



**Government of Pakistan
National Tariff Commission**

REPORT

ON

**FINAL DETERMINATION AND LEVY OF DEFINITIVE ANTI-DUMPING DUTY
ON IMPORTS OF SORBITOL 70% SOLUTION INTO PAKISTAN ORIGINATING
IN AND/OR EXPORTED FROM THE REPUBLIC OF INDIA**

A.D.C No. 32/2015/NTC/SB

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The National Tariff Commission (hereinafter referred to as the “Commission”) having regard to the Anti-Dumping Duties Act, 2015 (hereinafter referred to as the “Act”) 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 anti-dumping 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”).

2. The Commission has conducted this investigation against dumped imports of Sorbitol 70% Solution, (hereinafter referred to as “Sorbitol”) into Pakistan Originating in and/or exported from the Republic of India (“India”), under the Act and the Rules. The Commission has made final determination in this investigation under Section 39 of the Act. This report on final determination has been issued in accordance with Section 39(5) of the Act and Article 12.2 of the Agreement on Antidumping.

3. In terms of Section 39(1) of the Act, the Commission shall make a final determination of dumping and injury within one hundred and eighty days of publication of a notice of preliminary determination in the official Gazette. Notice of preliminary determination in this investigation was published in Official Gazette on August 25, 2015 and provisional anti-dumping duties under Section 43 of the Anti-Dumping Duties Ordinance, 2015 (The Ordinance) (now the Act) for a period of four months i.e. till December 24, 2015.

A. PROCEDURE

4. The procedure set out below has been followed with regard to this investigation.

5. Receipt of Application

5.1 On February 22, 2015, the Commission received a written application under Section 20 of the Ordinance, 2015 from Habib-ADM Limited, 2nd Floor, UBL Building, I.I, Chundrigar Road, Karachi (the “Applicant”). The Applicant has alleged that Sorbitol originating in and/or exported from India is being dumped into Pakistan, which has caused and is causing material injury to the domestic industry producing Sorbitol.

5.2 The Commission informed the High Commission of India in Islamabad through note verbale dated February 23, 2015, of the receipt of application in accordance with the requirements of Section 21 of the Ordinance (now the Act).

6. Evaluation and Examination of the Application

The examination of the application showed that it met the requirements of Section 20 of the Ordinance (now the Act) as it contained sufficient evidence of dumping of Sorbitol into Pakistan from the India and material injury to the domestic industry caused therefrom. Requirements of Rule 3 of the Rules, which relate to the submission of information prescribed therein were also found to have been met.

7. The Domestic Industry

7.1 Section 2(d) of the Act defines domestic industry as:

“domestic industry” means the domestic producers as a whole of a domestic like product or those of them whose collective output of that product constitutes a major proportion of the total domestic production of that product, except that when any such domestic producers are related to the exporters or importers, or are themselves importers of the allegedly dumped investigated product in such a case “domestic industry” shall mean the rest of the domestic producers”.

Explanation.- For the purposes of this clause, producers shall be deemed to be related to exporters or importers only if;

- (i) one of them directly or indirectly controls the other;*
- (ii) both of them are directly or indirectly controlled by the same third person; or*
- (iii) together they directly or indirectly control a third person;*

Provided that there are grounds for believing or suspecting that the effect of the relationship is such as to cause the producer concerned to behave differently from non-related producers and for that purpose one shall be deemed to control another when the former is legally or operationally in a position to exercise restraint or direction over the latter”.

7.2 The domestic industry manufacturing Sorbitol comprises of only one unit, the Applicant (Habib-ADM Limited).

7.3 The Applicant produces and markets a wide range of rice based starch sugars, protein concentrates, and derivatives since 1982. The Applicant is engaged in the

manufacturing, marketing and distribution of Sorbitol. The Applicant is neither related to importers and exporters nor did it import Sorbitol itself during the POI.

8. Standing of the Application

8.1 In terms of Section 24(1) of the Act,

".... an application shall be considered to have been made by or on behalf of the domestic industry only if it is supported by those domestic producers whose collective output constitutes more than fifty percent of the total production of a domestic like product produced by that portion of the domestic industry expressing either support for or opposition to the application."

Furthermore, Section 24(2) of the Act 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."

8.2 As stated above (paragraph 7.2 supra) the domestic industry of Sorbitol comprises of only one unit i.e. the Applicant. The application has been filed by the Applicant, who is the only producer of the domestic like product. The application fulfills the requirement of section 24 (2) as the Applicant represents 100 percent of domestic production. On the basis of this, it is determined that the application is made by or on behalf of domestic industry as it fulfills the requirements of Section 24 of the Act.

9. Applicant's Views

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

- i. Sorbitol imported from India into Pakistan and Sorbitol produced in Pakistan by the domestic industry are like products;
- ii. Exporters/producers from India are exporting Sorbitol to Pakistan at dumped prices; and
- iii. Exports of Sorbitol by the exporters/producers from India to Pakistan at dumped prices has caused and is causing material injury to the domestic industry producing Sorbitol mainly through:-
 - a. Volume of dumped imports
 - b. Price undercutting;

- c. Price Suppression;
- d. Price depression;
- e. Decline in market share;
- f. Negative effect on sales;
- g. Decline in profit;
- h. Negative effect on capacity utilization;
- i. Negative effect on cash flow;
- j. Negative effect on return on investment;
- k. Negative effect on employment; and
- l. Negative effect on ability to raise capital

10. Exporters/Foreign Producers of Sorbitol

10.1 The Applicant has identified 4 exporters/producers involved in dumping of the investigated product from India. The Applicant has stated that there may be other exporters and foreign producers of the investigated product in India, which are not known to it. Therefore, the Applicant has requested for imposition of antidumping duty on all imports of the investigated product originating in and/or exported from India.

11. Initiation of Investigation

11.1 The Commission, in accordance with Section 23 of the Ordinance (now the Act) examined the accuracy and adequacy of the evidence provided in application, and established that there was sufficient evidence of dumping of Sorbitol into Pakistan from India and consequent material injury to the domestic industry. Thus initiation of the investigation was justified. Consequently, the Commission issued a notice of initiation in accordance with Section 27 of the Ordinance (now the Act), 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 March 29, 2015. Investigation concerning dumped imports of Sorbitol into Pakistan {classified under PCT No³. 2905.4400 and 3824.6000} originating in and/or exported from India was thus initiated on March 29, 2015.

11.2 In pursuance of Section 27 of the Ordinance (now the Act), the Commission notified High Commission of India in Islamabad of the initiation of investigation (by sending a copy of the notice of initiation) on March 30, 2015 with a request to forward it

¹ The official Gazette of Pakistan (Extraordinary) dated March 29, 2015.

² The 'DailyNews' and the 'Daily Express' of March 29, 2015 issue.

³ PCT heading in Pakistan is equivalent to Harmonized Commodity Description and Coding System up to six-digit level.

to all exporters/producers involved in production, sales and export of Sorbitol from India. Copy of the notice of initiation was also sent to known exporters/producers and importers of Sorbitol from India whose addresses were available with the Commission on March 30, 2015.

11.3 In accordance with Section 28 of the Ordinance, on April 1, 2015 the Commission sent copy of full text of the written application (non-confidential version) and Exporter's Questionnaire to known exporters/producers of Sorbitol in India, on available addresses. Further, on the same date copy of the full text of the written application along with Exporter Questionnaire were also sent to High Commission of India in Pakistan with a request to forward it to all exporters/producers involved in production and/or sale/export of Sorbitol from India.

12. Investigated Product, Domestic Like Product and Like Product

12.1 Section 2 of the Act defines investigated product, domestic like product and 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".

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

12.2.1 Investigated Product:

12.2.1.1 The investigated product is Sorbitol imported from India. Sorbitol is a sugar alcohol classified as a "polyhydric alcohol" (polyol). Polyols are starch sugars, which have been hydrogenated under carefully controlled conditions to enable hydrogen atoms to bind with specific carbohydrates. Other polyols include maltitol, xylitol and mannitol. It is classified under PCT Heading Nos. 2905.4400 and 3824.6000.

12.2.1.2 Sorbitol is one of the most versatile polyol with a wide range of applications in food, pharmaceuticals, cosmetics and textiles. In food industry, sorbitol is used to add body, texture and sweetness as well as to reduce the undesirable aftertaste of saccharin. It is also used as a sweetener in low calorie confectionery for diabetic consumers. In pharmaceuticals, the sorbitol is used as a carrier and bodying agent in products such as coughs syrups, toothpaste and skin ointments. The cosmetic industry uses sorbitol in shampoos and facial creams, whereas its applications in textiles include dry-cleaning and bleaching process.

12.2.1.2 Tariff structure during the last three years applicable on import of Sorbitol is given in the following table:

**Table-I
Tariff Structure**

S. #	Period	Customs Duty (MFN)	Customs Duty under SAFTA	Sales tax
1	2011-12	20%	5%	17%
2	2012-13	20%	5%	16%
3	2013-14	20%	5%	17%

12.2.2 **Domestic Like Product**

12.2.2.1 The domestic like product is Sorbitol manufactured by domestic industry. It is classified under Pakistan Customs Tariff Heading Nos. 2905.4400 and 3824.6000. Its major input is dextrose (liquid glucose). It is used in food, pharmaceutical, cosmetics and textile industries. The domestic industry uses similar technology (production process), which is used by the Indian producers of sorbitol. It contains the same technical specifications that are of sorbitol exported by Indian exporters/producers into Pakistan

12.2.2.2 Domestic like product is mainly used in food, pharmaceuticals, cosmetics and textile. In food industry, it is used to add body, texture and sweetness as well as to reduce the undesirable aftertaste of saccharin. It is also used as a sweetener in low calorie confectionery for diabetic consumers. In pharmaceuticals, the sorbitol is used as a carrier and bodying agent in products such as coughs syrups, toothpaste and skin ointments. The cosmetic industry uses sorbitol in shampoos and facial creams, whereas its applications in textiles include dry-cleaning and bleaching process.

12.2.3 **Like Product:**

Sorbitol produced by the domestic industry and imported from India is comparable in terms of physical and chemical characteristics, product specifications,

chemical formulation, end uses and tariff classification of the goods etc. Investigated product and domestic like product are technically and commercially substitutable. Domestically produced Sorbitol and imported Sorbitol are classified under the same PCT/HS Heading No. 2905.4400 and 3824.6000.

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

13. Period of Investigation

13.1 In terms of Section 36 of the Act, Period of Investigation (hereinafter referred to as "POI") is:

- 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 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 the available information regarding domestic industry and an investigated product".

13.2 The Commission received the application on February 22, 2015 and initiated the investigation on March 29, 2015. The applicant has provided the information/ data up to December 31, 2014 in the application. Therefore, to fulfill the requirement of Section 36 of the Ordinance (now the Act), the POI selected by the Commission for dumping and injury are, as follows:

For determination of dumping: From January 1, 2014 to December 31, 2014
For determination of injury: From January 1, 2012 to December 31, 2014

14. Information/Data Gathering

14.1 The Commission sent Exporter's Questionnaire to four exporters/foreign producers from India, on April 1, 2015 for collection of data and information. Applicant identified following four exporters from India involved in dumping of Sorbitol;

- i. Kasyap Sweetners Limited, No. 20C, Phase I, Near UPL, GIDC , Vapi - 396195, Gujarat, India.
- ii. Gulshan Polyols Limited, G-81, Preet Vihar, Delhi - 110092, Delhi, India.

- iii. Kasyap Sweetners Limited, Marthanda Building, 84 Dr Annie Besant Road, Worli Naka, Mumbai 400018, India.
- iv. Maize Products, P. O. Kathwada-Maize Products, Ahmedabad - 382430, Gujarat, India.

14.2 The exporters/producers were asked to respond within 37 days of dispatch of the Questionnaire. On April 1, 2015 the Questionnaire was also sent to the High Commission of India in Islamabad with a request to forward it to all the exporters/producers of the investigated product in India.

14.3 The exporters/producers namely, Kasyap Sweetners Limited, Gulshan Polyols Limited and Maize Products requested for extension in time for submission of the information/data in response to Commission's letter dated April 1, 2015. The Commission accordingly accorded extension up to May 23, 2015 for submission of information. However, even after the expiration of extended time no information/data was provided by the exporters/producers from India.

14.4 The Commission sent letters to four exporters/producers and the High Commission of India on June 9, 2015; (on expiry of 37 days period and extension granted) stating that so far no response has been received from exporters/producers on the Exporter's Questionnaire. The exporters /producers were advised to submit the data on prescribed questionnaire otherwise the Commission would be constrained to make preliminary and final determinations of dumping in this investigation on the basis of best information available including those contained in the application submitted by the domestic industry, in terms of Section 32 of the Act.

14.5 On April 1, 2015 Questionnaires were also sent to 17 Pakistani importers of the investigated product known to the Commission and these importers were asked to respond within 37 days of dispatch of the Questionnaires. Two importers submitted data/information on prescribed questionnaire.

14.6 The Commission has access to database of import statistics of Pakistan Revenue Automation Limited ("PRAL"), the data processing arm of the Federal Board of Revenue, Government of Pakistan. For the purpose of this determination the Commission has used import data obtained from PRAL in addition to the information provided by the Applicant.

14.7 Interested parties were also invited to make their views/comments and submit information (if any) relevant to this investigation within 45 days of initiation of investigation. Few interested parties have made comments /submitted information which has also been considered while making this determination.

14.8 In addition to above a hearing in terms of Rules 14 of the Rules was given to the interested parties in which they submitted the information before the Commission on October 19, 2015.

14.9 Thus, the Commission has sought from all available sources the relevant data and information deemed necessary for the purposes of final determination of dumping and injury therefrom in this investigation

15. Verification of the Information

15.1 In terms of Sections 32(4) and 35 of the Act and Rule 12 of the Rules, during the course of an investigation, the Commission shall satisfy itself as to the accuracy of the information and for this purpose verify the information supplied by the interested parties. Accordingly the Commission has satisfied itself to the accuracy and adequacy of information supplied by the interested parties for the purposes of this determination.

15.2 In order to verify information/data provided by the Applicant and to obtain further information (if any), officers of the Commission conducted on-the-spot investigation at the office and plant of the Applicant from May 4 to 6, 2015.

16. Public File

16.1 The Commission, in accordance with Rule 7 of the Rules, has established and maintained a public file at its office. 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 (except public holidays). This file contains non-confidential versions of the application, responses to the questionnaires, submissions, notices, correspondence, and other documents for disclosure to the interested parties.

17. Confidentiality

17.1 In terms of Section 31 of the Act, the Commission shall keep confidential any information submitted to it, which is by nature confidential, or determined by the Commission to be of confidential nature for any other reason, or provided as confidential by parties to an investigation, upon good cause shown to be kept confidential.

17.2 The Applicant has requested to keep confidential the information, which is by nature confidential in terms of Section 31 of the Act. This information includes data relating to sales, sale prices, cost to make and sell, inventories, production, profit/(loss), return on investment, cash flow, growth, investment, salaries & wages, number of

employees and capacity.

17.3 On the basis of request made by the Applicant, the Commission has determined the confidentiality in light of Section 31 of the Act and for the reasons that disclosure of such information may be of significant competitive advantage to a competitor, or because its disclosure would have a significant adverse effect upon the interested parties providing such information. Therefore, the Commission kept all such information confidential for which the Applicant made a request to keep it confidential.

17.4 However, in terms of Sub-Section (5) of Section 31 of the Act, non-confidential summaries of all confidential information, which provides reasonable understanding of the substance, have been placed in public file.

18. Preliminary Determination

18.1 The Commission made a preliminary determination in this case on August 21, 2015 and in terms of Section 37 of the Ordinance (now the Act), the Commission issued a notice of preliminary determination which was published on August 25, 2015 in official Gazette of Pakistan and in two widely circulated national newspapers (one English "Daily News" and one Urdu Language ("Daily Express")) notifying preliminary determination and imposition of provisional anti-dumping duty at the rate of 16.97% on all exporters from India for the period of four months effective from August 25, 2015.

18.2 The Commission sent notice of preliminary determination and imposition of provisional anti-dumping duties to the High Commission of India in Islamabad, the exporters, the importers and the Applicant in accordance with the requirements of Section 37(4) of the Ordinance (now the Act). The findings of the Commission in the preliminary determination were as follows:

- i. the application was filed by the domestic industry as the Applicant is the sole producer of the domestic like product in Pakistan;
- ii. the investigated product and the domestic like product are like products;
- iii. during POI, the investigated product was exported to Pakistan by the exporters/foreign producers from India at prices below its normal value;

- iv. the volume of dumped imports of the investigated product and the dumping margins established for the exporters/producers of the investigated product from India were above the negligible and *de minimis* levels respectively.
- v. the domestic industry suffered material injury during POI on account of significant increase in volume of dumped imports, price undercutting, price suppression, decline in market share, production, sales, negative effect on capacity utilization, Profitability, Productivity and salaries and wages per MT in terms of Section 15 and 17 of the Ordinance (now the Act); and
- vi. There was a causal relationship between dumped imports of the investigated product and the material injury suffered by the domestic industry.

19. Disclosure after Preliminary Determination

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

19.2 Since no exporter had responded to the Commission's questionnaire in this investigation and the Commission had to rely on the best information available in terms of Section 32 of the Act therefore no disclosure meeting took place.

20. Hearing

20.1 Upon request of the Applicant and GlaxoSmithKline Limited, a hearing in this investigation was held on October 19, 2015 under Rule 14 of the Rules. The information submitted by the participants during the hearing, whether orally (oral statements were subsequently confirmed in writing as per Rules 14 of the Rules) or in writing and record note of the hearing prepared by the Commission are available in the public file.

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

21.1 The Commission has received written submissions/comments from interested parties namely Habib ADM Limited and Colgate Palmolive Limited on Preliminary Determination of the Commission in this investigation, which are placed in the public file for review and copying by other interested parties. These comments have been taken into account by the Commission, while making this final determination.

22. Disclosure of Essential Facts

22.1 In terms of Rules 14(8) of the Rules, and Article 6.9 of Agreement on Antidumping, the Commission disclosed essential facts, and in this context dispatched Statement of Essential Facts (hereinafter referred to as the "SEF") on November 16, 2015 to all interested parties including the known exporters/foreign producers, the Applicant, the known Pakistani importers, and to the High Commission of India in Islamabad.

22.2 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 has received comments from GlaxoSmithKline Pakistan Limited vide its letter which were not found germane to this investigation.

B. DETERMINATION OF DUMPING

23. Dumping

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

"an investigated product shall be considered to be dumped if it is introduced into the commerce of Pakistan at a price which is less than its normal value".

24. Normal Value

24.1 In terms of Section 5 of the Act "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".

24.2 Further, Section 6 of the Act 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:”.

24.3 Ordinary course of trade is defined in Section 7 of the Act as follows:

“(1) The Commission may treat sales of a like product in domestic market of an exporting country or sales to a third country at prices below per unit, fixed and variable, cost of production plus administrative, selling and other costs as not being in the ordinary course of trade by reason of price and may disregard such sales in determining normal value only if the Commission determines that such sales were made –

- “(a) within an extended period of time which shall normally be a period of one year and in no case less than a period of six months;*
- “(b) in substantial quantities; and*
- “(c) at prices which do not provide for the recovery of all costs within a reasonable period of time.*

“(2) For the purposes of sub-clause (b) of sub-section (1), sales below per unit cost shall be deemed to be in substantial quantities if the Commission establishes that –

- “(a) a weighted average selling price of transactions under consideration for the determination of normal value is below a weighted average cost; or*
- “(b) the volume of sales below per unit cost represents twenty per cent or more of the volume sold in transactions under consideration for the determination of normal value.*

“(3) If prices which are below per unit cost at the time of sale are above the weighted average cost for the period of investigation, the Commission shall consider such prices as providing for recovery of costs within a reasonable period of time.”

25. Export Price

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

26 Determination of Dumping

As stated earlier the Applicant identified four exporters/foreign producers from India involved in alleged dumping of the investigated product. The Commission sent questionnaire to the only four exporters/foreign producers whose addresses were available with it to gather information necessary for this investigation. For all other exporters/foreign producers Questionnaire was sent to the High Commission of India in Islamabad with a request to forward it to all exporters/foreign producers of the investigated product based in India to submit information to the Commission. However, no response was received from any exporter/ foreign producer of Sorbitol from India on the prescribed Exporter’s Questionnaire.

27. Determination of Normal Value

27.1 To collect information on the normal value, the Commission sent questionnaire to known exporters/foreign producers of India and the High Commission of India in Islamabad on April 1, 2015. However, no response on the Exporter’s Questionnaire was received from any exporter from India. Therefore, the Commission has relied for determination of normal value on the basis of best available information in terms of Section 32 of the Act.

27.2 For the purpose of normal value, Commission has used export price to an appropriate third country to determine normal value. The Commission has relied on the Indian export price of sorbitol to Iran. The selection of Iran as an appropriate third country is because of the facts that Iran is one of the largest destinations of Indian exports of Sorbitol and Iran has an established domestic industry of Sorbitol. Furthermore, the Sorbitol being exported to Iran is similar to that of Pakistan.

27.3 The Applicant had provided the data with regard to normal values which was obtained from the website of Indian Ministry of Commerce <http://commerce.nic.in>. The Applicant provided weighted average price of the India’s exports to Iran for eighteen months i.e. from April 2013 to August 2014. However, for the purpose of determination of normal value, Commission has used the data of [International Trade Centre \(ITC\), Trade Map](#), an interactive online database on international trade statistics. It presents indicators on export performance, international demand, alternative markets

and the role of competitors from both the product and country perspective. Trade Map is considered as one of the world's largest trade databases as it covers trade flows (mirror and direct) of over 220 countries and territories and 5,300 products defined at the 2, 4 or 6-digit level of the Harmonized System.

27.4 The Commission has selected the weighted average price of India's exports to Iran from Trade Map, during the period January 2014 to December 2014 as this period coincide with the selected POI in this investigation.

27.5 The Commission is of the view that it is best information available as the domestic prices for these countries are not reasonably available.

28. Determination of Export Price

28.1 The "export price" is defined in Section 10 of the Act as "*a price actually paid or payable for an investigated product when sold for export from an exporting country to Pakistan*".

28.2 The weighted average export price of Sorbitol imported from India has been calculated on the basis of import data obtained from PRAL. The data obtained from PRAL shows prices at C & F level. The export price at C & F level has been duly adjusted, for ocean freight & insurance @ 5% of C & F export price, for comparison with normal value at same level of trade i.e. FOB level.

29. Dumping Margin

29.1 The Act defines "dumping margin" in relation to a product to mean "*the amount by which its normal value exceeds its export price*". In terms of Section 14(1) of the Act, the Commission shall determine an individual dumping margin for each known exporter or producer of an investigated product.

29.2 Section 12 of the Act 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 a comparable price of the like product when exported to an appropriate third country with weighted average export price to Pakistan at FOB level.

29.3 The Commission has also complied with the requirements of Section 11 of the Act 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*".

29.4 Taking into account the requirements of Section 11 of the Act, dumping margin is calculated by comparing weighted average normal value at FOB level with the weighted average export price at FOB level, which comes to 16.97 percent of C & F export price.

30. De minimis Dumping Margins and Negligible Volume of Dumped Imports

30.1 In terms of Section 41(2) of the Act “an investigation shall be immediately terminated if Commission determines that the dumping margin is negligible or that volume of dumped imports, actual or potential, or injury is negligible.”

30.2 Section 41(3) of the Act states that the dumping margin shall be considered to be negligible if it is less than two percent, expressed as a percentage of the export price. Dumping margin for the alleged dumped imports of the investigated product appear to be above negligible (*de minimis*) level.

30.3 As regards the volume of dumped imports, Section 41(3) of the Act provides that the volume of such imports shall normally be regarded as negligible if the volume of dumped imports of an investigated product is found to account for less than three percent of total imports of a 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 per cent of the imports of like product. The information/data on alleged dumped imports of the investigated product and other imports of Sorbitol has been obtained from PRAL. Volume of alleged dumped imports of the investigated product and the Sorbitol imported from other sources during the POI (January 1, 2014 to December 31, 2014) is given in a table below:

Table-II
Volume of Imports of Sorbitol during POI

Country	Percentage
India	77.8
Other Sources	22.2
Total	100.0

Period: January 1, 2014 to December 31, 2014

Source: PRAL

30.4 On the basis of above information, the Commission has determined that the volume of dumped imports of the investigated product from India was well above the negligible threshold (less than three percent of volume of total imports of the like product) during the POI.

C. INJURY TO DOMESTIC INDUSTRY

31. Determination of Injury

31.1 Section 15 of the Act sets out the principles for determination of material injury to the domestic industry in the following words:

“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...”

31.2 Section 15 of the Act further provides that:

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

31.3 The Commission has taken into account all factors in order to determine whether the domestic industry suffered material injury during POI. Material injury to the domestic industry has been analyzed in the following paragraphs in accordance with Part VI of the Act.

32. Domestic Industry

32.1 For the purposes of this determination, the Commission has determined that domestic industry manufacturing domestic like product consists of only one unit i.e. the Applicant. Therefore, the analysis of the injury factors given in following paragraphs is based on Applicant's information.

33. Volume of Dumped Imports

Facts

33.1 With regard to the volume of dumped imports, in terms of Section 15(2) of the Act, the Commission considered whether there has been a significant increase in

dumped imports, either in absolute terms or relative to the domestic production or consumption of the domestic like product manufactured by the domestic industry during POI.

33.2 In order to assess the impact of volume of dumped imports of the investigated product in relation to production and consumption of the domestic like product, the information submitted by the Applicant, and information obtained from PRAL has been used. The following table shows imports of the investigated product and production of the domestic like product during the POI;

Table-III
Imports and Domestic production of Sorbitol (MT)

Year	Imports from India	Increase/ (Decrease) in imports from India	Domestic Production (D.P)	Dumped imports as % age of D.P	Increase/ (Decrease) in Dumped Imports relative to D.P.
2012	100	---	87	114%	
2013	87	(13)	125	69%	(45%)
2014	170	84	96	177%	108%

Source: PRAL and the Applicant

Year: January 1 to December 31

Note:- The Figures have been indexed with reference to Imports from India during 2012

Analysis

33.3 The above table shows that the volume of dumped imports increased in absolute terms, showing 97 percent increase in year 2014 as compared to year 2013, which is a significant increase in absolute terms.

33.4 Volume of dumped imports relative to domestic production decreased by 45 percent in year 2013 as compared to year 2012 however it increased by 108 percent in the year 2014 as compared to year 2013. This shows a significant increase in volume of dumped imports relative to domestic production.

Conclusion

33.5 On the basis of the above information and analysis, the Commission has concluded that the dumped imports of the investigated product increased significantly in absolute terms as well as relative to production of the domestic like product during POI.

34. Price Effects

34.1 Effect of dumped imports on sales price of domestic like product in the domestic market has been examined to establish whether there was 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), or 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). Effects of dumped imports on price of the domestic like product are analyzed in following paragraphs:

34.2 Price undercutting

Facts

34.2.1 Weighted average ex-factory price of the domestic like product has been calculated from the information submitted by the Applicant on quantity and value of sales during POI. Landed cost of the investigated product has been calculated from the information 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 POI is given in following table:

**Table-IV
Price Undercutting (Rs./MT)**

Period	Ex-factory price of domestic like product	Landed cost of investigated product*	Price under-cutting	
			Absolute	%age
2012	100	78	22	22.03
2013	97	87	9	9.71
2014	104	87	18	17.09

Source: the Applicant and PRAL

Note:- The Figures have been indexed with reference to Ex-Factory price of domestic like product during 2012

Analysis

34.2.2 The information provided in the above table shows that the weighted average landed cost of the investigated product remained lower than the weighted average ex-factory price of the domestic like product during the POI for injury. The landed cost of the investigated product undercut the price of the domestic like product by 17.09 percent in the POI for dumping. Due to this lower landed cost, the import from dumped sources increased during the POI for dumping.

Conclusion

34.2.3 On the basis of the above, the Commission has concluded that the prices of the investigated product undercut the prices of domestic like product during the POI. The domestic industry suffered material injury on account of price undercutting due to dumped imports.

34.3 Price Depression**Facts**

34.3.1 Applicant's prices of the domestic like product during the last three years are given in table below:

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

Year	Average ex- factory price of domestic like product	Price Depression	
		Absolute	Percentage (%)
2012	100	-	-
2013	97	03	3.40%
2014	104	-	-

Source: The Applicant

Year: January 1 to December 31

Note:- The Figures have been indexed with reference to Ex-Factory price of domestic like product during 2012

Analysis

34.3.2 The table above shows that the Applicant industry was able to increase the prices of the domestic like product during the POI for dumping i.e. year 2014. The domestic industry faced price depression during the year 2013 as compared to year 2012.

Conclusion

34.3.3 The Commission has concluded on the basis of the above information and analysis that there was no price depression during POI for dumping.

34.4 Price Suppression**Facts**

34.4.1 Weighted average cost to make and sell and ex-factory prices of the domestic like product for the POI, calculated on the basis of information provided by the Applicant, are given in the following table:

Table - VI
Cost to Make and Sell and Ex-factory Price of the Domestic Like Product (Rs./MT)

Year	Average cost of production of domestic like product	Average ex-factory price of domestic like product	Price Suppression		
			Increase/(decrease) in cost of production	Increase/(decrease) in price	Price suppression
2012	100	100	---	---	---
2013	99	96	(1)	(4)	---
2014	111	104	12	7	5

Source: Applicant

Year: January 1 to December 31

Note:- The Figures have been indexed with reference to average cost of production of domestic like product during 2012.

Analysis

34.4.2 Above table shows that cost to make and sell of the domestic like product decreased in year 2013 however it increased in the year 2014. The sale price of domestic industry decreased in the year 2013 and increased by in the year 2014. During the year 2014, the domestic industry experienced price suppression of 5 percent.

Conclusion

34.4.3 On the basis of the above information and analysis, the Commission has concluded that the domestic industry suffered material injury on account of price suppression during the POI.

35. Effects on Market Share

Facts

35.1 The total domestic demand of Sorbitol in Pakistan is met through local production and imports. Following table shows the market share from imports and domestic production during the POI:

Table -VII
Market Share (MT)

<u>Year</u>	Share of Applicant Industry in the Domestic Market	Share of Dumped Imports in Domestic market	Share of Other Imports in Domestic Market	Total Domestic Market
2012	36.6	41.8	21.6	100
2013	53.3	36.3	21.4	111
2014	40.4	71.3	20.3	132

Source: PRAL and the Applicant

Year: January 1 to December 31

Note: All figures have been indexed with reference to market share during 2012

Analysis

35.2 The above table reveals that during the year 2014, the share of domestic industry decreased though the domestic market increased during the same period. However, the share of dumped imports increased from 32.7 percent to 54 percent during the year 2014 as compared to year 2013 while the share of other imports decreased from 19.3 percent to 15.4 percent in the same period.

Conclusion

35.3 On the basis of above information and analysis, the Commission has concluded that the domestic industry suffered material injury on account of decline in market share.

36. Effects on Sales

Facts

36.1 The domestic industry comprises of only one unit i.e. the Applicant. Sales of the domestic like product are given in the following table:

Table – VIII
Sales of the Sorbitol (MT)

Year	Sales by domestic industry
2012	100
2013	145
2014	110

Source: the Applicant

Year: January 1 to December 31

Note: All figures have been indexed with reference to sales during year 2012

Analysis

36.2 The above table shows that the sales of domestic industry increased in the year 2013 and decreased in the year 2014. Due to the dumped imports, the sales of Applicant decreased during the POI as the share of the dumped imports increased in the domestic market due to lower prices of dumped imports. The Applicant was unable to increase its share in the domestic market though the total market in year 2014 was increased.

Conclusion

36.3 On the basis of above information and analysis, the Commission has concluded that sales of the domestic like product decreased during POI, hence domestic industry suffered material injury on account of loss in sales.

37. Effects on Production and Capacity Utilization

Facts

37.1 Quantity produced and the capacity utilized by the domestic industry during POI was as follows:

Table-IX
Installed Capacity, Quantity Produced and Capacity Utilization

Year	% of Capacity Utilization
2012	32.14
2013	46.18
2014	35.23

Source: the Applicant

Year: January 1 to December 31

Analysis

37.2 It may be noted from the above table that installed production capacity of the Applicant remained same over the POI. The production of domestic like product

increased during the year 2013, however it decreased during the POI for dumping i.e. year 2014. The domestic industry's capacity utilization which was 46.18 percent in the year 2013 decreased to 35.23 percent in the year 2014.

Conclusion

37.3 On the basis of the above information and analysis, the Commission has concluded that the Applicant suffered material injury on account of decline in production and negative effect on capacity utilization.

38. Effects on Inventories

Facts

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

Table-X
Inventories of Domestic Like Product (MT)

Year	Opening inventory	Production	Sales	Closing inventory
2012	6	100	100	5
2013	5	144	146	3
2014	3	110	110	3

Source: the Applicant

Year: January 1 to December 31

Note: All figures have been indexed with reference to production during year 2012

Analysis

38.2 The data given in the table above shows that the inventory of the domestic like product decreased in year 2013 and 2014.

Conclusion

38.3 On the basis of the above facts and analysis, the Commission has concluded that the Applicant did not suffer material injury on account of increase in inventories of the domestic like product during POI.

39. Effects on Profit/Loss

Facts

39.1 As explained earlier, the Applicant is multi-product company. The profit & loss on the basis of Sorbitol duly adjusted (explained in on-the-spot investigation report of domestic industry) is given below:

Table -XI
Profit/(Loss) of the Applicant (Rs.)

Year*	Net Profit/(Loss)
2012	(100)
2013	(1029)
2014	(2298)

Source: on the spot investigation report

Year: January 1 to December 31

Note: All figures have been indexed with reference to Profit/(loss) during 2012

Analysis

39.2 The above table shows that the Applicant is incurring losses during the POI. Furthermore, the losses incurred by the Applicant are increasing each year. The net loss of the domestic industry increased by 123% in the POI for dumping i.e. year 2014 as compared to year 2013.

Conclusion

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

40. Effects on Cash Flow

Facts

40.1 The Applicant company is a multiproduct company and has consolidated financial statements. For the purpose of ascertaining cash flow for Sorbitol, the Applicant was asked to provide separate reconciled cash flow statement for each product. It was not possible for Applicant to provide cash flow statement for each product separately. Therefore the Commission accepted the consolidated cash flow statement and figures for cash flow during POI were verified from the cash flow statement as given in the audited accounts of the company. Following are the verified

figures of net operating cash flow relating to Applicant for the years ended on June 30 of the respective years from the operating activities;

Table -XII
Cash Flow Statement (Rs. in Thousands)

Year*	Cash flow from Operations
2012	100
2013	159
2014	225

* Year is from 1st July to 30th June

Note: All figures have been indexed with reference to csshflow during 2012

Analysis

40.2 The above table shows that the net cash flow of the Applicant increased during the POI.

Conclusion

40.3 On the basis of the above, the Commission is inconclusive about the impact of dumped imports on cash flow with regard to Sorbitol.

41. Effects on Employment, Productivity and Salaries & Wages

Facts

41.1 Effects on domestic industry's employment, productivity and salaries & wages on yearly basis and on quarterly basis are ascertained in the following tables:

Table - XIII
Employment, Wages and Productivity

Period	Average Number of Employees (Direct)	Salaries & Wages (Rs.)	Domestic Production (MT)	Productivity Per Worker in MT	Salaries and Wages Per MT in Rs.
2012	100	100	100	100	100
2013	106	112	144	136	78
2014	109	113	110	100	103

Source: the Applicant

Year: January 1 to December 31

Note: all figures have been indexed with reference to the figures of 2012 in each column.

Analysis

41.2 The above data reveals that number of employees increased in year 2013 and in year 2014. The productivity of the domestic industry decreased in the year 2014 as compared to year 2013. The salaries and wages per MT also increased during the same period because of the fact that the production of domestic industry decreased during the year 2014.

Conclusion

41.3 Based on the above information and analysis, the Commission has concluded that the domestic industry suffered material injury on account of productivity and salaries and wages per MT.

42. Effects on Return on Investment

Facts

42.1 Return on investment realized by the domestic industry during POI is determined on consolidated basis as separate information for equity for each segment was not available with Applicant. Following table shows return on investment of the Applicant as a company during POI:

Table XIV
Return on Investment

Year/Period	Return on Investment (%)
2012	100
2013	71
2014	77

Source: the Applicant

Year: January 1 to December 31

Note: All figures have been indexed with reference to return on investment during 2012

Analysis

42.2 The return on investment of the Applicant remained positive as the company is multiproduct company and earning profit on sale of other products during the POI and has increased in year 2014.

Conclusion

42.3 On the basis of the above consolidated data, the Commission has not drawn any inference on injury with regard to return on investment to Applicant during the POI.

43. Effects on Growth

Facts

43.1 The growth of the domestic industry has been determined on the basis of growth of the domestic market. A perusal of the Table-VII reveals that the demand for Sorbitol in the domestic industry has increased in years 2013 and 2014. It shows that the domestic market is expanding and demand for the Sorbitol is increasing. However, installed capacity of the Applicant remains the same.

Analysis

43.2 The Applicant has not been able to increase its installed capacity despite of the fact that there is demand of Sorbitol in domestic market more than Applicant's installed capacity. Due to continuous losses suffered by the domestic industry, it has not been able to increase its capacity.

Conclusion

43.3 On the basis of the above, the Commission has concluded that the Applicant suffered material injury on account of Growth during the POI.

44. Summing up of Material Injury

44.1 Facts and analysis in the preceding paragraphs shows that the domestic industry has suffered material injury due to dumped imports of the investigated product during POI on account of following:

- a. Increase in volume of dumped imports;
- b. Price undercutting;
- c. Price suppression;
- d. Decline in production;
- e. Decline in Sales;
- f. Decline in market share;
- g. Negative effect on capacity utilization;
- h. Negative effect on Profitability;
- i. Negative effect Productivity and salaries and wages per MT; and
- j. Negative effect on Growth.

D. CAUSATION**45. Effect of Dumped Imports**

45.1 On the basis of the analysis and conclusions, the Commission has concluded that there was a causal link between dumped imports of the investigated product and material injury suffered by the domestic industry. In this regard injury factors have been given below;

Table-XV

Year	Volume of Dumped Imports (MT)	Price under Cutting (%)	Price Suppression	Market Share of Domestic Industry (%)	Sales of the domestic industry (MT)	Capacity Utilization (%)	Profit/(Loss) (Rs. Mil)	Productivity (Per Worker)	Salaries and Wages Per MT
2012	100	22.03	-	36.6	100	32.14%	(100)	100	100
2013	87	9.71	3.40	48.0	145	46.18%	(1029)	136	78
2014	170	17.09	-	30.6	110	35.23%	(2298)	100	103

Note: All figures have been indexed with reference to figures of 2012.

45.2 The investigation has revealed that the following happened simultaneously during POI:

- i. Volume of dumped imports of the investigated product increased significantly in absolute as well as relative to production of the domestic like product;
- ii. Domestic industry experienced price undercutting due to dumped imports of the investigated product;
- iii. Domestic industry experienced price suppression due to dumped imports of the investigated product;
- iv. Market share of dumped imports of the investigated product increased significantly whereas market share of the domestic like product decreased;
- v. Sales of the domestic like product decreased due to increased share of the dumped imports in domestic market;

- vi. The capacity utilization of the domestic industry decreased due to dumped imports;
- vii. Domestic industry faced negative effect on profitability;
- viii. Domestic industry faced negative effect on productivity and salaries and wages per MT;

46. Other Factors

46.1 In accordance with Section 18(2) of the Act, 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.

46.2 The Commission’s investigation showed that the domestic industry did not suffer injury due to imports of the like product from sources other than the India during POI as imports from sources other than India were reducing. Imports from other sources are low in volume and their landed cost is higher than ex-factory price of investigated product. Following table shows volume and landed cost of sorbitol solution imported from other sources during POI:

Table-XVI

Year	Imports from Other Sources (MT)	Landed cost from other sources (Rs/MT)	Imports from Dumped Sources (MT)	Landed cost from Dumped Sources (Rs/MT)
2011-12	100	100	100	100
2012-13	99	105	87	112
2013-14	94	107	170	111

Note: All figures have been indexed with reference to figures of year 2012.

46.3 The factors mentioned in Section 18(3) of the Act were also examined and it was determined that:

There was no contraction in demand;

- i. There was no considerable change in technology to produce Sorbitol; and

- ii. The domestic industry did not export Sorbitol during the POI meaning thereby that injury to domestic industry is not because of export performance similarly the productivity alone cannot be considered as a major source of injury to the domestic industry.

E. CONCLUSIONS

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

- i. the application was filed by the domestic industry as the Applicant is the sole producer of the domestic like product in domestic market;
- ii. the investigated product and the domestic like product are like products;
- iii. during POI, the investigated product was exported to Pakistan by the exporters/foreign producers from India at prices below its normal value;
- vii. the volume of dumped imports of the investigated product and the dumping margins established for the exporters/producers of the investigated product from India i.e. 16.97 percent was above the negligible and *de minimis* levels respectively.
- viii. the domestic industry suffered material injury during POI on account of significant increase in volume of dumped imports, price undercutting, price suppression, decline in market share, production, sales, negative effect on capacity utilization, Profitability, Productivity and salaries and wages per MT in terms of Section 15 and 17 of the Act; and
- ix. There was a causal relationship between dumped imports of the investigated product and the material injury suffered by the domestic industry.

48. In reaching this definitive affirmative determination, the Commission is satisfied that the investigated product has been imported at dumped prices from the India. This has caused material injury to domestic industry during the POI.

F. IMPOSITION OF DEFINITIVE ANTI-DUMPING DUTY

49. In view of the analysis and conclusions with regard to dumping, material injury, and causation, the Commission is of the view that imposition of definitive anti-dumping duty on the investigated product is necessary to prevent injury being caused to the domestic industry due to dumped imports during the course of an investigation.

50. Individual dumping margins could not be determined for the exporters/foreign producers from India as no exporters/foreign producers have provided the information/data during the investigation. A single dumping margin and anti-dumping duty rate for all the exporters/producers from India is determined on the basis of best available information in terms of Section 32 of the Act.

51. In terms of Section 50 of the Act, a definitive anti-dumping duty at the rate of 16.97 percent of C & F price is hereby imposed on the dumped imports of the investigated product (Sorbitol 70% Solution) classified under PCT heading No. 2905.4400 and 3824.6000 importable from India for a period of five years effective from August 25, 2015.

52. In accordance with Section 51 of the Act, the definitive anti-dumping duty 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 anti-dumping duty.

53. Definitive anti-dumping duty levied would be in addition to other taxes and duties leviable on import of the investigated product under any other law.

54. The definitive anti-dumping 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.

(Shah Jahan Shah)
Member
December 21, 2015

(Niamat Ullah Khan)
Member
December 21, 2015

(M. Abbas Raza)
Chairman
December 21, 2015