 denier PFY). Quantity produced by the nine operating units during FY 2004 is given in the Table below:

**Table-XII
Domestic Industry's Production During FY 2004**

S.No.	Name of the Unit	Percentage Share in Total Production
1.	Rupafil Ltd.	22.28
2.	S.G. Fibers Ltd.	10.91
3.	Spintex Ltd.	6.49
4.	Polyron Ltd.	3.38
5.	Rupali Polyester Ltd.	10.96
6.	Gatron (Ind.) Ltd.	39.05
7.	Dawood Lawrencepur Ltd.	1.83
8.	Sind Industries	0.36
9.	Ahsan+Ahmad Industries	4.73
	Total	100

25.3 The above table shows that the Applicant Units account for 43.06 percent of total production of the domestic like product produced by domestic industry during FY 2004. Thus in terms of Section 2(d) of the Ordinance, the Applicant Units form domestic industry, as collective output of these units constitutes major proportion of the total domestic production of the domestic like product.

25.4 The other five indifferent units in the domestic industry, which represent 56.94 percent of the domestic production, were asked to provide information on injury factors. Neither of them provided the requisite information. Therefore, the injury analysis carried out in following paragraphs is based on the information provided by the Applicant Units.

26. Cumulation of Dumped Imports

26.1 Section 16 of the Ordinance states that:

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

"(a) dumping margin in relation to an investigated product from each country is more than the negligible amount as specified...., and volume of dumped imports from each

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

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”.

26.2 As mentioned in paragraph 13.2 supra, the volume of imports of the investigated product during the POI from the Exporting Countries individually was well above the negligible quantity (i.e. less than 3 percent of total imports of PFY). Furthermore, the weighted average dumping margin for each Exporting Country is also more than the negligible amount (i.e. less than 2 percent of export price). Following table shows the weighted average dumping margin determined for the Exporting Countries:

Table-XIII
Weighted Average Dumping Margin

Country	Weighted Average Dumping Margin
Indonesia	4.67%
Korea	7.97%
Malaysia	4.05%
Thailand	9.46%

26.3 It is evident from the weighted average export price charged by the exporters during the POI that there was a price competition between the imports of the investigated product exported from the Exporting Countries. Weighted average export price of the investigated product during the POI from the Exporting Countries is given in a table below:

Table-XIV
Weighted Average Export Price

Country	Weighted Average	
	CIF Price (US\$/MT)	Landed Cost (Rs/MT)
Indonesia	1222.85	89271.11
Korea	1200.13	87612.49
Malaysia	1164.05	84978.56
Thailand	1194.52	87202.95

Sources: (i) the Applicant (PRAL data), (ii) State Bank of Pakistan (for exchange rate)
Landed Cost = CIF value +customs duty +incidentals @ 5%

26.4 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 27 to 29 infra.

26.5 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.

27. Volume of Dumped Imports

Facts

27.1 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.

27.2 In order to ascertain the volume of dumped imports of the investigated product (“IP”) and production of the domestic like product, information submitted by the Applicant and obtained from PRAL is used. The following table shows imports of the investigated product and production of the domestic like product during the POI:

Table-XV
Dumped Imports and Domestic Production (MT)

Year/Period	Imports of IP*	Domestic Production*
FY 2002	98.49	100.00
FY 2003	123.57	93.48
FY 2004	134.28	103.28
Jul-Dec 2004	73.78	52.97

* Actual figures have been indexed with respect to the domestic production of FY 2002 by taking it equal to 100.00

Analysis

27.3 It appears from the above table that the imports of the investigated product increased by 25.46 percent in FY 2003 over the FY 2002, by 8.67 percent in FY 2004 over FY 2003, and by 9.89 percent (on annualized basis) during July to December 2004 over FY 2004. The production of domestic like product decreased by 6.52 percent in FY 2003 over the production of FY 2002. It increased 10.48 percent in FY 2004 over FY 2003, and increased by 2.57 percent (on annualized basis) during July to December 2004 over FY 2004.

Conclusion

27.4 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.

28. Price Effects

28.1 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).

28.2 Price undercutting

Facts

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

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

Period	Weighted Average ex-factory price of domestic like product*	Weighted Average landed cost of investigated product*	Price under-cutting
FY 2002	100.00	76.99	23.01%
FY 2003	92.81	72.66	21.71%
FY 2004	95.20	79.16	16.85%
Jul – Dec 04	105.44	86.25	18.19%

- Actual figures have been indexed with respect to the weighted average ex-factory price of domestic like product of FY 2002 by taking it equal to 100.00

Analysis

28.2.2 It appears from the above table that the investigated product undercut the price of the domestic like product through out the POI. In the FY 2002 the price undercutting peaked at 23.01, it was 21.71 percent and 16.85 percent in FY 2003 and FY 2004 respectively. In July to December 2004 price undercutting was 18.19 percent.

Conclusion

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

28.3 Price Depression

Facts

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

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

Period	Weighted Average ex-factory price of	Price depression
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Final Determination and levy of Definitive Antidumping Duty on import of PFY into Pakistan Originating in and/or Exported from the Republic of Indonesia, the Republic of Korea, Malaysia and the Kingdom of Thailand.

	domestic like product*	
FY 2002	100.00	--
FY 2003	92.81	(7.19)
FY 2004	95.20	--
Jul- Dec 04	105.44	--

* Actual figures have been indexed with respect to the weighted average ex-factory price of domestic like product of FY 2002 by taking it equal to 100.00

Analysis

28.3.2 Analysis of the above facts shows that weighted average ex-factory price of domestic like product decreased by 7.19 percent during FY 2003. However in the FY 2004 and in the period July to December 2004, the domestic industry was able to increase prices of the domestic like product by 2.58 percent and 10.75 percent respectively.

Conclusion

28.3.3 The Commission has concluded on the basis of the above analysis that the domestic industry did not face any price depression during the POI due to dumped imports.

28.4 Price Suppression

Facts

28.4.1 Weighted average cost of production (“COP”) of the domestic like product has been calculated from the information submitted by the Applicant Units on COP during the POI. The following table shows the weighted average COP and the weighted average ex-factory sales price of the domestic like product during the POI:

**Table-XVIII
Calculations of Price Suppression**

Period	Weighted Average COP*	Weighted Average ex-factory price*			(Rs./MT)
			% Increase/ (decrease) in COP	% Increase/ (decrease) in price	Price Suppression
FY 2002	100.00	100.00	--	--	--
FY 2003	104.44	92.81	4.44%	(7.19)%	11.63%
FY 2004	112.32	95.20	7.55%	2.58%	4.97%
Jul - Dec. 04	144.29	105.44	28.46%	10.75%	17.71%

* Actual figures have been indexed with respect to the weighted average COP and weighted average ex-factory price of FY 2002 by taking it equal to 100.00

Analysis

28.4.2 The above table shows that the weighted average COP of domestic like product increased by 4.44 percent in FY 2003 vis-à-vis previous year’s COP. The COP increased by 7.55 percent in FY 2004 over the FY 2003 COP and it further increased by 28.46 percent during the period from July to December 2004 vis-à-vis FY 2004 COP.

28.4.3 The weighted average ex-factory price of the domestic like product decreased by 7.19 percent during the FY 2003. In the FY 2004 and during the period from July to December 2004 weighted average ex-factory price of the domestic like product increased by 2.58 percent and 10.75 percent respectively.

Conclusion

28.4.4 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 COP by way of an increase in selling price of domestic like product. Thus the dumped imports of the investigated product significantly suppressed the prices of the domestic like product during the POI.

29. Effects on Market Share

Facts

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

**Table -XIX
Market Share**

Period	Sales by domestic industry	Imports from	
		Dumped sources	Other sources
FY 2002	72%	26%	2%
FY 2003	67%	31%	2%
FY 2004	63%	35%	2%
Jul - Dec 04	44%	51%	5%

Analysis

29.2 The above table shows that the market share of domestic industry decreased from 72 percent in FY 2002 to 67 percent in FY 2003, 63 percent in FY 2004, and to 44 percent during the period from July to December 2004. Market share of dumped imports increased from 26 percent in FY 2002 to 31 percent in FY 2003, and 35 percent in FY 2004. During the period from July to December 2004, the share of dumped imports increased to 51 percent of the total domestic market. The imports from all other sources remained at 2 percent in the FY 2002, 2003 and 2004. In the period July-December 2004 it increased to 5 percent of total market.

Conclusion

29.3 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.

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

30. Effects on Sales

Facts

30.1 Sales of the domestic like product in domestic market during the POI was as follows:

Table - XX
Sales of the Domestic Like Product (MT)

Period	Sales by domestic industry*
FY 2002	100.00
FY 2003	97.42
FY 2004	89.45
Jul - Dec 04	23.68

* Actual figures have been indexed with respect to the sales figure of FY 2002 by taking it equal to 100.00

Analysis

30.2 The above table shows that the sales of the domestic like product by the industry decreased by 2.57 percent, 8.19 percent and 47.04 percent in FY 2003, 2004 and during the period from July to December 2004 (on annualized basis) respectively.

Conclusion

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

31. Effects on Production and Capacity Utilization

Facts

31.1 The installed production capacity of the Applicant Units to produce domestic like product was 38,325 MT per annum (on the basis of 75 denier). Capacity utilized during the POI were as follows:

Table-XXI
Production and Capacity Utilization

Period	Capacity Utilization
FY 2002	91 %
FY 2003	85 %
FY 2004	94 %
Jul. to Dec. 04	96 %

Analysis

31.2 It may be noted from the table above that the production of domestic like product decreased in FY 2003 and resultantly the capacity utilization decreased from 91 percent to 85 percent. The production increased in FY 2004 and capacity utilization also increased from 85 percent to 94 percent. The capacity utilization increased to 96 percent during the period from July to December 2004.

Conclusion

31.3 On the basis of the above analysis, the Commission has concluded that the domestic industry did not suffer material injury on account of production and capacity utilization during the POI.

32. Effects on Inventories

Facts

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

Table-XXII
Inventories of Domestic Like Product (MT)

Period	Opening Inventories	Closing inventory	Changes in Inventory
FY 2002	100.00	123.24	--
FY 2003	123.24	84.26	(38.98)
FY 2004	84.26	78.08	(6.18)
Jul – Dec 04	78.08	69.96	(8.12)

* Actual figures have been indexed with respect to the opening inventory of FY 2002 by taking it equal to 100.00

Analysis

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

Conclusion

32.3 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.

33. Effects on Profits/Loss

Facts

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

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

Table -XXIII
Profit/(Loss) of Domestic Industry

Period	Profit/(Loss) Million Rs.*	Profit/(loss) Rs. per MT*
FY 2002	100.00	100.00
FY 2003	(368.62)	(363.18)
FY 2004	(386.00)	(359.85)
Jul - Dec. 04	(41.99)	(75.43)

* Actual figures have been indexed with respect to the figures of FY 2002 by taking them equal to 100.00

Analysis

33.2 The domestic industry earned a profit in FY 2002. It incurred losses in FY2003, FY 2004, and during the period from July to December 2004 respectively. However, the above table shows that the loss incurred by the domestic industry is decreasing over time.

Conclusion:

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

34. Effects on Cash Flow

Facts

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

Table -XXIV
Cash Flow Position

Period	Cash flow from Operations (Rupees)
FY 2002	(100.00)
FY 2003	78.02
FY 2004	(310.45)
Jul - Dec 2004	109.74

* Actual figures have been indexed with respect to the figure of FY 2002 by taking it equal to 100.00

Analysis

34.2 The above table shows a mix trend of cash flows from operations. The cash flow through operations changed from negative in FY 2002 to positive in FY 2003. In FY 2004 the cash generated from operations was negative and during the period from July to December 2004 it was again positive.

Conclusion

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

34.3 On the basis of the above, the Commission has concluded that the domestic industry suffered material injury on account of cash flows in FY 2004 due to dumped imports of the investigated product.

35. Effects on Employment and Productivity

Facts

35.1 The number of employees in the domestic industry decreased during the POI. The employment, productivity, salaries and wages of the domestic industry, as provided by the Applicant Units, were as follows:

Table -XXV
Employment and Productivity

Period	No. of Employees*	Productivity per worker (MT)	Salaries & wages Rs. per MT*
FY 2002	100.00	11.37	100.00
FY 2003	101.53	10.46	105.03
FY 2004	90.58	12.96	99.88
Jul - Dec 04	90.48	13.31#	97.89

Number of employees have been taken half to make useful comparison

* Actual figures have been indexed with respect to the figures of FY 2002 by taking it equal to 100.00

Analysis

35.2 The above table shows that the number of employees in domestic industry decreased in FY 2004. Productivity per worker decreased from 11.37 MT in FY 2002 to 10.46 MT per worker in FY 2003 due to increase in employment and decrease in production. However, productivity increased in FY 2004 and July-December 2004 due to increase in production and reduction in employment. Salaries and wages per MT for production of the domestic like product increased in FY 2003 and decreased in FY 2004 and during the period from July to December 2004.

Conclusion

35.3 Based on the above analysis, the Commission has concluded that the domestic industry suffered material injury on account of employment during the POI as employment in the domestic industry decreased significantly.

36. Effects on Return on Investment

Facts

36.1 According to the Applicant the domestic industry has invested approximately Rs.30 billion in setting up its PFY plants with an estimated return of 10 percent.

According to the Applicant, 10 percent return on investment in this sector is considered normal.

36.2 The return on investment of the Applicant Units during POI is given in following table:

**Table -XXVI
Investment and Return on Investment**

Year	Total Investment (Rs. Million)*	Return on Investment (in percentage)
FY 2002	100.00	10.86%
FY 2003	277.61	- 4.29%
FY 2004	76.55	-17.83%
Jul-Dec 04	118.33	- 0.42%

* Actual figures have been indexed with respect to the figure of FY 2002 by taking it equal to 100.00

Analysis

36.3 The above table shows that the return on investment was 10.86 percent in FY 2002. Domestic industry's return on investment was negative during the FY 2003, 2004, and July-December 2004.

Conclusion

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

37. Effects on Growth and Investment

Facts/analysis

37.1 The domestic demand for PFY is in the range of 130000 MT to 136000 MT per annum. Domestic industry's market share and sales decreased during the POI (paragraphs 29 and 30 supra). Ten out of nineteen units have closed down in the domestic industry. In this situation there is little likelihood of further growth and investment in the industry.

Conclusion

37.2 On the basis of the above, the Commission has concluded that the domestic industry has suffered material injury on account of growth and investment due to dumped imports.

38. Ability to Raise Capital

Facts/analysis

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

Conclusion

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

39. Summing up of Material Injury

The analysis in the preceding paragraphs shows that the domestic industry has suffered material injury during the POI on account of: -

- i. significant increase in volume of dumped imports of the investigated product (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. losses on operations;
- viii. negative effect on cash flow;
- viii. negative effect on employment; and
- ix. negative effect on growth and investment.

D. CAUSATION

40. Effect of Dumped Imports

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

- i. volume of dumped imports increased significantly (paragraph 27 supra);
- ii. dumped imports undercut prices of the domestic like product significantly (paragraph 28.2 supra);
- iii. domestic industry experienced significant price suppression due to dumped imports (paragraph 28.4 supra);
- iv. domestic industry lost significant market share while market share of dumped imports increased significantly (paragraph 29 supra);

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

- v. sales of the domestic like product by the domestic industry decreased significantly during the POI (paragraph 30 supra);
- vi. domestic industry incurred losses on its operations (paragraph 33 supra);
- vii. dumped imports effected negatively on the cash flow of the domestic industry (paragraph 34 supra);
- viii. employment in domestic industry reduced significantly (paragraph 35 supra);
- ix. domestic industry faced significant decrease in return on investment (paragraph 36 supra); and
- x. dumped imports effected negatively the domestic industry's growth and investment (paragraph 37 supra).

41. Other Factors

41.1 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.

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

**Table -XXVII
Volume and C&F Prices of Imported PFY**

Year/Period	Other Imports		Imports from Exporting Countries	
	Quantity (MT)	CIF Price (US\$/MT)	Quantity (MT)	CIF Price (US\$/MT)
FY 2002	2077.87	1058.59	34333.16	1022.78
FY 2003	2188.37	1057.37	43076.02	1013.53
FY 2004	3414.78	1130.37	46810.91	1121.88
Jul-Dec. 2004	2526.63	1274.30	25720.65	1235.21

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

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

- i. There was no contraction in demand of PFY during POI in Pakistan;
- ii. There was no change in trade restrictive practices and competition between foreign producers other than producers from the Exporting Countries and domestic producers; and
- iii. There was no considerable change in technology;

E. CONCLUSIONS

42. 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 Applicant Units represent major proportion of the production of domestic like product;
- ii. the investigated product and the domestic like product are alike products;
- iii. during the POI, the investigated product was exported to Pakistan by the exporters/foreign producers, from the Exporting Countries, at prices below its normal value;
- iv. the volume of dumped imports of the investigated product and the dumping margins established for the Exporting Countries on the basis of the foregoing analysis, are above the negligible and *de minimis* levels respectively;
- v. the dumping margin expressed as a percentage of weighted average CIF export ranged between -5.00 percent to 29.68 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, negative return on investment, losses on its operations, negative effect on cash flow, reduction in employment, and negative effect on growth and investment (in terms of Section 15 and 17 of the Ordinance); and
- vii. there is a causal relationship between dumped imports and the material injury suffered by the domestic industry.

F. IMPOSITION OF DEFINITIVE ANTIDUMPING DUTY

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

44. Individual dumping margins have been determined for the fifteen exporters/foreign producers who were selected in sampling or who requested for individual dumping margin. The rate for antidumping duty for these fifteen exporters/foreign producers is determined on the basis of individual dumping margins. Rate of antidumping duty for the other exporters/foreign producers from the Exporting Countries, who have not been investigated in this investigation, is established in accordance with Sections 51 of the Ordinance (paragraph 47 infra).

45. Section 51(3) of the Ordinance states that:

“where the Commission has limited its examination of dumping margin in accordance with sub-sections (2) and (3) of section 14, any anti-dumping duty applied to imports from exporters or producers not included in an examination by the Commission shall not exceed a weighted average dumping margin established with respect to selected exporters or producers.”

However Sections 51(4) and 51(7) of the Ordinance provide that:

“(4) The Commission shall disregard for the purposes of sub-section (3) any negligible margins, as defined in sub-section (3) of section 41, and margins established under the circumstances referred to in section 32.

“(7) Where all dumping margins are established pursuant to section 32, the Commission shall use such alternative method of determining dumping margins for exporters or producers not included in its examination as it considers reasonable in the circumstances.”

46. For the exporters/foreign producers who have not been investigated in this investigation, dumping margins have been determined on the basis of weighted average dumping margins of the exporters/foreign producers selected in the sample and subsequently investigated in accordance with Section 51(4) of the Ordinance. However, where all dumping margins are established pursuant to Section 32 of the Ordinance or where dumping margins are *deminimis* for the investigated exporters/foreign producers from an exporting country, a dumping margin for all others has been determined in terms of Section 51(7) of the Ordinance.

47. The rate of definitive antidumping duty for the exporters/foreign producers not investigated from Indonesia and Thailand is determined on the basis of the weighted average dumping margin of the investigated exporters/foreign producers of the respective country taking into account the requirements of Section 51(4) of the Ordinance. However, rate of duty for the exporters/foreign producers who had not been investigated from Malaysia and Korea is determined on the basis of the weighted average dumping margin of the investigated exporters/foreign producers. The Commission has considered that this is a reasonable method to determine

dumping margin for the exporters/foreign producers who have not been investigated in terms of Section 51(7) of the Ordinance.

48. In terms of Section 50 of the Ordinance and Article 9 of Agreement on Antidumping, definitive antidumping duties given in the following table are hereby imposed on the investigated product importable from the Exporting Countries (except for the exporters/foreign producers mentioned at paragraph 49 infra) for a period of five years effective from November 12, 2005. The 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 definitive dumping margins determined at ex-factory price level. The investigated product is classified under PCT heading Nos. 5402.3300 and 5402.4300

Table-XXVIII
Definitive Antidumping Duty Rates

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

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

- i. P.T Indorama, Indonesia;
- ii. P.T Sulindafin, Indonesia;
- iii. Tongkook Corporation; Korea
- iv. Saehan Industries Inc., Korea;
- v. Hualon Corporation (M) Sdn, Malaysia;
- vi. Jong Stit Company, Thailand;

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

vii. Capital Rayon Company Ltd, Thailand; and

viii. Sunflag (Thailand) Limited.

50. In accordance with Section 51 of the Ordinance, the definitive antidumping duties shall take the form of *ad valorem* 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 duties.

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

52. 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.

53. The Commission had imposed provisional antidumping duties on the investigated product vide official gazette (extra ordinary) dated November 12, 2005 for a period of four months effective from November 12, 2005. In terms of Section 55(2) of the Ordinance and Article 10.3 of Agreement on Antidumping, if the definitive antidumping duty is lower than the amount of provisionally determined antidumping duty, the difference shall be refunded by the Commission within forty-five days of the final determination.

54. 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 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
March 16, 2006

(Faizullah Khilji)
Chairman
March 16, 2006

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