

(NON-CONFIDENTIAL)



**Government of Pakistan
National Tariff Commission**

REPORT

ON

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

A.D.C No.07/2005/NTC/PFY

November 2005

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The National Tariff Commission (hereinafter referred to as the “Commission”) having regard to the Anti-Dumping Duties Ordinance, 2000 (LXV of 2000) (hereinafter referred to as the “Ordinance”) and the Anti-Dumping Duties Rules, 2001 (hereinafter referred to as the “Rules”) relating to investigation and determination of dumping of goods into the Islamic Republic of Pakistan (hereinafter referred to as “Pakistan”), material injury to the domestic industry caused by such imports, and imposition of antidumping duties to offset the impact of such injurious dumping, and to ensure fair competition thereof and to the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (hereinafter referred to as the “Agreement on Antidumping”) has conducted an investigation and made a preliminary determination under the above mentioned Ordinance and Rules.

A. PROCEDURE

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

1. Receipt of Application

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

2. Evaluation and Examination of the Application

2.1 The examination of the application showed that it met the requirements of Section 20 of the Ordinance as it contained sufficient evidence of dumping of PFY from the Exporting Countries and injury to the domestic industry caused therefrom. The requirements of Rule 3 of the Rules, which relate to the submission of information prescribed therein were also found to have been met.

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

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

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

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

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

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

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

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

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

4. Applicant's Views

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

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

5. Initiation of Investigation

5.1 The Commission upon examining the accuracy and adequacy of the evidence provided in the application established that there is sufficient evidence of alleged dumping and injury to justify initiation of an investigation. Consequently, the Commission decided to initiate an investigation on May 10, 2005. In terms of Section 27 of the Ordinance, the Commission issued a notice of initiation, which was published in the Official Gazette¹ of Pakistan and in two widely circulated national

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

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newspapers² (one in English language and one in Urdu Language) on May 12, 2005. Investigation concerning imports of PFY into Pakistan (classified under PCT³ Nos. 5402.3300 and 5402.4300) contained in the First Schedule of Customs Act, 1969 (IV of 1969) originating in and/or exported from the Exporting Countries was thus initiated on May 12, 2005.

5.2 The Commission notified the embassies of the Exporting Countries in Pakistan (by sending a copy of the Notice of Initiation through Ministry of Foreign Affairs, Pakistan) on May 12, 2005. Copies of Notice of Initiation were also sent to the exporters/foreign producers of the Exporting Countries whose complete addresses were available with the Commission, the known Pakistani importers, and the Applicant on May 12, 2005, in accordance with the requirements of Section 27 of the Ordinance.

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

6. Investigated Product, Like Product and Domestic Like Product

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

i. Investigated Product:

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

ii. Domestic Like Product:

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

iii. Like Product:

“a product which is alike in all respects to an investigated product or, in the absence of such a product, another product which, although not alike in all respects, has characteristics closely resembling those of the investigated product”.

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

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

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

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i. Investigated Product:

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

ii. Domestic Like Product

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

ii. Like Product:

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

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

- i. the basic raw materials used in the production of the investigated product, the domestic like product, and the like product are identical (Purified Terephthalic Acid ("PTA") and Mono-Ethylene Glycol ("MEG"));
- ii. all the three products (the investigated product, the domestic like product and the like product) are produced with a similar manufacturing process;
- iii. all the three products have same/similar colours and appearance;
- iii. all the three products are substitutable in use. They are mainly used as raw material in the manufacturing of art silk fabrics and garments; and
- iv. all the three products are classified under the same PCT/HS Nos. 5402.3300 and 5402.4300

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

7. Period of Investigation

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

"a) for the purposes of an investigation of dumping, an investigation period shall normally cover twelve months preceding the month of initiation of the investigation for which data is available and in no case the investigation period shall be shorter than six months.

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

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

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

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

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

8. Sampling and Information/Data Gathering

8.1 Sampling

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

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

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

- i. PT. Indorama Synthetics Tbk., Indonesia;
- ii. P.T. Sulindafin, Indonesia;

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- iii. P.T. Polysindo EKA Perkasa, Indonesia;
- iv. HK Corporation, Korea;
- v. Hyosung Corporation, Korea;
- vi. Tongkook Corporation, Korea;
- vii. Hualon Corporation (M) Sdn Bhd, Malaysia;
- viii. Jong Stit Co. Limited, Thailand;
- ix. Chiem Patana Synthetic Fibers Co. Ltd., Thailand;
- x. Teijin Polyester (Thailand) Limited, Thailand;
- xi. Sunflag (Thailand) Ltd., Thailand;
- xii. Siam Moderntex Co., Ltd., Thailand; and
- xiii. Tuntex (Thailand) Public Company limited, Thailand.

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

Table-II
Exporters/Foreign Producers Selected in Sampling

S. No.	Exporter/ Foreign Producer	Exporting Country	Share in exports from respective Country (%)
1.	P.T S.K Keris	Indonesia	15.34
2.	P.T. Indorama Synthetics Tbk	Indonesia	12.07
3.	P.T PanAsia Indosyntec Tbk	Indonesia	9.84
4.	P.T. Sulindafin	Indonesia	6.05
5.	Tongkook Corporation	Korea	43.77
6.	Hyosung Corporation	Korea	18.85
7.	Hualon Corporation Sdn	Korea	6.65
8.	Hualon Corporation (M) Sdn Bhd.	Malaysia	45.00

⁴ Criteria/provisions of Section 14(2): “Notwithstanding anything contained in sub-section (1), where the Commission is satisfied that the number of exporters, producers or importers, or type of products involved is so large as to make it impracticable to determine an individual dumping margin for each known exporter or producer concerned of an investigated product, the Commission may limit its examination to a reasonable number of interested parties or investigated products using samples which are statistically valid on the basis of information available to the Commission at the time of selection, or to the largest percentage of volume of exports from the country in question which can reasonably be investigated”.

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9.	Global Trade Well P.T.E Ltd.	Malaysia	14.12
10.	Fotex Trading	Malaysia	8.18
11.	Jong Stit Co. Limited	Thailand	36.65
12.	Tuntex (Thailand) Public Company Ltd	Thailand	28.94
13.	Chiem Patana Synthetic Fibers Co. Ltd	Thailand	11.08

8.2 Information Gathering

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

8.2.2 Seven exporters/foreign producers out of thirteen who were asked for information/data, requested for an extension in time period for submission of response to the questionnaire. The Commission acceded to their requests for extension, after taking into account the reasons given by them in their requests. The other six exporters/foreign producers did not respond to the questionnaire including one who requested for an extension in time period to submit information. The rest seven exporters/foreign producers submitted information/data in response to the questionnaire (paragraph 9 infra), which was accepted by the Commission for the purposes of this investigation.

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

8.2.4 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 also used import

data obtained from PRAL in addition to the information provided by the Applicant and the exporters/foreign producers.

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

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

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

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

9.1.1 Questionnaire response from SK Keris was received in the Commission on August 03, 2005. According to the information provided in response to the questionnaire by SK Keris, it was established under the framework of the Foreign Capital Investment Law No. 1 of 1967 of Indonesia. It has been involved in the manufacture, sale and export of the PFY to Pakistan as well as to other countries and in its domestic market during the POI.

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

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

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9.1.4 The Commission accepted the information supplied by the SK Keris, Indonesia for the purposes of this investigation and dumping (paragraphs 17.7, 18.2, and 19.4 infra) for SK Keris is determined on the basis of that information.

9.2 P.T Indorama Synthetics Tbk. (“Indorama”), Indonesia

9.2.1 Questionnaire response from Indorama was received in the Commission on August 03, 2005. According to the information provided in response to the questionnaire by Indorama, it is a limited company established under the framework of the Foreign Capital Investment Law No. 1 of 1967 of Indonesia. It has been involved in the manufacture, sale and export of the PFY to Pakistan as well as to other countries and in its domestic market during the POI.

9.2.2 The information submitted by Indorama in response to the questionnaire was analyzed at the Commission and certain deficiencies were identified. Accordingly, those data deficiencies were communicated to Indorama vide Commission’s letter dated August 04, 2005.

9.2.3 Indorama was asked to provide the deficient information/data no later than August 09, 2005, so as to enable the Commission to consider and analyze the same for the purposes of this investigation. Indorama responded to the deficiencies vide its letter dated August 09, 2005.

9.2.4 The Commission accepted the information supplied by the Indorama, Indonesia for the purposes of this investigation and dumping (paragraphs 17.8, 18.3, and 19.4 infra) for Indorama is determined on the basis of that information.

9.3 P.T PanAsia Indosyntec Tbk (“PanAsia”), Indonesia

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

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

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

9.3.4 The Commission accepted the information supplied by the PanAsia, Indonesia for the purposes of this investigation and dumping (paragraphs 17.9, 18.4, and 19.4 infra) for PanAsia is determined on the basis of information supplied by it.

9.4 P.T. Sulinfadin (“Sulindafin”), Indonesia

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

9.4.2 The Commission, after expiry of the time period given to respond, informed Sulindafin through a letter of July 26, 2005 that in case of no response by July 30, 2005, the Commission would be constrained to make its determination based on the ‘Best Information Available’ in terms of Section 32 of the Ordinance and Article 6.8 and Annex II of the Agreement on Antidumping. Indonesian embassy in Pakistan was also informed on August 08, 2005 accordingly of the use of ‘Best Information Available’ for determination of dumping for Sulindafin.

9.4.3 Thus dumping of the investigated product for Sulindafin is determined (paragraphs 17.10, 18.5, and 19.4 infra) on the basis of the ‘Best Information Available’ in terms of Section 32 of the Ordinance.

9.5 Tongkook Corporation (“Tongkook”), Korea

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

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

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

9.5.4 The Commission accepted the information supplied by the Tongkook, Korea for the purposes of this investigation and dumping (paragraphs 17.11, 18.6, and 19.4 infra) for Tongkook is determined on the basis of that information.

9.6 Hyosung Corporation (Hyosung”), Korea

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

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

9.6.3 Thus dumping of the investigated product for Hyosung, Korea is determined (paragraphs 17.12, 18.7, and 19.4 infra) on the basis of the ‘Best Information Available’ in terms of Section 32 of the Ordinance.

9.7 Hualon Corporation Sdn (“Hualon Sdn”), Korea

9.7.1 As stated earlier (paragraph 8.2.1 supra) that the mailing address of Hualon Sdn, Korea was not available with the Commission, questionnaire was sent to the embassy of Korea in Pakistan on May 31, 2005 with a request to forward it to Hualon Sdn.

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

9.7.3 Thus the dumping of the investigated product for Hualon Sdn, Korea is determined (paragraphs 17.13, 18.8, and 19.4 infra) on the basis of the ‘Best Information Available’ in terms of Section 32 of the Ordinance.

9.8 Hualon Corporation (M) Sdn Bhd (“Hualon”), Malaysia

9.8.1 Questionnaire response from Hualon was received in the Commission on July 27, 2005. According to the information provided in response to the questionnaire by Hualon, it is a private limited company. It has been involved in the

manufacture, sale and export of the PFY to Pakistan as well as to other countries and in its domestic market during POI.

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

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

9.8.4 The Commission accepted the information supplied by the Hualon, Malaysia for the purposes of this investigation and dumping (paragraphs 17.14, 18.9, and 19.4 infra) for Hualon is determined on the basis of that information.

9.9 Global Trade Well P.T.E Ltd. ("Global Trade Well"), Malaysia

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

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

9.9.3 Thus the dumping of the investigated product for Global Trade Well, Malaysia is determined (paragraphs 17.15, 18.10, and 19.4 infra) on the basis of the 'Best Information Available' in terms of Section 32 of the Ordinance.

9.10 Fotex Trading, Malaysia

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

9.10.2 No response from Fotex Trading, Malaysia was received. Malaysian embassy in Pakistan was informed on August 08, 2005 that Fotex Trading, Malaysia, has not responded to the questionnaire, thus the Commission is constrained to make its determination of dumping for Fotex Trading, Malaysia on the basis of 'Best

Information Available' in terms of Section 32 of the Ordinance and Article 6.8 and Annex II of the Agreement on Antidumping.

9.10.3 Thus the dumping of the investigated product for Fotex Trading, Malaysia is determined (paragraphs 17.16, 18.11, and 19.4 infra) on the basis of the 'Best Information Available' in terms of Section 32 of the Ordinance.

9.11 Jong Stit Co. Limited ("Jong Stit"), Thailand

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

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

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

9.11.4 The Commission accepted the information supplied by the Jong Stit, Thailand for the purposes of this investigation and dumping (paragraphs 17.17, 18.12, and 19.4 infra) for Jong Stit is determined on the basis of that information.

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

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

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

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

9.12.4 The Commission accepted the information supplied by the Tuntex, Thailand for the purposes of this investigation and dumping (paragraphs 17.18, 18.13, and 19.4 infra) for Tuntex is determined on the basis of that information.

9.13 Chiem Patana Synthetic Fibers Co. Ltd (“Chiem Patana”), Thailand

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

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

9.13.3 Thus the dumping of the investigated product for Chiem Patana, Thailand is determined (paragraphs 17.19, 18.14, and 19.4 infra) on the basis of the ‘Best Information Available’ in terms of Section 32 of the Ordinance.

10. Public File

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

11. Confidentiality

In terms of Section 31 of the Ordinance, any information, which is marked confidential by the interested parties in their submissions and considered confidential by the Commission, shall, during and after the investigation, be kept confidential.

12. Negligible Volume of Imports

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

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imports of a like product collectively account for more than seven percent of imports of a like product.

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

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

S. No.	Imports from	Volume (MT)	Percentage Share in Total imports
1.	Indonesia	6110.44	18.56
2.	Korea	5976.69	18.15
3.	Malaysia	5641.97	17.13
4.	Thailand	12518.76	38.02
5.	Others Sources	2679.67	08.14
6.	Total	32927.53	100.00

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

13 Views/Comments of the Exporters and Foreign Producers

13.1 Two Thai exporters/producers, Tuntex (Thailand) Public Company Ltd., Thailand, and Jong Stit Company Ltd., Thailand submitted views/comments along with questionnaire response. Extracts germane to this investigation from those submissions are reproduced below.

13.2 Views/Comments of Tuntex (Thailand) Public Company Ltd

13.2.1 Initiation of the Proceedings

- “(i) The Applicant did not submit sufficient information and evidence on normal value.
- “(ii) The determination of the export price cannot be verified as a non-confidential summary of the information on insurance and other deductions was not made available.
- “(iii) The Applicant did not compare normal value and export price fairly.
- “(iv) The NTC failed to meaningfully review the information provided by the Applicant and to assess the sufficiency of such information to justify the initiation of an anti-dumping proceedings.

- “(v) The information contained in the Notice of Initiation on the basis of the dumping allegation is clearly insufficient to satisfy the requirement of Article 12.1.1 (iii) ADA. Moreover, the NTCX failed to include a meaningful summary of the factors on which the allegation of injury is based, thereby acting in violation of Article 12.1.1 (iv) ADA.”

13.2.2 Product Scope

“According to the product definition in the Application, as reproduced in the Notice of initiation of this proceeding, the Applicant is mainly concerned with imports of PFY of 75 and 150 denier. These are, as per Applicant’s own admission, the bulk of the production of PFY of the Pakistani domestic industry.

“Tuntex notes that Tuntex’ production encompasses PFY of 75 and 150 denier, but also comprises PFY, or more specifically draw texturised yarn (DTY) of many different denier measurement, technical specifications, color, etc. Many of these product types are not even produced by the Pakistani domestic industry, which is focused on the production of low-end, commodity products.

“Specialty DTY and general purpose PFY have been included in the same product scope in this investigation, in violation of the ADA, given that the two products in question involve distinctively different physical characteristics, method of production, end uses and are not substitutable between them from a consumer’s point of view.

“The fact that these different products are classified under the same customs code is not an obstacle to differently customs treatment, since the different physical characteristics of these products can easily be verified by means of laboratory tests.”

13.2.3 Injury

“Tuntex submits that all the applicant companies and most Pakistani producers, with the exception of Gatron, are very small operation with unusually high cost of production and do not benefit of any economy of scale. Moreover, against a background of increasing vertical integration with the majority of international producer producing PFY from PTA + MEG or even producing their own PTA, all Pakistani plant produce the product concerned from polyester chips and do not have continuous polymetisation production processes. This causes their cost of production to be even higher and subject to the fluctuations on the chips market.

“The Pakistani industry is undergoing a phase of adjustment vis-avis increasing international competition. Against this background, the Pakistani producers are faring well and increased their sales and production capacity, while decreasing their stock.

“Sales of the Pakistani industry increased over the period considered.

“Any decrease in profitability of less efficient Pakistani producers is consequence of international competition from vertically integrated producers that source raw materials (PTA and MEG) at much cheaper prices than Pakistani producers lack of economies of scale of the Pakistani plant, and underinvoicing practices. An unequivocal causal link between any decrease of profits and imports from the countries concerned cannot be established.

“The Pakistani industry managed to increase its capacity utilization. The petitioners increased their capacity utilization over the same period. Data on the trend of the utilization of capacity shows that the petitioners were outperformed by the rest of the Pakistani industry.

“Imports from the countries concerned cannot have affected Pakistani prices. In particular, imports from Thailand, which are alleged to be priced at very low levels, did not substitute any loss in market share of the Pakistan industry, suggesting no, or limited substitutability.

“Employment levels of the petitioners remained stable.

“The Pakistani industry increased its sales. Exports of the Pakistani industry also grew relevantly.

“The Pakistan industry has been able to raise capital to invest in new machines and to restructure, despite imports from the countries concerned and from other third countries.

“For the reasons set out above, it is Tuntex submission that the Pakistani domestic industry has not suffered any injury, and therefore the present proceeding should be terminated on the grounds of, among others, lack of injury.”

13.2.4 Effects of Other Factors

“[i]njury suffered by the Pakistan industry, if any, has been caused by the following factors:

- ?? The costs of PFY in the Pakistani are higher than in Thailand; the Pakistani industry is not competitive internationally;
- ?? Underinvoicing and smuggling;
- ?? Competition from Pakistani producers not supporting the Application;
- ?? Fluctuations in the costs of raw materials, based on oil prices.

“In view of the overwhelming relevance of the above factors, an unequivocal causal link between imports of the product concerned from Thailand and other countries concerned and any injury suffered by the Pakistani industry cannot be established.”

13.2.5 Pakistani National Interest

“The user industries of PFY will suffer through the inevitable price increases that would occur as a result of anti-dumping measures being imposed against imports. Indeed, a far wider number of jobs are linked to the use, as opposed to production, of PFY, and these jobs are now directly dependent on the continued availability of imports at competitive prices.

“It is to be mentioned that the Pakistani government has recently lowered import duties on polyester products with the declared purpose of help the development of the fabric, weaving and knitting sectors. Imposition of anti-dumping duties on PFY would have the perverse effect to suppress any development of the downstream industries while incentivate smuggling and under-invoicing practices.”

13.3 Views/Comments of Jong Stit Company Limited, Thailand

13.3.1 Jong Stit Company Limited (“JSC”), Thailand submitted views/comments on material injury to the domestic industry of Pakistan producing domestic like product. Extracts germane to this investigation from those submissions are reproduced below:

13.3.2 “JSC submits that FYMA has not demonstrated its material injury by virtue of the absence of negative impact on the domestic producers’ sales, profits, productivity and capacity utilization. Further, the issue of the magnitude of dumping margins should be highlighted. It is submitted that Thai imports could not have caused injury to the domestic producers given the non-existence of dumping margins, as shown in the company’s questionnaire response. JSC will next examine each of these aforementioned indicators in more detail below.”

i. Sales and Profits

“JSC will analyse below the financial statements and/or annual reports of S.G. Fibres Ltd. and Rupali Polyester Ltd. We will also briefly examine Polyron Ltd. Even though Gatron (Industries) Ltd. is not an applicant (thus, technically speaking, its production does not count towards total domestic production), JSC will analyze Gatron’s data because we firmly believe that Gatron should be included in any injury analysis since (1) it is by far the largest PFY producer in Pakistan, and (2) it does not support this present antidumping investigation even though, being the largest domestic producer, it stands to gain the most from this antidumping investigation.

“S.G. Fibres Ltd.

“It is reported in the financial statements of S.G. Fibres Ltd. (“S.G. Fibres”), one of the domestic producers having 10.50% of market share in domestic market, that the company has a substantial rise in both sales and net profits during recent year. The increase in sales amounts to more than 100 million rupees while net profits accrued for more than 1 million rupees, representing approximately 10% in the overall increase.

“Rupali Polyester Ltd.

“ the 2004 annual report of Rupali Polyester Ltd. (“Rupali”), with 11.00% market share in domestic market, incontestably shows its significant increase in both profitability and production volume, especially during POI in the year 2004. Even as recent as the current FY 2005, the company’s half-year sales and net profits in 2005 are much better than the same period of FY 2004, indicating that the company’s financial condition has not deteriorated from last year. On the contrary, Rupali’s overall situation has improved. The fact simply does not support Rupali’s claim of worsening financial condition as a result of the increase in unfair imports from, among others, Thailand.

“Polyron Ltd.

“Polyron Ltd. (“Polyron”) is a relative small Pakistani producer with a 3.40% market share. Even though we do not have access to the company’s financial statements at this time, we have been informed by a reliable source that Polyron has been experiencing some losses over the past few years. Nevertheless, we understand that Polyron’s loss actually decreased from 13,002,000 rupees in FY 2003 to 8,479,000 rupees in FY 2004. Accordingly, JSC submits that the decrease in operating losses during the crucial years of the injury period is not indicative of evidence that Polyron’s financial condition has been caused by imports. In this regard, we respectfully request the Commission to further investigate into the real cause behind Polyron’s lack of profitability during the injury period.

“Gatron (Industries) Ltd.

“Gatron (Industries) Ltd. (“Gatron”), which by far controls the largest share of the domestic market at 39.23%, is singularly a unique player in this investigation. Gatron can be regarded as the dominant domestic producer in Pakistan, and yet it emphatically does not support the FYMA’s antidumping complaint. Even though, legally speaking, it is not part of the “domestic industry” for the purpose of standing determination in this investigation, its size is something that the Commission cannot disregard. If size matters, it is simply too big to be ignored for the purpose of injury analysis. JSC respectfully submits that the Commission must take Gatron’s financial condition into the equation when determining the extent of material injury to domestic industry. “

ii. **“Productivity and Utilization of Capacity**

“[d]omestic industry’s production and capacity utilization have been maintained on average at the rate of 90.75% from July 2001 to December 2004. By all measurement, this utilization rate is very high especially when it rose to 94% in 2003-2004 and stayed that way through the second half of 2004. Thus, the domestic industry has been consistently operating at very close to maximum capacity for more than 3 years. It also reflects that domestic demand is high and the domestic industry has tried to satisfy the demand by raising its capacity utilization to this level.

“Hence, if it is in fact the case that the domestic industry’s productivity and utilization of capacity was detrimentally impacted by imports, then it would seem logical that the productivity and utilization should have declined. On the contrary, the data clearly shows no impact whatsoever.

iii. **“Employment and Wages**

“The domestic industry, in paragraph 18 of the Application, claimed the necessity of having to lay off work force in 2003-2004 was caused by the allegedly dumped imports. However, the domestic industry has provided neither evidence to substantiate the seriousness of the situation nor the linkage between the negative effects on employment and wages, on the one hand, and competition from imports, on the other hand. Therefore, JSC respectfully submits that the domestic producers have not demonstrated it has suffered material injury based on the impact on employment and wages.

iv. **“Cash Flow**

“JSC respectfully submits that the domestic industry has failed to provide even a modicum of evidence as to how its cash flow has remained negative and no evidence is provided to support this claim of injury. This bald allegation simply

does not support an overreached conclusion that the domestic industry has suffered material injury based on the cash flow indicator.

v. **“Output, Growth and Ability to Raise Capital or Investments**

“The domestic producers did not state in the Application any detail whatsoever as to the extent and magnitude of their actual and potential decline in output, negative growth and ability to raise capital or investment. As no evidence was provided to support their claim of material injury, JSC respectfully submits that the domestic industry did not suffer material injury in terms of output, growth and ability to raise capital or investments.

vi. **“Magnitude of Dumping Margins**

“A magnitude of dumping margins is an important indicator of injury. Since dumping margins found in an antidumping investigation are those of individual exporters from a specific exporting country subject to the investigation, the lack of dumping margins is country-specific evidence that tends to disprove the domestic industry’s allegation of material injury and/or causation with respect to that exporter or country.

“Based on the company’s questionnaire response submitted to the Commission, specifically, the dumping margin calculations based on the per model transaction-by-transaction sales listings in Sections C-3 and D-3 of the response, JSC respectfully submits that JSC did not export subject merchandise during the POI to Pakistan at dumped prices. Hence, JSC requests that the Commission must not take this factor into consideration – as far as Thailand is concerned – when analyzing material injury and/or causation.

vii. **“Thai Imports Did not Undercut Domestic Producers’ Prices**

“in order to regard price undercutting as having an impact on prices in the domestic market, Section 15 (3) requires that such price undercutting must be significant.

“In *Glacial Acetic Acid*¹, the Commission concluded that the domestic industry did suffer material injury from the price undercutting of 14.91% in FY 2003 but not from the one in FY 2003 of 7.86%. JSC respectfully submits that *Glacial Acetic Acid* represent the Commission’s prevailing standard as to how to measure “significant” price undercutting. This Commission’s precedent clearly implies that a 7.86% price undercutting margin is insignificant.

¹ Report on Final Determination and Levy of Definitive Antidumping Duty on import of PVC Resin (suspension grade) into Pakistan Originating in and/or Exported from the Republic of Korea and the Islamic Republic of Iran, A.D.C. No.05/2004/NTC/PVCR, February 23, 2005, Non-confidential version, para. 28.

“alleged price undercutting actually went down from 4.90% to 4.55% during the POI. Given that the Commission had held that 7.86% is not a significant price undercutting margin, JSC requests the Commission to reach the conclusion in our present case that price undercutting of 4.55% is not significant. In sum, it is not refutable based on the fact that Thai subject imports did not cause significant price undercutting to domestic industry.

viii. **“Price Depression**

“average ex-factory price of domestic industry in the present investigation decreased from the indexed value of 102 in 2001-2002 to 98 in 2002-2003, or a 3.92% decrease. By any standard, this slim margin cannot be regarded as significant. On the other hand, the domestic industry’s average price rose suddenly to 102 and then 110 in the subsequent years including the POI. On an overall basis, JSC respectfully submits that there is simply no evidence whatsoever of the existence of price depression. Therefore, Thai subject imports did not cause, and could not have caused, significant price depression to domestic industry (if any).

ix. **“No Substantiated and Concrete Evidence of Causation**

“Pursuant to Section 18 (1) of the Ordinance, 2000, the domestic industry must meet the requirements that the alleged dumped imports are, through the effects of dumping, causing injury within the meaning of the Ordinance. It is remarkable that the Application is mostly silent as to the crucial issue of causation. It is perhaps an understatement to say that the domestic industry did not provide the Commission with any real evidence that clearly demonstrates causation, as required by Section 18 (1) of the Ordinance.

“It is submitted that Thai subject imports did not cause any effect of allegedly dumped imports, i.e. price undercutting and price depression to domestic industry. In other words, there is no causal link between Thai subject imports and any injuries alleged in the Application.

x. **“Factors Other than Dumping and Competition from Imports Have Caused Injury (if Any) to Domestic Producers**

“We proffer below some possible factors other than dumping that could be attributed towards the domestic producers’ injury.

“(a) Rise in oil price

“the lost profits and sales of certain domestic producers were caused by the rising cost of basic raw material which, in turn, resulted from the spiralling global oil price.

“(b) Lack of economies of scale

“As previously pointed out, the domestic industry’s capacity utilization has been nearly maximized since July 2001. The utilization rate for FY 2003 and FY 2004 was 94%. Based on this rate, it is submitted that the domestic industry should have been obtained economies of scale, i.e. enjoying lower production cost while increasing production capacity. However, the Application shows that, during the injury period of investigation, certain domestic producers experienced a continuous increase in average cost of production yet at the same time their capacity utilization also increased. JSC submits that, perhaps other than Gatron, the domestic producers’ inefficiency and lack of economies of scale have over the years weakened the domestic producers’ financial condition.

“(c) Domestic Industry cannot meet local demand

“The explanation is simple. Demand exceeds supply in the Pakistan PFY market. The market share of domestic industry declined from 72% in FY 2001-2002 to 44% in Jul-Dec 2004. Yet during the same period, the domestic industry’s capacity utilization reached 94%. These two statements contradict each other. How is it possible that the domestic industry lost market share when it was producing at near maximum level? The only plausible explanation is that local demand had increased and the domestic industry was unable to meet demand of the expanding domestic market. In this case, it is inevitable that domestic demand maximizes capacity utilization, resulting in diminished market share. Thus, this factor demonstrates the situation where the domestic industry cannot satisfy current domestic demand and imports are needed to meet a portion of domestic demand not served by domestic industry.

xi. “IMPOSITION OF ANTIDUMPING DUTIES ON IMPORTED POLYESTER FILAMENT YARN WILL CAUSE HARDSHIP TO PAKISTANI USERS AND IS NOT IN THE PUBLIC INTEREST

“The downstream industries of PFY, i.e. weaving and knitting industries, in Pakistan have benefited from the government’s reduction in tariff on the entire polyester chain for years. As generally recognized, Pakistan is a major manufacturer and exporter of fabric made from polyester filament yarn. Nevertheless, the domestic producers of PFY do not have adequate capacity to satisfy the entire domestic demand and this is why imports of polyester filament yarn from other countries are required. Because of the shortage as well as other problems including smuggling of undeclared imports of PFY, the government of Pakistan had reduced tariffs on raw material in order to stimulate domestic producers to expand their production. As we have seen earlier, this has not happened and therefore, imported PFY plays a crucial role in local fabric trade.

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

“Needless to say, any anti-dumping duty imposed on PFY will result in an increase in essential raw material and seriously harm the vulnerable downstream industries. Put it differently, the interest of the Pakistani public will be seriously undermined, and everybody loses – except for the handful of domestic producers – in this zero-sum game. “.

14. Views/Comments of the Importers/Industrial Users

14.1 The Commission received views/comments from following seven parties. Views/comments of these parties are given in following paragraphs.

- i. Polyester Yarn Merchants Association of Pakistan, Karachi;
- ii. Pakistan Silk and Rayon Mills Association, Karachi;
- iii. All Pakistan Power Looms Association, Karachi;
- iv. Asif Textile Trading, Karachi;
- v. Hasan Fabrics, Karachi;
- vi. Razak Silk Factory, Karachi; and
- vii. Al-Asif Silk Mills, Karachi

14.2 Views/Comments of Polyester Yarn Merchants Association

14.2.1 Extracts germane to this investigation from the submissions of Polyester Yarn Merchants Association are reproduced below.

14.2.2 “Capacity utilization of the domestic industry:

“the applicant has claimed that the industry is running below capacity. However, the fact of the matter reveals that 10 units with small capacity of 20,135/MT p.a have closed their operations due to reasons other than alleged dumping. The remaining 9 units with production capacity of 84,865 are running at almost 100% capacity utilization as they collectively produced 84,118 MT during POI (i.e. Jan-Dec 2004).

14.2.3 “Evidence of Normal Value:

“For three countries namely Indonesia, Korea and Malaysia, evidence of domestic prices have been provided by the applicant, whereas for Thailand as per para 8.2 of the summary, the third country prices (i.e. USA website) have been used to work out the so called dumping margin which of course is not correct.

“In this case the applicant has neither provided evidence of domestic prices of the investigated product in Thailand, nor shown any evidence of efforts

made to obtain the same. Rather the applicant has directly gone to export prices of Thailand to a third country. We feel that such practice may not be correct and the Commission may consider the determination of normal value for Thailand afresh.

14.2.4 **“Dumped Product:**

“As per para 3 of the summary, alleged dumped product mainly consists of filament yarn of 75 & 150 denier. As per table- 3 & 4 of the summary prices of 75 & 150 denier vary considerably ranging from 9% to 45%. With such a wide difference in prices, averages worked out for the industry may not reflect the true position of injury and specially the price undercutting etc. Hence it is requested to ask the applicant to give separate domestic prices and respective injury factors and separate normal value & export prices of both the deniers to see the real situation on ground.

14.2.5 **“Injury to the Domestic Industry:**

“While seeing injury to the domestic industry, it is not fair to see mostly the loss-incurring units and leave aside the profit-earning units. Hence we are giving as under the profitability of some of the units, which have been kept out of the applicant industry.

Profits (Rs. in Million)

Name	For the year ended 2003-2004	For 1st Quarter ended September 2004	For 2nd Quarter ended December 2004
Rupali Polyester Ltd	30.48	86.58	103.41
Gatron Industries Ltd	280.98	98.81	49.79

14.2.6 **“Volume of Imports from dumped sources:**

“for the six-months ending Jul- Dec 2003, the imports from the four alleged dumping countries were 28,340 MT. During next six months (Jan – Jun 2004) these were 19,921 MT and during last six- months (Jul-Dec 2004) these were 25,720 MT. This shows that during the POI the alleged dumped imports decreased. Even the quantity of imports during last six months of the calendar year 2004 are less than the similar period of the calendar year 2003. **It reveals that in absolute terms imports from alleged dumped sources during the POI are showing decreasing trend.**

“With the exception of Thailand the volume of imports from other three alleged dumped sources has decreased during the POI as compared to the base year (2001-2002) in terms of percentage.

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

14.2.7 “Price Undercutting:

“As earlier indicated average prices of both the deniers (75 & 150) for imports and for domestic sales are not likely to give true picture of the situation. Hence price undercutting for both the deniers should have been worked out separately by the applicant.

14.2.8 “Price Depression:

“there was no price depression during the POI. Instead there were increases in pricing level during 2003-2004 and Jul –Dec 2004 our previous periods.

14.2.9 “Price Suppression:

“during last six months of POI the increase in cost of production was 6 and increase in sale price was 8, thus increase in sales price fully recovers the increase in cost and there was no price suppression during this later part of the POI.

14.2.10 “Production and Capacity Utilization:

“It has been admitted by the applicant that the domestic industry’s capacity utilization was 94%. However it was almost 100% as earlier discussed if operational units capacity utilization is considered. For any industry capacity utilization in the range of 94-100% is not lesser achievement.

14.2.11 “Market Share:

“The domestic industry with total capacity of 105,000 MT including capacity of closed units cannot meet the full demand of 130,000 MT. At any rate demand above the capacity of operational units is to be met from imports.

“As far as reduction in market share (sales) of the domestic industry is concerned, this is because the applicant has charged abnormally high sales prices during the last six months of POI and hence they lost their market share which was very obvious.

14.2.12 “Sales by Domestic Industry in Domestic Market:

“The applicant has admitted that sales of four units increased during 2003-04 and 2004-05. The applicant also admitted that the reason for increase was lost of market share by the closing units. Thus it is evident that the closed units were in competition with the other domestic units and lost market share in favour of remaining domestic units. Hence this closure should not be attributed to the alleged dumping from four countries.

14.2.13 “Effects on Inventories:

“The inventory for the year ending 2003-04 and for the six-month ending 31-12-2004 was comparatively lower than the base year inventory of 2001-2002. Hence there was no adverse effect on inventories.

14.2.14 “Profit / (loss):

“Without giving quantum of losses, it has been claimed that huge losses were suffered during three years period and last six month ending 31-12-2004. As mentioned earlier profit earning units have been kept outside the applicant domestic industry. It is obvious that if at a certain point of time, some units are earning huge profits and some are incurring huge losses there must be some reasons other than dumping for their loss, otherwise the whole industry should have incurred losses. One major reason for losses by loss incurring units and closed units is abnormally low capacity of these units, which worldwide are considered unviable.

“M/s S.G Rayon Fiber Ltd. which is one of the units included in applicant domestic industry has shown huge increase in its profitability which was Rs. 17 million for the year ended 2004 as compared to Rs. 7 million for the year ended 2003.

“It is worth mentioning that most of the applicant domestic industry units are producing “B” grade PFY with “NO CLAIM” marks on their packing. This is not only affecting those units, but also adversely affecting exports. **Thus the user industry is constrained to import PFY to maintain quality of its products for export purposes.**

14.2.15 “Employment, Productivity and Wages:

“The employment situation pertains to loss incurring units. The actual situation should be brought to light by including the employment position of profit earning units to see the overall position of the domestic industry.

“Nothing adverse has been said by the applicant with reference to productivity and wages. Hence no injury on this account also.

14.2.16 “Return on Investment:

“It has been admitted that lately there was improvement of 2.55% in Jul-Dec 04 in return on investment. This proves that had there been dumped imports there would have been no improvement in return on investment as imports from alleged dumped sources were still coming during this period.

14.2.17“Other factors of injury:

“In addition to other factors of injury as discussed earlier, it has been observed that the closed units of domestic industry and many other smaller units are not fully integrated units and they started production from intermediate products i.e. chips in this case. Hence these units are purchasing raw material at higher prices and adding to the profitability of the units providing them the major input. In such circumstances, it is difficult for the smaller units to compete even with the local /domestic fully integrated units in the domestic market..... Therefore, units which have not updated their technology and lack integration cannot fairly compete with fully integrated units and hence losses should not be attributed on this account to alleged dumping.

14.2.18“**Policy of the Government of Pakistan:**

“During current year budget, Government has intentionally reduced customs duty on import of PFY from 20% to 7% and simultaneously decreased the customs duty on its major input. The purpose of the Government policy is to give boost to the exports of textile products. The applicant’s request is meant for increase in duty on import of PFY which if acceded would be against the Government pronounced policy of facilitating exports. “.

14.3 **Views/Comments of Pakistan Silk & Rayon Mills Association**

14.3.1 Extracts from submissions of Pakistan Silk & Rayon Mills Association, germane to this investigation, are reproduced below.

14.3.2 “As per table-3 of the complaint, currently there are nine operational units with an installed capacity of 84,865 MT, whereas the actual production is 84,118 MT, which is almost 100%. It is remarkable that FYMA can claim injury, when they are operating at almost 100% capacity and their sales and profits are increasing”.

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

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14.3.4 “It is very surprising that Gatron, which represent almost 40% of the market share, is indifferent to this complaint. The 4 applicants namely Rupafil, S.G Fiber, Spintex and Polyron are relatively small players.”

14.3.5 “FYMA’s methodology for calculating the normal value of the yarn is faulty at best. The more objective way to calculate the normal value of any yarn is to examine the sales tax invoices of the local manufacturers and you can very easily arrive at CNF values and those values can be compared with the price list that was applicable at the time of these imports”.

14.4 Views/Comments of All Pakistan Power Looms Association, Asif Textile Trading, Hasan Fabrics, Razak Silk Factory, and Al-Asif Silk Mills.

Views/comments received from All Pakistan Power Looms Association, Karachi, Asif Textile Trading, Karachi, Hasan Fabrics, Karachi, Razak Silk Factory, Karachi; and Al-Asif Silk Mills, Karachi do not specifically relate to this investigation. Furthermore, they submitted their views/comments without any documentary evidence. However they raised the following points relating to this investigation:

- i. This is just an allegation that PFY is being dumped into Pakistan from Indonesia, Malaysia, Korea, and Thailand.
- ii. Technology employed by the domestic industry is outdated. Resultantly, the cost of production of PFY produced in the country is on the higher side.
- iii. Fabrics manufacturing industry in the country is suffering due to inefficiencies of the domestic PFY industry.

15. Response of the Commission to the Views/Comments of Interested Parties

15.1 As per the views/comments submitted by two exporters namely (i) Tuntex (Thailand) Public Company Ltd., Thailand, and (ii) Jong Stit Company Ltd., Thailand (paragraph 13 supra) and by two associations of the importers/industrial users namely (i) Polyester Yarn Merchants Association of Pakistan, Karachi, and (ii) Pakistan Silk and Rayon Mills Association, Gujranwala (paragraph 14 supra) have raised the following issues:

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- i. The application filed by the Applicant with the Commission does not contain sufficient information and evidence on normal value and export price;
- ii. The Commission failed to assess the adequacy and accuracy of the information provided by the Applicant to justify the initiation of an anti-dumping investigation against alleged dumping of the investigated product.
- iii. Notice of initiation of this investigation does not contain sufficient information as laid down in Article 12.1.1 of the Agreement on Antidumping;
- iv. Product under investigation covers a wide range of PFY. Domestic industry may not be able to produce all types of PFY;
- v. Major producers (Gatron Industries Ltd., and Rupali Polyester Ltd.) are not part of the application. The Commission should take into account these units in determination of material injury to the domestic industry;
- vi. Domestic industry did not suffer material injury during the POI. Injury (if any) to the domestic industry was due to the factors other than the imports of the investigated product; and
- vii. Imposition of an antidumping duty on the investigated product is not in the national interest of Pakistan.

15.2 The Commission's response to these issues is as follows:

- i. The Applicant filed the application with the Commission on March 30, 2005. The Commission examined the application and determined that the application contained information as per Rule 3 of the Rules and evidence provided by the Applicant, *prima facie*, met the requirements of accuracy and adequacy referred to in Section 23 of the Ordinance to justify the initiation of an investigation in the matter (paragraph 2.1 supra). Thus the investigation was initiated on May 12, 2005.
- ii. The notice of initiation published in national press and in official gazette on May 12, 2005 contained sufficient information referred to in Article 12.1.1 of Agreement on Antidumping and Rule 6 of the Rules.

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- iii. In order to determine whether the investigated product and the domestic like product are like products, the Commission reviewed all the relevant information received/obtained from various sources including the Applicant, and the exporters/foreign producers, and determined that both the products are like products (paragraph 6.3 supra).
- iv. The application was filed on behalf of four units and fulfills the requirements of Section 24 of the Ordinance (paragraphs 2.2 to 2.5 supra). However, the Commission asked the other five indifferent units in the domestic industry including the two identified by the exporters/importers (Gatron Industries Ltd., and Rupali Polyester Ltd.) to provide information on injury factors. Neither of them provided the requisite information (paragraph 8.2.3 supra and 21.4 infra).
- v. Preliminary investigation of the Commission revealed that the domestic industry suffered material injury during the POI (paragraphs 23 to 32 infra)
- vi. The Commission is not required to assess national or public interest under the Ordinance in an antidumping investigation.

B. DETERMINATION OF DUMPING

16. Determination of Dumping

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

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

17. Normal Value

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

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

However, Section 6 of the Ordinance states:

“(1) when there are no sales of like product in the ordinary course of trade in domestic market of an exporting country, or when such sales do not permit a

proper comparison because of any particular market situation or low volume of the sales in the domestic market of the exporting country, the Commission shall establish normal value of an investigated product on the basis of either:

- “a) the comparable price of the like product when exported to an appropriate third country provided that this price is representative;
or
- “b) the cost of production in the exporting country plus a reasonable amount for administrative, selling and general costs and for profits.

“(2) Sales of a like product destined for consumption in domestic market of an exporting country or sales to an appropriate third country may be considered to be a sufficient quantity for the determination of normal value if such sales constitute five per cent or more of the sales of an investigated product to Pakistan.”.

17.2 Ordinary course of trade is defined in Section 7 of the Ordinance as follows:

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

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

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

- “(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.”

17.3 As stated in paragraph 8.2.1 supra, the Commission sent questionnaires to exporters/foreign producers selected in the sample to gather information/data, including data relating to their sales in the domestic market, export sales and cost of production.

17.4 Seven exporters (i.e. SK Keris, Indorama and PanAsia from Indonesia, Tongkook from Korea, Hualon from Malaysia and Jong Stit and Tuntex from Thailand) provided information in response to the questionnaire, (paragraph 9 supra). Normal value for these seven exporters is determined on the basis of information supplied by them.

17.5 Six exporters/foreign producers selected in the sample did not provide information in response to the questionnaire (paragraphs 9.4, 9.6, 9.7, 9.9, 9.10 and 9.13 supra). Therefore, normal value for the purposes of this preliminary determination for these six exporters/foreign producers namely; Sulindafin from Indonesia, Hyosung and Hualon from Korea, Global Trade and Fotex from Malaysia and Chiem Patana from Thailand 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”.

17.6 It is important to identify here that the Commission duly informed the six exporters/foreign producers (i.e. Sulindafin from Indonesia, on July 26, 2005, Hyosung from Korea, and Chiem Patana from Thailand on July 23, 2005 and Hualon from Korea, Global Trade and Fotex from Malaysia, through their embassies in Pakistan on August 08, 2005 as the Commission does not have addresses of these exporters/foreign producers) of its resort to the best information available due to their “non-response”. Embassies of all the Exporting Countries in Pakistan were also informed through note verbales on August 08, 2005.

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

17.7.1 Normal value for P.T S.K Keris, Indonesia is determined on the basis of the information provided by it on its domestic sales made during the POI (obtained during on-the-spot investigation).

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

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

17.7.4 Analysis of the information revealed that some sales of the comparable types were not in ordinary course of trade in terms of Section 7(2) of the Ordinance (paragraph 17.2 supra). Following table shows the data on sales of the comparable types, made by P.T S.K Keris in its domestic market during the POI:

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

Product	Quantity Sold (MT)	Below costs sales			
		MT	Percentage of total sales	Weighted average gross price (US\$/MT)	Weighted average cost to make & sell (US\$/MT)
BSY 130	****	****	16.12%	****	****
BSY 135	****	****	5.78%	****	****
SDY-SD 75	****	****	40.98%	****	****
SSY 135	****	****	49.73%	****	****

**** Actual figures have been omitted for confidentiality reasons

17.7.5 The above table shows that the below costs sales of SDY-SD 75, and SSY 135 were in substantial quantities in terms of Section 7(2) of the Ordinance. Furthermore, the investigation also revealed that the below costs sales were for an extended period of time and its prices did not provide for the recovery of all costs within a reasonable period of time in accordance with Section 7 of the Ordinance (paragraph 17.2.supra). Thus the Commission has disregarded below costs sales of SDY-SD 75, and SSY 135 in determination of normal value.

17.7.6 For the purposes of determination of normal value, after excluding below costs sales of SDY-SD 75, and SSY 135, the Commission assessed whether remaining sales were in sufficient quantities in terms of Section 6(2) of the Ordinance (paragraph 17.1 supra). Analysis of the information revealed that the remaining quantities (sales in ordinary course of trade) of SDY-SD 75, SSY 135 and

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total sales of BSY 130, and BSY 135 were in sufficient quantities as those were more than 5 percent of the export sales of BSY 130, BSY 135, SDY-SD 75, and SSY 135 to Pakistan during the POI. Thus normal value for SDY-SD 75, and SSY 135 types is calculated on the basis of profitable sales only made in domestic market (Indonesia) during the POI. However, during the POI, below costs sales of BSY 130 and BSY 135 were not in substantial quantities. Thus normal value for these types has been determined on the basis of total (profitable and below costs) sales during the POI.

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

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

17.8.1 Normal value for P.T Indorama is determined on the basis of the information provided by it on its domestic sales made during the POI (provided in Attachment D-3 of the questionnaire response).

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

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

17.8.4 Analysis of the information revealed that some sales of the comparable types were not in ordinary course of trade in terms of Section 7(2) of the Ordinance (paragraph 17.2 supra). Following table shows the data on sales of the comparable types, made by P.T Indorama in its domestic market during the POI:

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

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

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**** Actual figures have been omitted for confidentiality reasons

17.8.5 The above table shows that the below costs sales of DTY 75, DTY 100 and DTY 150 were in substantial quantities in terms of Section 7(2) of the Ordinance. Furthermore, the investigation also revealed that the below costs sales were in extended period of time and the prices did not provide for the recovery of all costs within a reasonable period of time in accordance with Section 7 of the Ordinance (paragraph 17.2.supra). Thus the Commission has disregarded below costs sales of DTY 75, DTY 100 and DTY 150 in determination of normal value.

17.8.6 For the purposes of determination of normal value, after disregarding below costs sales of DTY 75, DTY 100 and DTY 150, the Commission assessed whether remaining sales were in sufficient quantity in terms of Section 6(2) of the Ordinance (paragraph 17.1 supra). Analysis of the information revealed that the remaining quantities (sales in ordinary course of trade) of DTY 75, DTY 100 and DTY 150 were in sufficient quantities as those were more than 5 percent of the export sales of DTY 75, DTY 100 and DTY 150 to Pakistan during the POI. Thus normal value for these types (of DTY 75, DTY 100 and DTY 150) is calculated on the basis of profitable sales only made in domestic market (Indonesia) during the POI. However, during the POI, below costs sales of DTY 300, FDY 75, and FDY 150 were not in substantial quantities. Thus normal value for these types has been determined on the basis of total (profitable and below costs) sales during the POI.

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

17.9 Determination of Normal Value for PanAsia, Indonesia

17.9.1 Normal value for PanAsia is determined on the basis of the information provided by it on domestic sales made during the POI (provided in Attachment D-3 of the questionnaire response).

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

17.9.3 PanAsia sold comparable types to related and un-related parties in its domestic market during the POI. However analysis of the information revealed that sales to related parties were at arm's length. Thus in determination of normal

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value, sales of the comparable types to both, related and un-related, parties have been taken into account.

17.9.4 Analysis of the information revealed that some sales of the comparable types were also not in ordinary course of trade in terms of Section 7(2) of the Ordinance (paragraph 17.2 supra). Following table shows the data on sales of the comparable types, made by PanAsia in its domestic market during the POI:

**Table-VI
Sales of Comparable Types by PanAsia During the POI**

Product	Quantity Sold (MT)	Below costs sales			
		(MT)	Percentage	Weighted average gross price (IDR/MT)	Weighted average cost to make & sell (IDR/MT)
DTY 75	****	****	21.41%	****	****
DTY 150	****	****	36.92%	****	****
DTF 95	****	****	100.00%	****	****
DTF 180	****	****	100.00%	****	****
ITY 195	****	****	100.00%	****	****
ITY 200	Not sold	-	-	-	-

**** Actual figures have been omitted for confidentiality reasons

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

17.9.6 For the purposes of determination of normal value, after disregarding below costs sales, the Commission assessed whether remaining sales were in sufficient quantities in terms of Section 6(2) of the Ordinance (paragraph 17.1 supra). Analysis of the information revealed that the remaining quantities (sales in ordinary course of trade) of DTY 75 and DTY 150 were in sufficient quantities as those were more than 5 percent of the export sales of DTY 75 and DTY 150 to Pakistan during the POI. Thus normal value for these types (DTY 75 and DTY 150) is calculated on the basis of the sales in domestic market (Indonesia) during the POI. However, all sales of DTF 95, DTF 180, ITY 195 and ITY 200 were made made at loss (below costs) during the POI. Thus normal value for these types has been constructed on the basis of cost of production plus admin, selling and general costs, financial expenses and profits, on the basis of the information supplied by the PanAsia in response to the questionnaire.

17.9.7 To arrive at the ex-factory level, PanAsia has reported adjustments on account of freight, insurance and rebate on advance/early payment. The Commission has accepted these adjustments and the normal value at ex-factory

level is worked out by deducting values reported for these adjustments from the gross value of sales transactions.

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

17.10.1 As stated earlier that P.T Sulindafin did not respond to the Commission's questionnaire and did not provide requisite information (paragraph 9.4 supra). It is important to identify here that the Commission had duly informed P.T Sulindafin of its constrained reliance on the best information available (paragraph 17.6 supra). Thus, the normal value for P.T Sulindafin is determined on the basis of the best information available to the Commission in terms of Section 32 of the Ordinance, and Article 6.8 and Annex II of the Agreement on Antidumping.

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

17.10.3 For the purposes of construction of normal value for P.T Sulindafin, the information provided by P.T Indorama, Indonesia on cost of production plus admin, selling and general costs, financial expenses and profits, in response to the questionnaire is used. The Commission is of the view that it is the best available information for this purpose on the following grounds:

- i. P.T Indorama is a major producer of PFY in Indonesia;
- ii. P.T Indorama produces PFY from basic raw materials i.e. PTA and MEG; and
- iii. P.T Indorama is among the largest exporter of the investigated product from Indonesia to Pakistan during the POI.

17.11 Determination of Normal Value for Tongkook Corporation, Korea

17.11.1 Normal value for Tongkook Corporation, Korea is determined on the basis of the information provided by it on its domestic sales made during the POI (provided in Attachment D-3 of the questionnaire response).

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

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

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17.11.4 Analysis of the information revealed that some sales of the comparable types were not in ordinary course of trade in terms of Section 7(2) of the Ordinance (paragraph 17.2 supra). Following table shows the data on sales of the comparable types, made by Tongkook Corporation in its domestic market during the POI:

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

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

**** Actual figures have been omitted for confidentiality reasons

17.11.5 The above table shows that the below costs sales of PSY 135 and SDY 75 were in substantial quantities in terms of Section 7(2) of the Ordinance. Furthermore, the investigation also revealed that these below costs sales were in extended period of time and the prices did not provide for the recovery of all costs within a reasonable period of time in accordance with Section 7 of the Ordinance (paragraph 17.2.supra). Thus the Commission has disregarded below costs sales of PSY 135 and SDY 75 in determination of normal value.

17.11.6 For the purposes of determination of normal value, after disregarding below costs sales of PSY 135 and SDY 75, the Commission assessed whether remaining sales were in sufficient quantities in terms of Section 6(2) of the Ordinance (paragraph 17.1 supra). Analysis of the information revealed that the remaining quantities (sales in ordinary course of trade) of PSY 135 and SDY 75 were in sufficient quantities as those were more than 5 percent of the export sales of PSY 135 and SDY 75 to Pakistan during the POI. Thus normal value for these types (PSY 135 and SDY 75) is calculated on the basis of profitable sales only made in domestic market (Korea) during the POI. However, during the POI, below costs sales of PSY 195, and SDY 50 were not in substantial quantities. Thus normal value for these types has been determined on the basis of total (profitable and below costs) sales during the POI.

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

17.12 Determination of Normal Value for Hyosung Corporation, Korea

17.12.1 As stated earlier that Hyosung Corporation, Korea did not respond to the Commission's questionnaire and did not provide requisite information (paragraph 9.6 supra). It is important to identify here that the Commission had duly informed Hyosung Corporation of its constraint rely on the best information available (paragraph 17.6 supra). Thus, the normal value for Hyosung Corporation is determined on the basis of the best information available to the Commission in terms of Section 32 of the Ordinance, and Article 6.8 and Annex II of the Agreement on Antidumping.

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

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

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

17.13 Determination of Normal Value for Hualon Corporation, Korea

17.13.1 As stated earlier that Hualon Corporation, Korea did not respond to the Commission's questionnaire and did not provide requisite information (paragraph 9.7 supra). It is important to identify here that the Commission had duly informed Hualon Corporation (through Korean Embassy in Pakistan) of its constraint rely on the best information available (paragraph 17.6 supra). Thus, the normal value for Hualon Corporation is determined on the basis of the best information available to the Commission in terms of Section 32 of the Ordinance, and Article 6.8 and Annex II of the Agreement on Antidumping.

17.13.2 The Commission has constructed normal value for Hualon Corporation on the basis of the cost of production in the exporting country plus a

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

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

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

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

17.14.1 Normal value for Hualon Corporation, Malaysia is determined on the basis of the information provided by it in response to the questionnaire.

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

17.14.3 Analysis of the information revealed that sales of the like product made by the Hualon Corporation, Malaysia in its domestic market were not in sufficient quantities in terms of Section 6(2) of the Ordinance, as those were less than 5 percent of the export sales of the investigated product to Pakistan during the POI. Thus normal value for Hualon Corporation, Malaysia has been constructed on the basis of cost of production plus admin, selling and general costs, financial expenses and profits, on the basis the information supplied by the Hualon Corporation in response to the questionnaire.

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

17.15.1 As stated earlier that Global Trade Well, Malaysia did not respond to the Commission's questionnaire and did not provide requisite information (paragraph 9.9 supra). It is important to identify here that the Commission had duly informed Global Trade Well, Malaysia (through Malaysian Embassy in Pakistan) of its constraint rely on the best information available (paragraph 17.6 supra). Thus,

the normal value for Global Trade Well, Malaysia is determined on the basis of the best information available to the Commission in terms of Section 32 of the Ordinance, and Article 6.8 and Annex II of the Agreement on Antidumping.

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

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

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

17.16 Determination of Normal Value for Fotex Trading, Malaysia

17.16.1 As stated earlier that Fotex Trading, Malaysia did not respond to the Commission's questionnaire and did not provide requisite information (paragraph 9.10 supra). It is important to identify here that the Commission had duly informed Fotex Trading, Malaysia (through Malaysian Embassy in Pakistan) of its constraint rely on the best information available (paragraph 17.6 supra). Thus, the normal value for Fotex Trading, Malaysia is determined on the basis of the best information available to the Commission in terms of Section 32 of the Ordinance, and Article 6.8 and Annex II of the Agreement on Antidumping.

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

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

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

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

17.17.1 Normal value for Jong Stit Company Ltd., Thailand is determined on the basis of the information provided by it on its domestic sales made during the POI (provided in Attachment D-3 of the questionnaire response).

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

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

17.17.4 Analysis of the information revealed that some sales of the comparable types were made at loss (below costs). However, below costs sales were not in substantial quantities in terms of Section 7(2) of the Ordinance (paragraph 17.2 supra). Thus the normal value is determined on the basis of total sales of comparable types made during the POI.

17.17.5 For the purposes of determination of normal value, the Commission also assessed whether sales made in domestic market were in sufficient quantities in terms of Section 6(2) of the Ordinance (paragraph 17.1 supra). Analysis of the information revealed that the sales were in sufficient quantities as those were more than 5 percent of the export sales of the investigated product to Pakistan during the POI. Thus normal value for comparable types is calculated on the basis of the total sales made in the domestic market (Thailand) during the POI. However, there were no sales of one comparable type (T 300 coloured) in domestic market during the POI. Thus normal value for this types has been determined on the basis of cost of production plus admin, selling and general costs, financial expenses and profits, submitted in response to the questionnaire.

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

17.18 Determination of Normal Value for Tuntex (Thailand) Public Company Limited, (“Tuntex Thailand”)Thailand.

17.18.1 Normal value for Tuntex Thailand is determined on the basis of the information provided by it on its domestic sales made during the POI (provided in Attachment D-3 of the questionnaire response).

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

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

17.18.4 Analysis of the information provided by Tuntex Thailand on its domestic sales revealed that some sales of the comparable types (DTY 75 raw, DTY 100 raw, DTY 150 raw, DTY 300 raw and DTY 150 coloured) were not in ordinary course of trade in terms of Section 7(2) of the Ordinance (paragraph 17.2 supra). Following table shows the data on sales of these comparable types, made by it in its domestic market during the POI:

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

Product	Quantity Sold (MT)	Below costs sales			
		(MT)	Percent-age	Weighted average gross price (US\$/MT)	Weighted average cost to make & sell (US/MT)
DTY 75 raw	****	****	70.34%	****	****
DTY 100 raw	****	****	79.87%	****	****
DTY 150 raw	****	****	77.70%	****	****

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DTY 300 raw	****	****	59.49%	****	****
DTY 150 coloured	****	****	50.10%	****	****

**** Actual figures have been omitted for confidentiality reasons

17.18.5 The above table shows that the below costs sales of comparable types (DTY 75 raw, DTY 100 raw, DTY 150 raw, DTY 300 raw and DTY 150 coloured) were in substantial quantities in terms of Section 7(2) of the Ordinance. Furthermore, the investigation also revealed that these below costs sales were in extended period of time and its prices did not provide for the recovery of all costs within a reasonable period of time in accordance with Section 7 of the Ordinance (paragraph 17.2.supra). Thus the Commission has disregarded below costs sales of these types in determination of normal value.

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

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

17.19 Determination of Normal Value for Chiem Patana Synthetic Fibers Co. Ltd, (“Chiem Patana”)Thailand.

17.19.1 Chiem Patana responded to the notice of initiation and stated that it will cooperate in this investigation but it did not respond to the Commission’s questionnaire and did not provide requisite information (paragraph 9.13 supra). It is important to identify here that the Commission had duly informed Chiem Patana of its constraint rely on the best information available (paragraph 17.6 supra). Thus, the normal value for Chiem Patana is determined on the basis of the best information available to the Commission in terms of Section 32 of the Ordinance, and Article 6.8 and Annex II of the Agreement on Antidumping.

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

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

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

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

18. Export Price

18.1 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”.

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

18.2.1 Export price for S.K Keris is determined on the basis of the information provided by it on its export sales to Pakistan made during the POI (provided in Attachment C-3 of the questionnaire response).

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

18.2.3 To arrive at the ex-factory level, S.K Keris has reported adjustments on account of handling charges, bank charges, inland freight in Indonesia, and ocean freight. The Commission has accepted these adjustments and the export price at ex-factory level is worked out by deducting values reported for these adjustments from the gross value of the sales transactions.

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

18.3.1 Export price for P.T Indorama is determined on the basis of the information provided by it on its export sales to Pakistan made during the POI (provided in Attachment C-3 of the questionnaire response).

18.3.2 According to the information, P.T Indorama exported DTY 75, DTY 100, DTY 150, DTY 300, FDY 75, and FDY 150 types of the investigated product to

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

18.3.3 To arrive at the ex-factory level, P.T Indorama has reported adjustments on account of credit cost, bank charges, inland freight in Indonesia, insurance, and ocean freight. The Commission has accepted these adjustments and the export price at ex-factory level is worked out by deducting values reported for these adjustments from the gross value of the sales transactions.

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

18.4.1 Export price for P.T PanAsia is determined on the basis of the information provided by it on its export sales to Pakistan made during the POI (provided in Attachment C-3 of the questionnaire response).

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

18.4.3 To arrive at the ex-factory level, P.T PanAsia has reported adjustments on account of commission paid, bank charges, inland freight in Indonesia, insurance, ocean freight, and THC. The Commission has accepted these adjustments and the export price at ex-factory level is worked out by deducting values reported for these adjustments from the gross value of the sales transactions.

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

18.5.1 As stated earlier that P.T Sulindafin did not respond to the Commission's questionnaire and did not provide requisite information (paragraph 9.4 supra). Thus, the export price for P.T Sulindafin is determined on the basis of the best information available to the Commission in terms of Section 32 of the Ordinance, and Article 6.8 and Annex II of the Agreement on Antidumping.

18.5.2 To determine export price for P.T Sulindafin, the Commission has used import data obtained from PRAL (paragraph 8.2.4 supra). According to the data, P.T Sulindafin exported **** MT of the investigated product to Pakistan during the POI. CIF prices of these exports ranged between US\$ **** per MT to US\$ **** per MT. Weighted average CIF export price works out to be US\$ **** per MT.

18.5.3 To arrive at the ex-factory level, weighted average CIF export price has been adjusted on account of the same adjustments which have been reported by P.T Indorama, Indonesia (credit cost, bank charges, inland freight in Malaysia, insurance, and ocean freight) and the information provided by P.T Indorama, Indonesia is used for this purpose. After deducting weighted average expenses on

account of adjustments, the weighted average export price at ex-factory level for P.T Sulindafin, Indonesia has been worked out.

18.6 Determination of Export Price for Tongkook Corporation, Korea

18.6.1 Export price for Tongkook Corporation is determined on the basis of the information provided by it on its export sales to Pakistan made during the POI (provided in Attachment C-3 of the questionnaire response).

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

18.6.3 To arrive at the ex-factory level, Tongkook Corporation has reported adjustments on account of, commission paid, ocean freight, insurance, inland freight in Korea, handling cost, customs brokerage charges, and bank charges. The Commission has accepted these adjustments and the export price at ex-factory level is worked out by deducting values reported for these adjustments from the gross value of the sales transactions.

18.7 Determination of Export Price for Hyosung Corporation, Korea

18.7.1 As stated earlier that Hyosung Corporation, Korea did not respond to the Commission's questionnaire and did not provide requisite information (paragraph 9.6 supra). Thus, the export price for Hyosung Corporation is determined on the basis of the best information available to the Commission in terms of Section 32 of the Ordinance, and Article 6.8 and Annex II of the Agreement on Antidumping.

18.7.2 To determine export price for Hyosung Corporation, the Commission has used import data obtained from PRAL (paragraph 8.2.4 supra). According to the data, Hyosung Corporation exported **** MT of the investigated product to Pakistan during the POI. CIF prices of these exports ranged between US\$ **** per MT to US\$ **** per MT. Weighted average CIF export price works out to be US\$ **** per MT.

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

18.8 Determination of Export Price for Hualon Corporation, Korea

18.8.1 As stated earlier that Hualon Corporation, Korea did not respond to the Commission's questionnaire and did not provide requisite information (paragraph 9.7 supra). Thus, the export price for Hualon Corporation, Korea is determined on the basis of the best information available to the Commission in terms of Section 32 of the Ordinance, and Article 6.8 and Annex II of the Agreement on Antidumping.

18.8.2 To determine export price for Hualon Corporation, Korea, the Commission has used import data obtained from PRAL (paragraph 8.2.4 supra). According to the data, Hualon Corporation, Korea exported **** MT of the investigated product to Pakistan during the POI. CIF prices of these exports ranged between US\$ **** per MT to US\$ **** per MT. Weighted average CIF export price works out to be US\$ **** per MT.

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

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

18.9.1 Export price for Hualon Corporation, Malaysia is determined on the basis of the information provided by it on its export sales to Pakistan made during the POI (provided in Attachment C-3 of the questionnaire response).

18.9.2 According to the information, Hualon Corporation, Malaysia exported FDY raw and FDY coloured of different types to Pakistan during the POI. As the normal value for Hualon Corporation, Malaysia is constructed on the basis of over all weighted average cost of production plus administrative, selling, and general costs, financial expenses and profits (paragraph 17.14.3 supra), thus a single weighted average export price for all types of PFY has been calculated for its exports of the investigated product during the POI. Its total exports of the investigated product to Pakistan during the POI were **** MT. CIF prices of these exports ranged between RM **** per MT to RM **** per MT. Weighted average CIF export price works out to be RM **** per MT. All export sales to Pakistan, during the POI, were to un-related parties.

18.9.3 To arrive at the ex-factory level, Hualon Corporation, Malaysia has reported adjustments on account of commission paid, ocean freight, insurance, inland freight

in Malaysia, handling cost, and bank charges. The Commission has accepted these adjustments and the export price at ex-factory level is worked out by deducting values reported for these adjustments from the gross value of the sales transactions. After deducting expenses on account of these adjustments, the weighted average export price at ex-factory level for Hualon Corporation, Malaysia has been worked out.

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

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

18.10.2 To determine export price for Global Trade Well P.T.E Ltd, Malaysia, the Commission has used import data obtained from PRAL (paragraph 8.2.4 supra). According to the data, Global Trade Well P.T.E Ltd, Malaysia exported **** MT of the investigated product to Pakistan during the POI. CIF prices of these exports ranged between US\$ **** per MT to US\$ **** per MT. Weighted average CIF export price works out to be US\$ **** per MT.

18.10.3 To arrive at the ex-factory level, weighted average CIF export price has been adjusted on account of the same adjustments which have been reported by Hualon Corporation, Malaysia (commission paid, ocean freight, insurance, inland freight in Malaysia, handling cost, and bank charges) and the information provided by Hualon Corporation, Malaysia is used for this purpose. After deducting weighted average expenses on account of adjustments, the weighted average export price at ex-factory level for Global Trade Well P.T.E Ltd, Malaysia has been worked out.

18.11 Determination of Export Price for Fotex Trading, Malaysia

18.11.1 As stated earlier that Fotex Trading, Malaysia did not respond to the Commission's questionnaire and did not provide requisite information (paragraph 9.10 supra). Thus, the export price for Fotex Trading, Malaysia is determined on the basis of the best information available to the Commission in terms of Section 32 of the Ordinance, and Article 6.8 and Annex II of the Agreement on Antidumping.

18.11.2 To determine export price for Fotex Trading, Malaysia, the Commission has used import data obtained from PRAL (paragraph 8.2.4 supra). According to the data, Fotex Trading, Malaysia exported **** MT of the investigated product to Pakistan during the POI. CIF prices of these exports ranged between US\$

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

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

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

18.12.1 Export price for Jong Stit Company Ltd., Thailand is determined on the basis of the information provided by it on its export sales to Pakistan made during the POI (provided in Attachment C-3 of the questionnaire response).

18.12.2 According to the information, Jong Stit Company Ltd., Thailand exported I 100 raw, I 150 raw, T 75 raw, T 100 raw, T 150 raw, T 300 raw, NT 100 raw, T 75 colour, T 100 colour, T 150 colour, and T 300 colour types of the investigated product to Pakistan during the POI. All export sales to Pakistan, during the POI, were to un-related parties.

18.12.3 To arrive at the ex-factory level, Jong Stit Company Ltd. has reported adjustments on account of commission paid, ocean freight, inland freight in Thailand, handling cost, and bank charges. The Commission has accepted these adjustments and the export price at ex-factory level is worked out by deducting values reported for these adjustments from the gross value of the sales transactions.

18.13 Determination of Export Price for Tuntex (Thailand) Public Company Limited, (“Tuntex Thailand”)Thailand

18.13.1 Export price for Tuntex Thailand is determined on the basis of the information provided by it on its export sales to Pakistan made during the POI (provided in Attachment C-3 of the questionnaire response).

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

18.13.3 To arrive at the ex-factory level, Tuntex Thailand has reported adjustments on account of commission paid, ocean freight, inland freight in Thailand, handling cost, and bank charges. The Commission has accepted these

adjustments and the export price at ex-factory level is worked out by deducting values reported for these adjustments from the gross value of the sales transactions.

18.14 Determination of Export Price for Chiem Patana Synthetic Fibers Co. Ltd, (“Chiem Patana”)Thailand.

18.14.1 As stated earlier that Chiem Patana, Thailand did not respond to the Commission’s questionnaire and did not provide requisite information (paragraph 9.13 supra). Thus, the export price for Chiem Patana, Thailand is determined on the basis of the best information available to the Commission in terms of Section 32 of the Ordinance, and Article 6.8 and Annex II of the Agreement on Antidumping.

18.14.2 To determine export price for Chiem Patana, Thailand, the Commission has used import data obtained from PRAL (paragraph 8.2.4 supra). According to the data, Chiem Patana, Thailand exported **** MT of the investigated product to Pakistan during the POI. CIF prices of these exports ranged between US\$ **** per MT to US\$ **** per MT. Weighted average CIF export price works out to be US\$ **** per MT.

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

19. Dumping Margin

19.1 The Ordinance defines “dumping margin” in relation to a product as “the amount by which its normal value exceeds its export price”. In terms of Section 14(1) of the Ordinance the Commission shall determine an individual dumping margin for each known exporter or producer of an investigated product. However, Section 14(2) provides that if the Commission is satisfied that the number of exporters, producers or importers, or types of products involved is so large as to make it impracticable to determine an individual dumping margin for each known exporter or producer concerned of an investigated product, the Commission may limit its examination to a reasonable number of interested parties or investigated products by using samples which are statistically valid on the basis of information available to the Commission at the time of selection, or to the largest percentage of volume of exports from the country in question which can reasonably be investigated.

19.2 The Commission has limited its investigation to thirteen exporters/foreign producers from the Exporting Countries (paragraph 8.1.4 supra). Individual

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dumping margins have been determined for the thirteen exporters who were selected in sampling and the rate for antidumping duty for these exporters/foreign producers is established on the basis of individual dumping margins (paragraph 19.4 infra). Rate of antidumping duty for the other exporters/foreign producers from the Exporting Countries, who have not been investigated in this investigation, is determined in accordance with Section 51(3) of the Ordinance (paragraph 42 infra). However, any foreign producer who was not selected in sampling and subsequently not investigated if wants an individual dumping margin in terms of Section 14(4) of the Ordinance, it may voluntarily submit necessary information. The Commission will consider the information, if not unduly burdensome and does not prevent timely completion of this investigation, to determine individual dumping margin for that foreign producer subject to the verification of the information submitted for this purpose, if required.

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

19.4 The Commission has also complied with the requirements of Section 11 of the Ordinance which states that “the Commission shall, where possible, compare export price and normal value with the same characteristics in terms of level of trade, time of sale, quantities, taxes, physical characteristics, conditions and terms of sale and delivery at the same place”.

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

**Table-IX
Dumping Margin**

S. No.	Exporter/Foreign Producer Name	Dumping margin as percentage of	
		Adjusted export price	C&F export price
01	P.T S.K Keris, Indonesia	4.52%	4.19%
02	P.T Indorama, Indonesia	- 0.36%	- 0.37%
03	P.T PanAsia, Indonesia	30.65%	27.78%
04	P.T Sulindafin, Indonesia	13.02%	12.00%
05	Tongkook Corporation, Korea	1.72%	1.52%
06	Hyosung Corporation, Korea	33.58%	29.07%
07	Hualon Corporation, Korea	42.62%	36.56%
08	Hualon Corporation (M) Sdn, Malaysia	16.31%	14.80%
09	Global Trade Well, Malaysia	27.62%	24.84%
10	Fotex Trading, Malaysia	25.49%	22.97%

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11	Jong Stit Co., Thailand	- 0.31%	- 0.25%
12	Tuntex, Thailand	20.63%	18.93%
13	Chiem Patana, Thailand	32.79%	29.68%

C. INJURY TO DOMESTIC INDUSTRY

20 Determination of Injury

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

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

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

Section 15 of the Ordinance further provides that:

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

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

21. Domestic Industry

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

“domestic producers as a whole of a domestic like product or those of them whose collective output of that product constitutes a major proportion of the total domestic production of that product.”

21.2 The domestic industry manufacturing domestic like product consists of nineteen units. Out of total nineteen units nine units are operative while nine are

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closed. Out of the nine operating units four units namely: (i) SG Fiber Ltd., Karachi (ii) Polyron Ltd., Karachi (iii) Rupafil Ltd., Lahore, and (iv) Spintex Ltd., Lahore have filed the application with the Commission through its Association (hereinafter collectively referred as to the “Applicant Units”). Installed production capacity of the Applicant Units is around 45 percent of the total installed production capacity of the operating units. Share of each operating unit in domestic production of PFY during FY 2004 is given in the Table below:

**Table-X
Domestic Industry’s Production During FY 2004**

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

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

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

22. Cumulation of Dumped Imports

22.1 Section 16 of the Ordinance states that:

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

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- “(a) dumping margin in relation to an investigated product from each country is more than the negligible amount as specified....., and volume of dumped imports from each investigated country is not less than the negligible quantity as specified.....; and
- “(b) a cumulative assessment of the effects of the imports is appropriate in the light of
 - (i) the conditions of competition between the imports; and
 - (ii) the conditions of competition between the imports and a domestic like product”.

22.2 As mentioned in paragraph 12 supra, the volume of imports of the investigated product from the Exporting Countries individually during the POI was well above the negligible quantity (i.e. less than 3 percent of total imports of PFY). Furthermore, the weighted average dumping margin for each Exporting Country is also more than the negligible amount (i.e. less than 2 percent of export price). Following table shows the weighted average dumping margin determined for the Exporting Countries:

Table-XI
Weighted Average Dumping Margin

Country	Weighted Average Dumping Margin
Indonesia	11.09%
Korea	10.31%
Malaysia	17.76%
Thailand	11.42%

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

Table-XII
Weighted Average Export Price

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

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

22.4 The investigation revealed that there was a competition between investigated product and the domestic like product. Conditions of competition between imports of the investigated product and the domestic like product are discussed in detail in paragraphs 23 to 25 infra.

22.5 For the reasons given above, the Commission has cumulatively assessed the effects of dumped imports from the Exporting Countries on the domestic industry in following paragraphs.

23. Volume of Dumped Imports

Facts

23.1 With regard to the volume of dumped imports, in terms of Section 15(2) of the Ordinance, the Commission considered whether there has been a significant increase in dumped imports, either in absolute terms or relative to the production of the domestic like product by the domestic industry.

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

Table-XIII
Dumped Imports and Domestic Production
(MT)

Year/Period	Imports of IP*	Domestic Production*
FY 2002	100.00	100.00
FY 2003	125.46	93.48
FY 2004	136.34	103.28
Jul-Dec 2004	74.92	52.97

* Actual figures have been indexed by taking FY 2002 as base year equal to 100.00

Analysis

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

Conclusion

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

24. Price Effects

24.1 The effect of dumped imports on the sales price of the domestic like product in the domestic market has been examined to establish whether there has been significant price undercutting (the extent to which the price of the investigated product was lower than the price of the domestic like product), price depression (the extent to which the domestic industry experienced a decrease in its selling prices of domestic like product over time), and price suppression (the extent to which increased cost of production could not be recovered by way of increase in selling price of the domestic like product).

24.2 Price undercutting

Facts

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

**Table-XIV
Calculations of Price Under-cutting**

(Rs./MT)

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

* Actual figures have been indexed by taking weighted average ex-factory price of domestic like product in FY 2002 as base year equal to 100.00

Analysis

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

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Conclusion

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

24.3 Price Depression

Facts

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

**Table-XV
Calculation of Price Depression**

(Rs./MT)

Period	Weighted Average ex-factory price of domestic like product*	Price depression
FY 2002	100.00	--
FY 2003	92.81	(7.19)
FY 2004	95.20	2.39
Jul- Dec 04	105.44	10.24

* Actual figures have been indexed by taking FY 2002 as base year equal to 100.00

Analysis

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

Conclusion

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

24.4 Price Suppression

Facts

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

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Table-XVI
Calculations of Price Suppression

(Rs./MT)

Period	Weighted Average COP*	Weighted Average ex-factory price*	Increase/ (decrease) in COP	Increase in price	Price Suppression
FY 2002	100.00	100.00	--	--	--
FY 2003	104.44	92.81	4.44	(7.19)	11.63
FY 2004	112.32	95.20	7.88	2.39	5.49
Jul - Dec. 04	144.29	105.44	31.97	10.24	21.73

* Actual figures have been indexed by taking FY 2002 as base year equal to 100.00

Analysis

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

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

Conclusion

24.4.4 On the basis of the above analysis, the Commission has concluded that the domestic industry suffered material injury on account of price suppression during the POI, as it was not able to recover increased COP by way of an increase in selling price of domestic like product. Thus the dumped imports of the investigated product significantly suppressed the prices of the domestic like product during the POI.

25. Effects on Market Share and Sales

Facts

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

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Table - XVII
Market Share

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

Analysis

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

Conclusion

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

26. Effects on Production and Capacity Utilization

Facts

26.1 The installed production capacity of the Applicant Units to produce domestic like product was **** MT per annum (on the basis of 75 denier). Capacity utilization by the Applicant Units during the POI was as follows:

Table- XVIII
Capacity Utilization

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

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Analysis

26.2 It may be noted from the table above that the production of domestic like product decreased in FY 2003 and resultantly the capacity utilization decreased from 91 percent to 85 percent. The production increased in FY 2004 by 3417MT and capacity utilization also increased from 85 percent to 94 percent. The capacity utilization increased to 96 percent during the period from July to December 2004.

Conclusion

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

27 Effects on Inventories

Facts

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

Table-XIX
Inventories of Domestic Like Product

(MT)

Period	Opening Inventories*	Production	Domestic Sales	Export sales	Closing inventory
FY 2002	100.00	****	****	****	123.24
FY 2003	123.24	****	****	****	84.26
FY 2004	84.26	****	****	****	78.08
Jul – Dec 04	78.08	****	****	****	69.96

* Actual figures have been indexed by taking opening inventory in FY 2002 as base year equal to 100.00

**** Actual figures have been omitted for confidentiality reasons

Analysis

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

Conclusion

27.3 On the basis of the above facts the Commission has concluded that the domestic industry did not suffer material injury on account of increase in inventories during the POI.

28. Effects on Profits/Loss

Facts

28.1 Profit and loss position for the domestic industry is determined on the basis of the information supplied by the Applicant Units in their Profit and Loss Account

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Statements for the domestic like product. The table below shows the profit and loss position of the domestic industry during the POI:

Table - XX
Profit/(Loss) of Domestic Industry

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

* Actual figures have been indexed by taking FY 2002 as base year equal to 100.00

Analysis

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

Conclusion:

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

29. Effects on Cash Flow

Facts

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

Table -XXI
Cash Flow Position

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

* Actual figures have been indexed by taking FY 2002 as base equal to 100.00

Analysis

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

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Conclusion

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

30. Effects on Employment and Productivity

Facts

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

**Table -XXII
Employment and Productivity**

Period	No. of Employees*	Total salaries and wages* (RS. in 000)	Production (MT)*	Productivity per worker (MT)*	Salaries & wages Rs. per MT*
FY 2002	100.00	100.00	100.00	100.00	100.00
FY 2003	101.53	98.18	93.48	92.00	105.03
FY 2004	90.58	103.16	103.28	113.98	99.88
Jul – Dec 04	90.48	51.85	52.97	117.06	97.89

* Actual figures have been indexed by taking FY 2002 as base year equal to 100.00

Analysis

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

Conclusion

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

31 Effects on Return on Investment

Facts

31.1 According to the Applicant the domestic industry has invested approximately Rs.30 billion in setting up its PFY plants with an estimated return of 10 percent. According to the Applicant, 10 percent return on investment in this sector is considered normal.

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

Table -XXIII
Investment and Return on Investment

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

* Actual figures have been indexed by taking FY 2002 as base year equal to 100.00

Analysis

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

Conclusion

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

32. Effects on Growth and Investment

Facts/analysis

32.1 The domestic demand for PFY is in the range of 130000 MT to 136000 MT per annum. Domestic industry's market share decreased during the POI (paragraph 25 supra). Ten out of nineteen units have closed down in the domestic industry. In this situation there is little likelihood of further growth and investment in the industry.

Conclusion

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

33. Ability to Raise Capital

Facts/analysis

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

Conclusion

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

34. Summing up of Material Injury

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

- i. significant increase in volume of dumped imports of the investigated product (both in absolute as well as relative to domestic production);
- ii. significant price undercutting;
- iii. significant price suppression;
- iv. loss in market share
- v. decrease in return on investment;
- vi. losses on operations;
- vii. negative effect on cash flow;
- viii. negative effect on employment; and
- ix. negative effect on growth and investment.

D. CAUSATION

35. Effect of Dumped Imports

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

- i. volume of dumped imports increased significantly (paragraph 23 supra);
- ii. dumped imports undercut prices of the domestic like product significantly (paragraph 24.2 supra);
- iii. domestic industry experienced significant price suppression due to dumped imports (paragraph 24.4 supra);
- iv. domestic industry lost significant market share while market share of dumped imports increased significantly (paragraph 25 supra);
- v. domestic industry incurred losses on its operations (paragraph 28 supra);

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- vi. dumped imports effected negatively on the cash flow of the domestic industry (paragraph 29 supra);
- vii. employment in domestic industry reduced significantly (paragraph 30 supra);
- viii. domestic industry faced significant decrease in return on investment (paragraph 31 supra); and
- ix. dumped imports effected negatively the domestic industry's growth and investment (paragraph 32 supra).

36. Other Factors

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

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

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

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

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

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

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- ii. There was no change in trade restrictive practices and competition between foreign producers other than producers from the Exporting Countries and domestic producers; and
- iii. There was no considerable change in technology;

E. CONCLUSIONS

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

- i. the application was filed on behalf of domestic industry as the Applicant Units represent major proportion of the production of domestic like product;
- ii. the investigated product and the domestic like product are alike products;
- iii. during the POI, the investigated product was exported to Pakistan by the exporters/foreign producers, from the Exporting Countries, at prices below its normal value;
- vi. the volume of dumped imports of the investigated product and the dumping margins established on the basis of the foregoing analysis, are above the negligible and de minimis levels respectively;
- iv. the dumping margin expressed as a percentage of weighted average CIF export ranged between ... percent ad val to percent ad val for exporters/foreign producers from the Exporting Countries. However P.T Indorama Synthetics, Indonesia, Tongkook Corporation, Korea, and Jong Stit Company, Thailand did not dump investigated product into Pakistan during the POI;
- v. the domestic industry suffered material injury during the POI on account of, volume of dumped imports, price undercutting, price suppression, loss in market share, negative return on investment, losses on its operations, negative effect on cash flow, reduction in employment, and negative effect on growth and investment (in terms of Section 15 and 17 of the Ordinance); and
- vi. there is a casual relationship between dumped imports and the material injury suffered by the domestic industry.

F. IMPOSITION OF PROVISIONAL ANTIDUMPING DUTY

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

39. Individual dumping margins have been determined for the thirteen exporters who were selected in sampling and the rate for antidumping duty of these exporters/foreign producers is determined on the basis of individual dumping margins. Rate of antidumping duty for the other exporters/foreign producers from the Exporting Countries, who have not been investigated in this investigation, is established in accordance with Section 51(3) of the Ordinance (paragraph 43 infra).

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

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

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

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

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

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

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42 Any foreign producer who was not selected in sampling and subsequently not investigated if wants an individual dumping margin in terms of Section 14(4) of the Ordinance, it may voluntarily submit necessary information to the Commission within a period of fifteen days from the date of publication of the notice of preliminary determination and levy of provisional antidumping duty(s) in national press. The Commission will consider the information, if not unduly burdensome and does not prevent timely completion of this investigation, to determine individual dumping margin for that foreign producer subject to the verification of the information submitted for this purpose, if required.

43. The rate of duty for the exporters/foreign producers not investigated from Indonesia, Malaysia, and Thailand is determined on the basis of the weighted average dumping margin of the investigated exporters/foreign producer of the respective country taking into account the requirements of Section 51(4) of the Ordinance. However, rate of duty for the exporters/foreign producers who have not been investigated from Korea is determined on the basis of the weighted average dumping margin of the investigated exporters/foreign producers without taking into account requirements of Section 51(4) of the Ordinance. The Commission has considered that this is a reasonable method to determine dumping margin for the exporters/foreign producers who have not been investigated in terms of Section 51(7) of the Ordinance.

44. In terms of Section 43 of the Ordinance and Article 7 of Agreement on Antidumping, provisional antidumping duties as given in the following table are hereby imposed on the investigated product importable from the Exporting Countries for a period of four months effective from November 12, 2005. The antidumping duty rates are determined on C&F value in *ad val.* terms. The investigated product is classified under PCT heading Nos. 5402.3300 and 5402.4300:

Table- XXV
Provisional Antidumping Duty Rates

Country	Exporter/Foreign Producer Name	Duty rate
Indonesia	P.T S.K Keris	4.19%
	P.T Indorama,	0.00%
	P.T PanAsia	27.78%
	P.T Sulindafin,	12.00%
	All others	15.55%
Korea	Tongkook Corporation	0.00%
	Hyosung Corporation	29.07%
	Hualon Corporation	36.56%
	All others	8.92%
Malaysia	Hualon Corporation (M) Sdn	14.80%
	Global Trade Well	24.84%

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	Fotex Trading	22.97%
	All others	14.80%
Thailand	Jong Stit Company	0.00%
	Tuntex	18.93%
	Chiem Patana	29.68%
	All others	18.93%

45. In accordance with Section 44 of the Ordinance, the provisional antidumping duties shall take the form of security by way of cash deposit and be held in a non-lapsable personal ledger account established and maintained by the Commission for the purpose. Release of the investigated product for free circulation in Pakistan shall be subject to imposition of such antidumping duty.

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

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