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**Government of Pakistan
National Tariff Commission**

REPORT

ON

FINAL DETERMINATION AND LEVY OF
DEFINITIVE ANTIDUMPING DUTY ON
ACRYLIC TOW ORIGINATING IN AND/OR
EXPORTED FROM REPUBLIC OF
UZBEKISTAN TO PAKISTAN

(NON-CONFIDENTIAL)

DECEMBER 09, 2004

*Final Determination and Levy of Definitive Antidumping Duty on
Acrylic Tow Originating in and/or Exported from Republic of Uzbekistan to Pakistan*

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FROM REPUBLIC OF UZBKISTAN TO PAKISTAN**

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, 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

1.1 The Commission received a written application from Dewan Salman Fibre Limited, F 7/4, Islamabad (hereinafter referred to as the "Applicant"), a domestic producer of Acrylic Tow, on behalf of the domestic industry, on January 31, 2004, alleging that Acrylic Tow produced in the Republic of Uzbekistan (hereinafter referred to as "Uzbekistan") is exported to Pakistan at dumped prices (hereinafter referred to as the "investigated product"). The Embassy of Uzbekistan in Islamabad was notified on January 31, 2004, through the Ministry of Foreign Affairs, Pakistan, of the receipt of application in accordance with the requirements of Section 21 of the Ordinance and Article 5.5 of Agreement on Antidumping.

2. Evaluation and Examination of the Application

2.1 The examination of the application showed that it met the requirements of Section 20 of the Ordinance and Article 5.2 of Agreement on Antidumping as it contained sufficient evidence of dumping of the investigated product 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 be met. The application also fulfilled the requirements of Section 24 of the Ordinance and Article 5.4 of Agreement on Antidumping, as the Applicant is the only domestic producer of Acrylic Tow, and, as such, represents 100 percent of the total production of Acrylic Tow produced by the domestic industry.

3. Foreign Producer/Exporters of the Investigated Product

3.1 The Applicant identified M/s Navoiy Azot, Uzbekistan as producer of the investigated product (hereinafter referred as the “Producer”) and M/s Pumice Trading Corporation, Uzbekistan; M/s Pouya Tarabar Corporation, Uzbekistan and M/s East Sea Sail Co., Uzbekistan as exporters (hereinafter collectively referred to as the “Exporters”) of the investigated product.

4. Applicant’s Views

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

- i. the investigated product and the Acrylic Tow produced in Pakistan by the domestic industry are ‘like products’;
- ii. the Exporters and the Producer are exporting the investigated product to Pakistan at dumped prices; and

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- iii. dumping of the investigated product has caused and is causing material injury to the domestic industry, mainly through¹:
- a. increase in volume of dumped imports;
 - b. price undercutting;
 - c. price depression;
 - d. price suppression;
 - e. decline in market share;
 - f. low utilization of production capacity;
 - g. losses on its operations;
 - h. decline in wages;
 - i. decline in productivity;
 - j. negative effect on ability to raise capital;
 - k. negative effect on investment and growth
 - l. negative effect on cash flows
 - m. negative effect on domestic sales;
 - n. decline in output; and
 - o. high magnitude of margin of dumping

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 dumping and injury to justify initiation of an investigation. Consequently, the Commission decided to initiate an investigation on March 16, 2004. In terms of Section 27 of the Ordinance and Article 12.1 of Agreement on Antidumping, the Commission issued a Notice of Initiation, which was published in the Official Gazette of Pakistan² and in two widely circulated national newspapers³ (one English language and one Urdu Language). Investigation concerning imports into Pakistan of the investigated product {classified under Harmonized System (“HS”)

¹ This list does not indicate the actual injury factors set out in Article 3.4 of the Agreement on Antidumping

² The official Gazette of Pakistan (Extraordinary) dated March 17, 2004

³ ‘Business Recorder’ and the ‘Express’ of March 17, 2004 issue.

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Code⁴ 5501.3000} originating in and/or exported from Uzbekistan was thus initiated on March 17, 2004.

5.2 The Commission notified (by sending a copy of the Notice of Initiation) the Embassy of Uzbekistan in Pakistan on March 16, 2004. Copies of Notice of Initiation were also sent to the Producer (but it is not clear whether the Producer received that copy or not because the Commission did not have its complete address), the known Pakistani importers and the Applicant on March 17, 2004 in accordance with the requirements of Section 27 of the Ordinance and Article 12.1 of Agreement on Antidumping.

5.3 In so far as the Exporters are concerned, the Commission did not have their mailing addresses and the Producer's mailing address was not complete. Therefore the Commission requested the Embassy of Uzbekistan to forward a copy of Notice of Initiation to the Exporters and the Producer of the investigated product.

5.4 In addition, in accordance with Section 28 of the Ordinance and Article 6.1.3 of Agreement on Antidumping, on March 18, 2004, the Commission sent full text of the written application (non-confidential version) to the Embassy of Uzbekistan in Pakistan and the Embassy was requested to forward it to the Exporters and the Producer.

6. Period of Investigation

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

"The Commission shall base its assessments of dumping and injury on data relating to defined periods which shall be the periods for which information is required by the Commission.

- i. for the purposes of an investigation of dumping, an investigation period shall normally cover twelve months preceding the month of initiation of the investigation for

⁴ In Pakistan the words HS are substituted by the words PCT, which is the abbreviation for Pakistan Customs Tariff.

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

- ii. for the purposes of an investigation of injury, the investigation period shall normally cover thirty-six months:

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

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

Investigation of dumping	from January 01, 2003 to December 31, 2003;
Investigation of injury	from July 01, 2000 to December 31, 2003.

7. Investigated Product, Like Product and Domestic Like Product

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

Investigated Product:

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

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 to those of the investigated product”.

Domestic Like Product:

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

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7.2 For the purposes of this investigation and given the definitions set out above, these products are identified as follows:

i. Investigated Product

The investigated product is Acrylic Tow, produced by the Producer and exported by the Exporters. It is classified under H S Code 5501.3000.

ii. Domestic Like Product

The domestic like product is Acrylic Tow produced by the domestic industry. It is classified under the same H S Code as the investigated product.

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

- i. Major raw materials used in the production of both, the domestic like product and the investigated product, are itemized as follows: Acrylonitrile (ACN), Methylene Acrylate (MA), Di-Methyl Foramide (DMF), SAMPS (Sodium 2-Acrylamide, 2-Methyl Propane Sulphonic Acid) and Sodium Carbonate.
- ii. Acrylic Tow is a man-made continuous filament. It is mainly used as an alternative/substitute for natural wool. It is an industrial raw material. Major uses of Acrylic Tow are in the production of carpets and blankets.
- iii. Both, the domestic like product and the investigated product have same uses, as in (ii) above.
- iv. The investigated product and the domestic like product are classified under the same H S Code 5501.3000.

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The Commission has therefore, determined that the investigated product and the domestic like product are like products.

8. Negligible volume of Imports

8.1 In terms of Section 41(3) of the Ordinance and Article 5.8 of Agreement on Antidumping, 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 three percent of total imports of the like product. In this regard, data and information received from PRAL reveals that the volume of imports of the investigated product from the Exporters accounts for just over eighteen percent (18.13%) of the total imports of Acrylic Tow into Pakistan during the POI, which percentage is above the negligible volume (less than three percent) of imports.

9. Information/Data Gathering

9.1 The Commission sent questionnaires for submission of data and information by the Exporters and the Producer (hereinafter referred to as the "Questionnaire(s)"), on March 18, 2004 to the Embassy of Uzbekistan and asked it to ask the Exporters and the Producer to respond to the Commission within 37 days of the dispatch of the Questionnaires. On March 18, 2004 Questionnaires were also sent to Pakistani importers known to the Commission and these importers were requested to respond to the Commission within 37 days of the dispatch of the Questionnaires.

9.2 Neither the Exporters nor the Producer responded to the Commission's Questionnaire within the prescribed time period. None of the Pakistani importers responded to the Questionnaire. The Commission after expiry of the time period given to the Exporters and the Producer to respond, informed the Embassy of Uzbekistan through its letter of May 6, 2004 that the Commission is constrained to reach preliminary 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.

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9.3 The Commercial Counselor from the Embassy of Uzbekistan, qua representative of Government of Uzbekistan (which is an interested party), visited the Commission on May 25, 2004 and provided some information (in English language) and stated that other relevant documents on this subject will be forwarded to the Embassy of Pakistan in Tashkent. The information supplied is reproduced as follows:

- “1. The Enterprise – Manufacturer of acrylic fiber in Uzbekistan is open joint – stock company “Navoiy Azot” (Republic of Uzbekistan, Novoiy city, 5);
2. Joint – Stock Company with the following shares: state –51 %, foreign investor – 49 %. The basic products of the Company are mineral fertilizers, acrylic fibers, acetic acid, caustic natron, cyanogens salt etc.;
3. The related companies on acrylic fiber production in Central Asia region do not exist. The difference in the price with other regions (Russia) developed according to the various factors including cost price, conditional – constant charges, transport expenses etc.
4. The code of acrylic Tow is TH B?A – 650130 000;
5. JSC “ Navoiy Azot” did not realize an acrylic TOW to the consumers in Pakistan on any conditions, and also there was no any contractual partnership with the consumers both inside Pakistan, and with their distributors;
6. The passport of quality on a concrete lot determines the quality of an acrylic fiber;
7. The reclamation/claim on quality or shortage of production from the consumers has never received;
8. The contracts on delivery of acrylic fiber to Pakistan did not concluded;

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9. The distribution channels, on which the acrylic TOW goes to Pakistan, are unknown and presumably they are from outside of the Republic of Uzbekistan;
10. It is not obviously possible to present the price – lists at the moment of sale of an acrylic fiber to Pakistan in view of absence of the fact of sale or presence of the appropriate contracts;
11. The reason of the discounts and concessions for the price and also name and legal addresses of buyers, contracts and deliveries of acrylic TOW are the commercial secret of the Enterprise. The confidential terms of the contracts with the partners can not be disclosed without their consent and for the reason of not having them any relation to the deliveries to the market of Pakistan;
12. The material and labor expenses are the basis for the formation of the cost price of the goods. It depends on significant number of the factors, it may be various according to the month of delivery and therefore the concrete indication of delivery period is required;

The Technical requirements of an acrylic fiber and polyacrylic braid of the mark “A – 1”, “A –2” TU UZ 6.1 – 10 – 95. Contract № 9903/2 from 19.03.99 with the appendixes and conclusion of a commission of experts, contract № 211 H/2002 from 12-02-2002 with the appendixes and conclusion of a commission of experts, information about transportation, insurance, loading etc. and about export of an acrylic TOW to the “Pumice Trading Corporation” for the period of 2000 –2003rr., as well as certificate of quality of production (total on 29 pages) will be sent through the Embassy of Pakistan in Tashkent”.

9.4 The Commission on June 24, 2004 received a letter from the Commercial Section of Embassy of Pakistan, Tashkent enclosing copies of the documents received from the Ministry of Foreign Affairs, Uzbekistan (on behalf of Government of Uzbekistan, being an interested party). The documents received are in Russian language, however, a

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translation in English language of the covering letter was also supplied. The information given in the English translation is reproduced as follows:

- “- Manufacturer of acrylic fiber – “Navoiazot” open stock company (5, Navoi city, Republic of Uzbekistan);
- State share of stock constitutes 51%, foreign investors share is 49%. Main production – mineral fertilizers, acrylic fiber, vinegar acid, acrid natrium, cyanic salt, etc.;
- There are no related companies producing acrylic fiber in Central Asia. The difference in prices with other regions (Russia) is compounded of such factors as cost of manufacture, fixed and variable expenditures, transportation expenditures, etc.;
- Custom code – 550130 000 acrylic fiber;
- “Navoiazot” open stock company did not sell acrylic fiber to consumers in Pakistan under any terms, and did not conduct any contract relations either with consumers in Pakistan or with their distributors;
- The quality of the manufactured acrylic fiber is identified by the passport of quality given to the concrete lot of the product;
- There has been no reclamations or claims on shortage or quality of the product from consumers;
- No contracts were signed to supply acrylic fiber to Pakistan;
- Distribution channels delivering acrylic fiber to Pakistan have not been identified. Supposedly they are beyond the borders of the Republic of Uzbekistan;
- It is impossible to present price-lists effective at the moment of sale of acrylic fiber to Pakistan due to non-

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existence of the fact of sale or availability of corresponding contracts;

- The grounds for discounts on the price as well as names and juridical addresses of buyers, contracts and delivery of acrylic fiber are a commercial secret of the enterprise and are confidential under the terms of contracts signed with partners and cannot be disclosed without their consent as having no relation to the supply of the product to the Pakistani markets;
- Material and labor expenditures are the base for the calculation of cost of manufacture of the product, depend on a significant number of factors, vary by months, indication of a concrete period is needed.
- Also enclosed are the technical requirements on fiber and polyacrylic braid of type "A-1", "A-2" TY Uz 6.1-10-95, contract No. 9903/02 dd. 19.03.1999 with attachments and assertion of the expert commission, contract No. 211 H/2002 dd. 12.02.2002 with attachments and assertion of the expert commission, information on transportation, insurance, loading and other conditions, information on the export of the fiber to "Pumice Trading Corporation" for the period 2002-2003, certificate of quality (total of 29 pages)."

9.5 The information received was scrutinized and it was found that this was not a response to the Questionnaire (sent to the Government of Uzbekistan for the exporters/producer), and was not relevant to the investigation. Although the information provided was received well after the expiry of the time period provided by the Commission to respond to the Questionnaires, the Commission on June 30, 2004 once again asked the Embassy of Uzbekistan in Islamabad, to ask the Producer and the Exporters to provide information requested for in the Questionnaire, latest by July 10, 2004. On July 08, 2004, the Commission received information from the Producer. Analysis of that information revealed the following:

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- i. The Producer exported Acrylic Tow and Acrylic Fiber through other companies.
- ii. During the year 2003 major exports of Acrylic Tow were to Iran and Pakistan.
- iii. During the year 2003, the Producer exported Acrylic Fiber to four countries (Iran, Kazakhstan, Turkey, Kirghizia.).
- iv. Paradoxically, the export price of Acrylic Fiber, charged by the Producer, was lower than the export price of Acrylic Tow (being the input for Acrylic Fiber).

It is worth mentioning here that the Producer did not submit any evidence in support of the information given above.

9.6 The Commission acknowledged receipt of the information supplied by the Producer (presumably in response to the Questionnaire) and informed the Producer of reliance on the Best Available Information, vide letter dated July 16, 2004 as the Producer's reply did not provide the information asked for in the Questionnaire.

9.7 The Commission maintains a database of import statistics, obtained on quarterly basis, from Pakistan Revenue Automation Limited ("PRAL"), the data processing arm of the Central Board of Revenue, Government of Pakistan. For the purpose of this preliminary determination the Commission has used import data obtained from PRAL in addition to the information provided by the Applicant.

9.8 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, is required to satisfy itself as to the accuracy of information supplied by the interested parties. In this connection, on-the-spot investigation was conducted at the premises of the Applicant from April 19 to 21, 2004, in order to verify the information provided by the Applicant and to obtain further information.

10. Submissions by the Exporters and the Producer

10.1 As stated in paragraph 9.2 supra, the Commission did not receive any response from the Exporters at all. The Producer did not respond within the stipulated time period, however, subsequently the Commission received some information from the Producer, which was not response to the Questionnaire (The submissions by the Producer are discussed in detail in paragraphs 9.4 and 9.5 supra).

11. Submissions by the Importers/Industrial Users

11.1 The Commission sent Questionnaires to nineteen importers of the investigated product (identified by the Applicant in the application and others who registered themselves as interested parties in response to the Notice of Initiation) on March 18, 2004. The Commission did not receive a response from any of these importers. However, comments were received from Frontier Woollen Mills Limited and Gujranwala Chamber of Commerce & Industry (neither of the two is an interested party in this case), which are set out below:

Frontier Woollen Mills Ltd.

“We wish to advise that it is not true that acrylic fiber is being dumped from Uzbekistan into Pakistan.

If you kindly notice from shipment made from Accordis (Courlandus) UK that even most reputable, authentic & known best for their integrity through out the world have actually been supplying tow at as low rates as USD\$ 1.05/Kg. Similarly, acrylic fiber from other suppliers has also been imported at much lower prices.

The fact of the case is even if you kindly look into the prices of the only acrylic fiber manufacturer in Pakistan, their export prices are less than half of the price they sell locally in Pakistan. The monopolistic approach of this supplier has totally disrupted and destroyed the worsted spinners of acrylic fiber in Pakistan and has already caused more than 50% loss of jobs in this area.”

Gujranwala Chamber of Commerce & Industry

“According to the various spinning mills using acrylic tow the antidumping duties on the import of acrylic tow from Uzbekistan or any other origin is not justifiable. According to our members, this will only lead to monopolized conditions and unrealistic protection to a single producer of acrylic tow and fiber in Pakistan.

The custom authorities have their own system and checks for the valuation of any imported material which they are enforcing very successfully, as such, any imposition of antidumping duty on imported material of any origin will damage the operation of hundred’s of mills engaged in the production of acrylic yarn and fiber throughout Pakistan”.

12. Preliminary Determination

12.1 The Commission made its preliminary determination in this case on August 12, 2004 and in terms of Section 37 of the Ordinance and Article 12.2 of Agreement on Antidumping, the Commission issued a notice of preliminary determination (“notice of preliminary determination”) which was published in the official Gazette of Pakistan⁴ and in two widely circulated national newspapers⁵ (one English language and one Urdu Language) notifying the imposition of provisional antidumping duty on the investigated product @ 12.71 percent ad val of C&F price importable from the Exporter, for a period of four months effective from August 13, 2004. The Commission, besides sending the notice of preliminary determination to the Embassy of Uzbekistan, also sent the notice of preliminary determination to the Producer, the known Pakistani importers, and the Applicant in accordance with the requirements of Section 37(4) of the Ordinance and Article 12.2 of Agreement on Antidumping. The findings of the Commission in the preliminary determination were as follows:

- i. the application was lodged by the domestic industry producing like product;

⁴ The official Gazette of Pakistan (Extraordinary) of August 13, 2004 issue.

⁵ ‘Dawn’ and ‘Express’ of August 13, 2004 issue.

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- ii. the investigated product and the domestic like product are like products;
- iii. during the POI, the investigated product was exported to Pakistan by the Exporters, at prices below its normal value;
- iv. the volume of dumped imports of investigated product was not negligible, and the dumping margin established on the basis of the analysis, is above the *de minimis* level;
- v. the domestic industry suffered material injury during the POI;
- vi. material injury to domestic industry was mainly due to dumped imports of the investigated product; and
- vii. the dumping margin expressed as a percentage of weighted average C&F export price works out to be 12.71 percent for the Exporters of the investigated product.

13. Comments/written Submissions on Preliminary Determination

13.1 The Commission did not receive any comment/written submission from any interested party on the preliminary determination made by the Commission in this investigation.

14. Hearing

14.1 The Commission is required to hold a hearing in accordance with Rule 14 of the Rules if any interested party requests for it within 30 days of the publication of the notice of preliminary determination. No such request for hearing in this investigation was received by the Commission.

15. Disclosure of Essential Facts

15.1 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 October 22, 2004 to all interested parties including the

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Applicant, the Producer, the importers/industrial users and to the Embassy of Uzbekistan in Pakistan.

15.2 Under Rule 14(9) of the Rules, the interested parties were required to submit their comments (if any) on the information disclosed in SEF, in writing, not later than fifteen days of such disclosure. None of the interested party submitted written comments on the SEF within the stipulated time period.

16. Examination of the Materials with the Commission

16.1 Responses to the Questionnaire, and other submissions filed before the Commission by the Applicant, data and information obtained during on-the-spot investigations; and data obtained from PRAL have been examined, analyzed, and, wherever appropriate, have been considered in making this final determination.

B. DUMPING

17. Determination of Dumping

17.1 In terms of Section 4 of the Ordinance and Article 2.1 of Agreement on Antidumping “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”.

18. Normal Value

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

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

However, Section 6 of the Ordinance states:

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“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:

the comparable price of the like product when exported to an appropriate third country provided that this price is representative;
or

the cost of production in the exporting country plus a reasonable amount for administrative, selling and general costs and for profits”.

18.2 As stated in paragraph 9.1 supra the Commission sent Questionnaires to the Exporters and to the Producer through the Embassy of Uzbekistan, Islamabad to gather information including data relating to their sales in the domestic market. None of the Exporters responded. The Producer in its response did not provide information relating to its domestic sales or cost of production. Thus, the normal value for the purposes of this preliminary determination is determined on the basis of the Best Information Available in terms of Section 32 of the Ordinance and Article 6.8 and Annex II of the Agreement on Antidumping. Section 32 of the Ordinance provides as follows:

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

- (a) refuses access to, or otherwise does not provide, necessary information within the period of time as may be prescribed;
or
- (b) otherwise significantly impedes the investigation, the Commission may reach preliminary and final determinations, whether affirmative or negative, on the basis of the best information available”.

18.3 It is important to identify here that the Commission informed the Producer as well as the Exporters through the Embassy of Uzbekistan of

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reliance on the Best Information Available in its letters of May 6, 2004 and June 30, 2004.

18.4 In order to determine the normal value on the basis of the cost of production, information/data submitted by the Applicant is used, in keeping with Paragraph 1 of Annex II of the Agreement on Antidumping. For this purposes, the cost of raw materials has been taken on the basis of actual CIF (Karachi) price paid by the Applicant in the year 2003. The actual cost incurred by the Applicant on: packing material, manufacturing salaries and wages, other factory overheads, administrative expenses, and selling and distribution expenses for production of the domestic like product in the year 2003 have been used for construction of the normal value. Normal profits @ 5 percent of cost to make and sell has been added to arrive at a constructed normal value.

19. Export Price

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

19.2 As stated in paragraph 9.2 supra, none of the Exporters responded to the Questionnaires. Therefore, the export price for the investigated product, for the purposes of this preliminary determination, is based on the information available to the Commission. To determine export price charged by the Exporters from Pakistani importers during the POI, the Commission has used the import data obtained from PRAL.

20. Dumping Margin

20.1 Section 12 of the Ordinance and Article 2.4.2 of Agreement on Antidumping provides three methods for fair comparison of normal value and export price in order to establish the dumping margin. The Commission has established the dumping margin by comparing constructed normal value with weighted average export price at CIF level.

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20.2 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 of the Ordinance and Article 6.10 of Agreement on Antidumping the Commission shall determine an individual dumping margin for each known exporter or producer of an investigated product. In this case, none of the Exporters and the Producer from Uzbekistan responded therefore dumping margin is determined on the basis of constructed normal value and weighted average export price for the total exports from Uzbekistan during the POI.

20.3 Taking into account all the requirements set out above the dumping margin for the Exporters and the Producer has been calculated by comparing constructed normal value with weighted average export price. On this basis the dumping margin works out to 12.71 percent of CIF export price.

C. INJURY TO THE DOMESTIC INDUSTRY

21. Determination of Injury

21.1 Section 15 of the Ordinance and Article 3 of Agreement on Antidumping, set out the principles for determination of material injury to the domestic industry and provides as follows:

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

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

Section 15 further provides that these factors are not exhaustive and the Commission may take into account such other factors as it considers relevant for determination of injury. 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.

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

22. The Domestic Industry

22.1 In terms of Section 2(d) of the Ordinance and Article 4.1 of Agreement on Antidumping, domestic industry is defined to mean the “domestic producers as a whole of a domestic like product or those of them whose collective output of that product constitutes a major proportion of the total domestic production of that product.”

22.2 The Applicant, being the only producer of Tow in Pakistan, represents the entire domestic industry (i.e. represents 100 percent of the domestic production) of Tow.

23. Volume of Dumped Imports

Facts

23.1 With regard to the volume of dumped imports, in terms of Section 15(2) of the Ordinance and Article 3.2 of Agreement on Antidumping, the Commission considered whether there has been a significant increase in dumped imports, either in absolute terms or relative to the consumption or production of the domestic like product by the domestic industry. The following table shows imports of the investigated product and production of the domestic like product by the domestic industry during the POI:

(MT)

Period	Dumped Imports*	Domestic Production*
Jul-Dec 2000	100.00	100.00
2001	389.50	184.09
2002	541.05	249.86
2003	437.95	172.95

* Figures are indexed with respect to actual figures of Jul-Dec 2000 by taking as base.

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23.2 Volume of dumped imports increased by 38.91 percent in the year 2002 as compared with the dumped imports in year 2001. Volume of dumped imports decreased by 19.06 percent in year 2003 as compared with dumped imports in the year 2002. Thus the total increase in dumped imports from the year 2001 to the year 2003 was 12.44 percent.

23.3 The production of the domestic like product increased by 35.73 percent in the year 2002 over the year 2001 and it decreased by 30.78 percent in the year 2003 as compared with the production in the year 2002. However, the decrease in domestic production of the like product from the year 2001 to the year 2003 was 6.05 percent.

Conclusion

23.4 On the basis of the above analysis, it is evident that the dumped imports increased in both absolute and relative terms, as compared with the production of domestic like product by the domestic industry. Thus the Commission has concluded that the domestic industry suffered significant material injury on account of dumped imports.

24. Price Effects

24.1 The effect of dumped imports on the prices of domestic like product has been examined in terms of Section 15(3) of the Ordinance and Article 3.2 of Agreement on Antidumping, by considering whether there has been significant **price undercutting** (the extent to which the price of the investigated product is lower than the price of domestic like product), **price depression** (the extent to which the domestic industry experiences a decrease in its selling prices), and **price suppression** (the extent to which an increase in the cost of production cannot be recovered by way of an increase in selling price).

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Price Undercutting

Facts

24.2 Data relating to the weighted average ex-factory price of the domestic like product was submitted by the Applicant and the landed cost of the investigated product was calculated from the import data obtained from PRAL. Comparison of weighted average ex-factory price of the domestic like product with the weighted average landed cost of the investigated product during the POI is given in following table:

(Rs./MT)

Period	Weighted Average ex-factory price of domestic like product*	Weighted Average landed cost of investigated product**	Price undercutting in	
			Absolute terms	Percentage
Jul-Dec 2000	100.00	87.80	12.20	12.20%
2001	99.45	89.48	9.97	10.03%
2002	99.11	78.80	20.31	20.49%
2003	106.06	74.32	31.74	29.92%

* Figures are indexed with respect to the actual figures of Jul-Dec 2000 by taking as base

** Figures are indexed with respect to the actual figures of weighted average ex-factory price of domestic like product for Jul-Dec 2000 by taking it as base.

Analysis

24.3 The investigated product undercut the average ex-factory price of domestic like product throughout the POI. In the year 2003 the price undercutting peaked at 29.92 percent.

Conclusion

24.4 On the basis of the above, the Commission has concluded that the domestic industry suffered material injury as the dumped imports of investigated product undercut the prices of domestic like product significantly during the POI.

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Price Depression

Facts

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

(Rs./MT)

Period	Weighted Average ex-factory price of domestic like product*	Price depression in Percentage terms
Jul-Dec 2000	100.00	-
2001	99.45	0.55%
2002	99.11	0.34%
2003	106.06	-

* Figures are indexed with respect to the actual figures of Jul-Dec 2000 by taking as base

Analysis

24.6 Analysis of the above facts shows that weighted average ex-factory price of domestic like product decreased slightly between the years 2001 and 2002. However, it jumped up significantly in the year 2003.

Conclusion

24.7 The Commission has concluded on the basis of the above analysis that the domestic industry did not experience price depression during the POI

Price Suppression

Facts

24.8 The following table shows the weighted average cost of production ("COP"), weighted average ex-factory sales price of the domestic like product, and price suppression experienced by the domestic industry:

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(Rs./MT)

Period	Weighted Average COP of domestic like product*	Weighted Average ex-factory price of domestic like product*	Price Suppression		
			Increase in COP	Increase in price	Price suppression
Jul-Dec 2000	100.00	100.00	-	-	-
2001	88.80	99.45	(11.20)	(0.55)	-
2002	88.58	99.11	(0.22)	(0.34)	-
2003	97.34	106.06	8.76	6.95	1.81

* Figures are indexed with respect to the actual figures of Jul-Dec 2000 by taking as base

Analysis

24.9 The above table shows that the average COP of domestic like product decreased by 11.20 percent in the year 2001 vis-à-vis previous year's COP. It decreased 0.24 percent in the year 2002 vis-à-vis previous year's COP. However, the COP of the domestic like product increased 9.89 percent in the year 2003 over the COP in the year 2002.

24.10 The weighted average ex-factory price decreased marginally between the years 2001 and 2002. However it increased by 7.02 percent in the year 2003 over the year 2002.

Conclusion

24.11 The Commission has concluded that the domestic industry has suffered material injury on account of price suppression during the year 2003 as the domestic industry was not able to recover its increased COP by way of an increase in its selling price.

25. Effect on Market Share and Sales

Facts

25.1 The domestic demand/supply of Acrylic Tow in Pakistan is met through sales by the domestic industry and imports. The domestic consumption/supply of Acrylic Tow is ascertained by combining the domestic industry's sales and total imports. The domestic market for Acrylic Tow during the POI is given in following table:

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(MT)

Period	Imports from		Sales by Domestic Industry*
	Dumped Source*	Other Sources*	
Jul-Dec 2000	100.00	100.00	100.00
2001	389.50	300.36	191.00
2002	541.05	495.99	224.98
2003	437.95	754.74	221.74

* Figures are indexed by taking the actual figures of Jul-Dec 2000 as base.

Analysis

25.2 The above table shows that the domestic industry was not able to maintain its market share while dumped imports were maintaining market share. The market share of imports from other sources has increased in the growing market.

Conclusion

25.4 On the basis of the above analysis, the Commission has concluded that the domestic industry has partially suffered material injury in terms of market share from dumped imports, as dumped imports increased in absolute terms during the POI, thus maintained its market share in a growing market. However, larger share of the growing market was taken by imports from other sources.

26. Effect on Production and Capacity Utilization

Facts

26.1 The installed production capacity of the domestic industry to produce domestic like product and Acrylic Staple Fiber is 25,000 MT per annum. The Applicant is also using Acrylic Tow for production of Acrylic Staple Fiber. Based on the Applicant's requirements of in-house consumption the installed capacity for production of the domestic like product is estimated at *****MT per annum. The quantity produced and the capacity utilized during the POI is given in the table below:

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(MT)

Period	Capacity utilization
Jul-Dec 2000	64.45%
2001	59.32%
2002	80.52%
2003	55.73%

Analysis

26.2 It may be noted from the table above that the production of domestic industry increased during the year 2002 over the previous year. During the period examined, the domestic industry achieved its highest capacity utilization of 80.52 percent in the year 2002. However, capacity utilization decreased to 55.73 percent in the year 2003.

26.3 As mentioned in paragraph 25.2 supra, though the domestic market for Acrylic Tow grew by 43.11 percent from the year 2001 to the year 2003, the capacity utilization of the domestic industry decreased during the same period.

Conclusion

26.4 On the basis of the above analysis, the Commission has concluded that the domestic industry was not able to produce up to its potential, and, therefore, suffered material injury on account of low production level, and consequently low capacity utilization.

27. Effect on Inventories

Facts

27.1 The Applicant 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 table below:

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(MT)

Period	Opening Inventory*	Closing Inventory*
Jul-Dec 2000	100.00	96.22
2001	96.22	82.34
2002	82.34	97.90
2003	97.90	31.69

* Figures are indexed with respect to the actual figures of opening inventory for figures of Jul-Dec 2000 by taking as base

Analysis

27.2 The data given in table above shows that inventory level of domestic like product increased in the year 2002. However it decreased in the year 2003.

Conclusion

27.3 The Commission has concluded that the inventory level was high in the year 2002 but it decreased in the year 2003. Thus the domestic industry was not materially injured on account of inventories.

28. Effect on Profits/Loss

Facts

28.1 The Applicant's plant is a multi-product plant and its audited accounts show consolidated figures for profit/loss for all its products. However, the Applicant provided a separate Profit and Loss Account Statement (which reconciled with the consolidated figures) for the domestic like product. The table below shows the Profit and Loss figures of the domestic industry for the POI:

Period	Loss (Rs)*
Jul-Dec 2000	100.00
2001	147.23
2002	127.34
2003	122.43

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Analysis

28.2 The domestic industry suffered heavy losses on production and sale of the domestic product through out the POI, as is evident from the table above. However there was a decreasing trend in the amount of annual loss over the POI.

Conclusion

28.3 The Commission has concluded that the domestic industry was injured materially on account of dumping as it incurred significant losses during the POI.

29. Effect on Employment, Productivity and Wages

Facts

29.1 There were 1190, 1193, 1184 and 1195 employees working in domestic industry during the years 2000, 2001, 2002, and 2003 respectively.

29.2 The number of employees of the domestic industry did not change materially during the POI, as, according to the Applicant, the same number of employees was required to run the plant. The effects on productivity, salaries and wages of the domestic industry were as follows:

Period	No. of Employees*	Total salaries and wages (RS)*	Domestic production (MT)*	Productivity per worker (MT)*	Salaries & wages Rs. per MT*
Jul-Dec 2000	100.00	100.00	100.00	100.00	100.00
2001	100.25	154.74	184.09	91.88	84.04
2002	99.50	116.65	249.86	125.60	46.68
2003	100.42	89.68	172.95	86.16	51.85

* Figures are indexed with respect to the actual figures Jul-Dec 2000 by taking as base

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Analysis

29.3 The above table shows that the productivity per worker increased during the year 2002, but decreased in the year 2003. Similarly the cost of salaries and wages per MT for production of domestic like product decreased in the year 2002, but increased in the year 2003 mainly due to reduction in production.

Conclusion

29.4 Based on the above analysis, the Commission has concluded that the domestic industry was materially injured during the POI on account of productivity and payment of salaries and wages, as the productivity per worker decreased while cost of salaries and wages per MT increased in the year 2003 as compared with the productivity and salaries and wages in the year 2002.

30. Effect on Return on Investment

Facts/ Analysis

30.1 As per the information provided by the Applicant, the return on investment in the year 2001 was 4.52%, in the year 2002 was 3.8%, in the year 2003 was 0.53% and was 0.001% in the first half of 2003-04.

Conclusion

30.2 The Commission concluded that the domestic industry's return on investment declined due to dumped imports of the investigated product.

31. Effect on Cash Flow

Facts/ Analysis

31.2 Examination of the data in the above table shows that the cash flow position of the domestic industry deteriorated in the year 2002 after showing improvement in the year 2001. It further deteriorated during the year 2003.

Conclusion

31.3 The Commission has concluded that there was a negative effect on the cash flow during the POI. Hence the domestic industry has suffered material injury in terms of cash flow due to dumping.

32. Effect on Investment and Growth

Facts/Analysis

32.1 The information provided by the Applicant reveals that no additional investment was made in the Tow plant during the POI. The Applicant had a plan to expand the plant and there is an expectation of continuing growth in domestic market of Tow, but that planned investment had to be postponed due to the losses incurred by the domestic industry. There was no growth in the capital expenditure as well as production capacity of the domestic industry during the POI.

Conclusion

32.2 The Commission considered the above facts and found that domestic industry suffered material injury as the domestic industry was unable to make further investment due to loss suffered on account of dumping of the investigated product.

33. Ability to Raise Capital

Facts/Analysis

33.1 The Applicant has alleged difficulty in raising capital as it is claimed that sustained losses have made investors and financial institutions reluctant to fund what appears to be an unviable proposition.

Conclusion

33.2 The Commission considered the above allegation. However, as no supporting evidence was provided, it could not conclude that the

domestic industry suffered material injury on part of ability to raise capital.

34. Magnitude of Dumping Margin

33.1 As regards the impact on the domestic industry of the magnitude of the dumping margin set out in paragraph 20 supra, given the volume and the prices of the imports from the Exporters, this impact cannot be considered to be negligible.

35. CONCLUSION OF MATERIAL INJURY ANALYSIS

35.1 The Commission has concluded on the basis of the analysis that the domestic industry suffered material injury in terms of Section 15 and 17 of the Ordinance and Article 3 of Agreement on Antidumping due to dumped imports of investigated product during POI, with regard to the following factors:

- i. Increase in volume of dumped imports;
- ii. Price undercutting;
- iii. Price suppression;
- iv. Decline in market share;
- v. Decline in production and capacity utilization;
- vi. Significant losses on its operations;
- vii. Decline in productivity;
- viii. Negative effect on return on investment;
- ix. Negative effect on cash flow;
- x. Negative effect on investment and growth; and
- xi. Significant magnitude of dumping margin.

36. Other Factors

36.1 In accordance with Section 18(2) of the Ordinance and Article 3.5 of Agreement on Antidumping, the Commission also examined factors, other than dumped imports, which could at the same time cause injury to the domestic industry, in order to ensure that possible injury caused by other factors is not attributed to the injury caused by dumped imports.

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36.2 Imports from other sources were also causing injury to the domestic industry during the POI. However injury caused by imports of Acrylic Tow from other sources was comparatively less than the material injury caused by the dumped imports, because the weighted average CIF export price of “other imports” was 18.41 percent higher than the weighted average export price of the investigated product in the year 2003.

D. CONCLUSIONS

37. The conclusions after taking into account all considerations for this Final determination are as follows:

- i. the Applicant represents the domestic industry being the sole producer of domestic like product;
- ii. the investigated product and the domestic like product are like products;
- iii. during the POI, the investigated product was exported to Pakistan by the Exporters, at prices below its normal value;
- iv. the volume of dumped imports of the investigated product and the dumping margins established on the basis of the foregoing analysis, are above the *de minimis* levels;
- w. the domestic industry suffered material injury during the POI;
- vi. material injury to domestic industry was mainly due to dumped imports of the investigated product; and
- vii. the dumping margin expressed as a percentage of weighted average CIF export price works out to 12.71 percent.

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E. IMPOSITION OF DEFINITIVE ANTIDUMPING DUTY

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

39. In terms of Section 50 of the Ordinance and Article 9 of Agreement on Antidumping, a definitive antidumping duty is hereby imposed on the investigated product (Acrylic Tow) @ 12.71 percent ad val of C&F price importable from the Exporter and/or the Producer for a period of five years effective from August 13 2004. The investigated product is classified under PCT heading No.5501.3000. The definitive antidumping duty at the rate of 12.71 percent of C&F price is equivalent to the definitive dumping margin determined at ex-factory price level.

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

41. Exporters of Acrylic Tow from Uzbekistan other than the Exporters and the Producer specified in paragraph 3 above would not be subject to this definitive antidumping duty.

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

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

44. The Commission had imposed a provisional antidumping duty on the investigated product @ 12.71 percent ad val of C&F price importable from the Exporters and/or the Producer for a period of four months

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effective from August 13, 2004. In terms of Section 55(2) of the Ordinance and Article 10.3 of Agreement on Antidumping, if the definitive antidumping duty is lower than the amount of provisionally determined antidumping duty, the difference shall be refunded by the Commission within forty-five days of the final determination. Since provisional antidumping duty imposed by the Commission on August 13, 2004 and the definitive antidumping duty imposed on December 10, 2004 are equal, no claim for refund of antidumping duty shall be entertained with respect to the import of the investigated product.

(Muhammad Ikram Arif)
Member
December 09, 2004

(Faizullah Khilji)
Chairman
December 09, 2004