

(NON-CONFIDENTIAL)



**Government of Pakistan
National Tariff Commission**

REPORT

ON

**FINAL DETERMINATION: TERMINATION OF ANTI-DUMPING
INVESTIGATION ON IMPORTS OF FOOD GRADE DEXTROSE
MONOHYDRATE INTO PAKISTAN ORIGINATING IN AND/OR
EXPORTED FROM THE REPUBLIC OF INDIA.**

**ADC NO, 41/2015/NTC/DM
May 8, 2017**

Final Determination: Termination of Anti-Dumping Investigation on Imports of Food Grade Dextrose Monohydrate into Pakistan Originating in and/ or Exported from the Republic of India

The National Tariff Commission (hereinafter referred to as the "Commission") having regard to the Anti-Dumping Duties Act, 2015 (hereinafter referred to as the "Act") and the Anti-Dumping Duties Rules, 2001 (hereinafter referred to as the "Rules") is responsible to conduct anti-dumping investigation for imposition of anti-dumping duties to offset injurious impact of dumped imports on domestic industry and ensure fair competition thereof and to the WTO's Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (hereinafter referred to as the "Agreement on Antidumping").

2. The Commission has conducted this investigation on imports of Food Grade Dextrose Monohydrate ("DM") into Pakistan originating in and/or exported from the Republic of India (hereinafter referred to as "India"), under the Act and the Rules. The Commission has made final determination in this investigation under Section 39 of the Act. This report on final determination has been issued in accordance with Section 39(5) of the Act and Article 12.2 of the Agreement on Antidumping.

3. In terms of Section 39(1) of the Act, the Commission shall normally make a final determination of dumping and injury within one hundred and eighty days of publication of a notice of preliminary determination in the Official Gazette. However, Section 29 of the Act provides that *"the Commission shall, except in special circumstances, conclude an investigation within twelve months, and in no case more than eighteen months, after its initiation."*

4. This investigation was initiated on November 13, 2015 and notice of preliminary determination in this investigation was published on October 28, 2016 in Official Gazette.

5. The Lahore High Court, Lahore ("LHC") on March 15, 2016 held in a writ petition No. 4735/2016 as follows:

"As pointed out earlier, one of the Members does not meet the qualification requirement provided under section 5(2)(a) of the Act,..... Till such time the NTC complies with the requirements of sections 3 and 5 of the Act, the impugned Notice of Initiation shall be held in abeyance and as soon as NTC is functional in terms of sections 3 and 5, it may proceed further with the said notice strictly in accordance with law."

6. Keeping in view the above decision of the LHC, by applying same analogy, proceedings of the all investigations were suspended till the time the Commission become functional in terms of Sections 3 and 5 of the NTC Act 2015. Therefore, the time period during which the Commission was not functional is considered as injunction period for the purposes of this investigation. Therefore, time line of this investigation is determined by excluding the injunction period.

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A. PROCEDURE

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

8. **Receipt of Application**

8.1 On September 16, 2015 the Commission received a written application, under Section 20 and 24 of the Act from M/s Rafhan Maize products Ltd. Faisalabad (the "Applicant"). The Applicant is a producer of Food Grade Dextrose Monohydrate ("DM"). They alleged that the DM originating in and/or exported from India is dumped into Pakistan, which has caused and is causing material injury to the domestic industry, producing DM.

8.2 The Commission informed the High Commission of India in Islamabad through note verbal dated October 15, 2015, of the receipt of application in accordance with the requirements of Section 21 of the Act.

9. **Evaluation and Examination of the Application**

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

10. **The Domestic Industry**

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

"Domestic industry" means the domestic producers as a whole of a domestic like product or those whose collective output of that product constitutes a major proportion of the total domestic production of that product; except when any such domestic producers are related to the exporters or importers, or are themselves importers of the allegedly dumped investigated product. In such a case "domestic industry" may mean the rest of the domestic producers:

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

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

Provided that there are grounds for believing or suspecting that the effect of the

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relationship is such as to cause the producer concerned to behave differently from non-related producers. For that purpose one shall be deemed to control another when the former is legally or operationally in a position to exercise restraint or direction over the latter”

10.2 The domestic industry of Food Grade Dextrose Monohydrate consists of the following three units:

- i. Rafhan Maize product Ltd. Faisalabad (the Applicant)
- ii. Habib ADM Ltd., Karachi
- iii. Shafi Gluco Chem Ltd., Karachi

10.3 Investigation of the Commission has shown that M/S Habib ADM Ltd. and Shafi Gluco Chem Ltd. did not/are not producing and selling the Food Grade Dextrose Monohydrate. Therefore, the Applicant was the only producer of Food Grade Dextrose Monohydrate during the period of investigation (paragraph 14 infra). Thus, only the Applicant constitutes the domestic industry in accordance with Section 2(d) of the Act for the purposes of this investigation. Annual installed production capacity of the Applicant to produce Food Grade Dextrose Monohydrate is 10,880 MT per annum.

11. Standing of the Application

11.1 Section 24 of the Act 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 domestic like product. Section 24(1) of the Act states as follows:

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

Furthermore, Section 24(2) of the Act provides that:

“..... no investigation shall be initiated when domestic producers expressly supporting an application account for less than twenty five percent of the total production of the domestic like product produced by the domestic industry.”

11.2 As stated above (paragraph 10.3 supra) that the Applicant was the only producer of Food Grade Dextrose Monohydrate during the period of investigation, therefore, the application fulfills requirements of Section 24 of the Act as the Applicant represents 100 percent of the domestic production of the like product.

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12. **Applicant's Views**

12.1 The Applicant, *inter alia*, raised the following issues in application regarding alleged dumping of the Food Grade Dextrose Monohydrate and material injury to the domestic industry caused therefrom:

- i. The Food Grade Dextrose Monohydrate imported from India into Pakistan and produced in Pakistan by the domestic industry are like products;
- ii. Exporters/producers from India are exporting Food Grade Dextrose Monohydrate to Pakistan at dumped prices; and
- iii. Exports of the Food Grade Dextrose Monohydrate by the exporters/producers from India to Pakistan at dumped prices has caused and is causing material injury to the domestic industry mainly through:-
 - a. Significant increase in alleged dumped imports of the Food Grade Dextrose Monohydrate
 - b. Decline in sale and market share of the domestic industry.
 - c. Increase inventories.
 - d. Price undercutting the alleged dumped imports.
 - e. Decline in profits and profitability.
 - f. Decline in capacity utilization.

12.2 The Applicant made following requests to the Commission to:

- i. Initiate an investigation against alleged dumping of the Food Grade Dextrose Monohydrate from India under Section 23 of the Act;
- ii. Impose appropriate antidumping duty on alleged dumped imports of the Food Grade Dextrose Monohydrate in accordance with Section 50 of the Act; and
- iii. Impose provisional measures under Section 43 of the Act to prevent injury being caused during the investigation.

13. **Initiation of Investigation**

13.1 The Commission, in accordance with Section 23 of the Act examined the accuracy and adequacy of the evidence provided in application, and established that there was sufficient evidence of alleged dumping of the Food Grade Dextrose Monohydrate into Pakistan from India and consequent material injury to the domestic industry. Accordingly, the Commission decided to initiate an investigation in this case on November 11, 2015 and issued a notice of initiation in accordance with Section 27 of the

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Act, which was published in the Official Gazette¹ of Pakistan and in two widely circulated national newspapers² (one in English language and one in Urdu Language) on November 13 2015. Therefore, investigation concerning alleged dumped imports of the Food Grade Dextrose Monohydrate into Pakistan (Classified under PCT³ 1702.3000) Originating in and/or exported from India was thus initiated on November 13, 2015.

13.2 In pursuance of Section 27 of the Act the Commission notified the High Commission of India in Islamabad of the initiation of investigation (by sending a copy of the notice of initiation) on November 17, 2015 with a request to forward it to all exporters/ producers involved in production, sales and export of the Food Grade Dextrose Monohydrate in India. Copy of the notice of initiation was also sent to Indian exporters/ producers (whose addresses were available with the Commission), Pakistani importers and the Applicant on November 16, 2015.

13.3 In accordance with Section 28 of the Act, on November 19, 2015 copies of full text of the written application (non-confidential version) were sent to all Indian exporters/ producers, whose complete addresses were available with the Commission. On November 19, 2015, copy of the full text of the written application was also sent to the High Commission of India in Islamabad with a request to forward it to all exporters/ producers involved in production and/or export of the Food Grade Dextrose Monohydrate.

14. **Investigated Product and Domestic Like Product**

14.1 Section 2 of the Act defines investigated product, domestic like product and like product as follows:

- i. **Investigated Product:**
“a product, which is subject to an antidumping investigation as described in the notice of initiation of the investigation”.
- ii. **Domestic Like Product:**
“means a like product that is produced by the domestic industry”.
- 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”.

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

¹ The official Gazette of Pakistan (Extraordinary) dated November 13, 2015.

² The daily ‘Business Recorder’ and ‘Nawa-e-Waqt’ of November 13, 2015 issues.

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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14.3 Investigated Product:

14.3.1 Investigated Product is Food Grade Dextrose Monohydrate, which is a white crystalline powder. It is *inter alia* produced from maize corn. The process used for its preparation is called hydrolysis where water treatment is used for converting corn into the Food Grade Dextrose Monohydrate.

14.3.2 The investigated product is used as a sweetener in food items; baked products, beverages, confectionery and meat products etc. The investigated product falls under Harmonize Code/ PCT classification code No. 1702.3000.

14.3.3 Following is the current customs tariff structure for import of the Food Grade Dextrose Monohydrate:

**Table – I
Customs Tariff Structure**

PCT No	Description	Customs Duty		Sales Tax
		Statutory	SAFTA	
1702.3000	Glucose and glucose syrup, not containing fructose or containing in the dry state less than 20 % by weight of fructose	20%	5%	17%

14.4 Domestic Like Product

14.4.1 The domestic like product for the purposes of this investigation is Food Grade Dextrose Monohydrate, which is a white crystalline powder. It is also produced from maize corn. The process used for its preparation is called hydrolysis where water treatment is used for converting corn into the Food Grade Dextrose Monohydrate.

14.4.2 The domestic product is also used as a sweetener in food items; baked goods, beverages, confectionery and meat products etc. The domestic like product also falls under Harmonize Code/ PCT classification code 1702.3000.

14.5 Like Product:

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

- i. basic raw materials used in the production of the investigated product, and the domestic like product are the same i.e. maize corn;
- ii. the investigated product and the domestic like product are produced with a similar manufacturing process;

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- iii. both the products have similar appearance. Further, physical properties, nature and quality of the investigated product and the domestic like product are similar;
- iv. both the products are used for similar purposes and are substitutable in use; and
- v. both the products are classified under the same PCT/HS heading numbers.

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

15. **Period of Investigation (“POI”)**

15.1 In terms of Section 36 of the Act, Period of Investigation (“POI”) is:

- i. *“for the purposes of an investigation of dumping, an investigation period shall normally cover twelve months preceding the month of initiation of the investigation for which data is available and in no case the investigation period shall be shorter than six months.”*
- ii. *“for the purposes of an investigation of injury, the investigation period shall normally cover thirty-six months:
“Provided that the Commission may at its sole discretion, select a shorter or longer period if it deems it appropriate in view of the available information regarding domestic industry and an investigated product”.*

15.2 The POI selected for the purposes of this investigation for dumping and injury were, as follows:

For determination of dumping: From October 1, 2014 to September 30, 2015
For determination of injury: From October 1, 2012 to September 30, 2015

16. **Exporters/Foreign Producers Involved in Dumping**

The Applicant has identified 6 exporters/ foreign producers involved in alleged dumping of the investigated product from India. The Applicant also stated that there may be other exporters and foreign producers of the investigated product, which are not known to them. Therefore, the Applicant requested for imposition of antidumping duty on all imports of the investigated product originating in and/or exported from India.

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17. **Information/Data Gathering**

17.1 The Commission sent exporter's questionnaire on November 19, 2015 to 6 exporters/ foreign producers whose addresses were available for collection of data and information necessary for this investigation. The exporters/foreign producers were asked to respond within 37 days of dispatch of the questionnaire.

17.2 On November 19, 2015 a copy of the questionnaire was also sent to the High Commission of India in Islamabad with a request to forward it to the all exporters/ foreign producers of the investigated product in India.

17.3 M/s Gujarat Ambuja Exports Limited responded to the Commission's request for supplying information on the prescribed exporter's questionnaire and requested for extension in time period (beyond 37 days) for submission of information. After taking into account the due cause shown the Commission acceded to its request and granted extension in time period for submission of information on exporter's questionnaire till January 11, 2016. Upon examination of the information received from M/s Gujarat Ambuja Exports Limited certain deficiencies were found in the information supplied. These deficiencies were communicated to them and were requested to supply the deficient information. Further details are given at paragraph 17 infra.

17.4 On December 30, 2015 the other exporters/ foreign producers were informed through a letter that in case requisite information/data is not furnished within 15 days, the Commission will use best available information for preliminary and/or final determination of dumping in this case. However, no response received from any of the other exporter/ foreign producer.

17.5 The Commission also sent Questionnaire on November 19, 2015 to Pakistani importers of the Food Grade Dextrose Monohydrate requesting them to provide information within 37 days of the issuance of the questionnaire. The following importers provided some information in response to the questionnaire:

- i. English Biscuit Manufacturers (Pvt) Ltd Karachi.
- ii. Coronet Foods (Pvt) Ltd, Karachi.

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

17.7 Thus, the Commission has sought from all available sources the relevant data and information deemed necessary for the purposes of determination of dumping of the

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investigated product and injury to the domestic industry in this investigation.

18. **Questionnaire Response by Gujarat Ambuja Exports Limited.**

18.1 The Commission sent exporter's questionnaire to Gujarat Ambuja Exports Limited ("Gujarat Ambuja") on November 19, 2015. The Gujarat Ambuja requested for extension in time period for submission of response to questionnaire till January 11, 2016. The Commission acceded to his request after considering the reasons given in the request for extension. Its response was received in the Commission on January 4, 2016.

18.2 According to the information provided in response to the questionnaire, Gujarat Ambuja is a public limited company incorporated in the year 1991 under the Indian Companies Act 1956. It has been engaged in the production, sale and export of the Food Grade Dextrose Monohydrate to Pakistan as well as to other countries and in its domestic market during the POI.

18.3 The information submitted by Gujarat Ambuja was analyzed at the Commission and certain deficiencies were identified. Accordingly, those data deficiencies were communicated to it vide Commission's letter dated January 18, 2016.

18.4 Gujarat Ambuja was asked to provide the deficient information/data no later than 15 days, so as to enable the Commission to consider and analyze the same for the purposes of this investigation. Gujarat Ambuja responded to the deficiencies vide its letter dated February 1, 2016. The information provided by the Gujarat Ambuja in its response to the questionnaire has been accepted by the Commission for the purposes of this final determination and its individual dumping margin is calculated on the basis of that information.

19. **Verification of the Information**

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

19.2 In order to verify information/data provided by the Applicant and to obtain further information (if any), officers of the Commission conducted on-the-spot investigation at the office and plant of the Applicant from February 29, 2016 to March 3, 2016. Moreover, in order to verify information/ data provided by Gujrat Ambuja and to obtain further information (if any), officers of the Commission conducted on-the-spot investigation at the office of Gujrat Ambuja from January 16-18, 2017.

20. **Public File**

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The Commission, in accordance with Rule 7 of the Rules, has established and maintained a public file at its office. This file remains available to the interested parties for review and copying from Monday to Thursday between 11.00 hours to 13.00 hours throughout the investigation (except public holidays). This file contains non-confidential versions of the application, responses to the questionnaires, submissions, notices, correspondence, and other documents for disclosure to the interested parties.

21. **Confidentiality**

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

21.2 The Applicant and the exporter/ foreign producer that have provided information in response to the questionnaire have requested to keep confidential the information, which is by nature confidential in terms of Section 31 of the Act. This information` includes data relating to sales, sale prices, cost to make and sell, inventories, production, profit/(loss), return on investment, cash flow, salaries & wages, number of employees and capacity etc.

21.3 On the basis of requests made by the interested parties, the Commission has determined the confidentiality in light of Section 31 of the Act and for the reasons that disclosure of such information may be of significant competitive advantage to a competitor, or because its disclosure would have a significant adverse effect upon the interested parties providing such information. Therefore, the Commission kept all such information confidential for which the interested parties made a request to keep it confidential. However, in terms of Sub-Section (5) of the Section 31, non-confidential summaries of all confidential information, which provides reasonable understanding of the substance, have been placed in public file.

22. **Preliminary Determination**

22.1 The Commission made preliminary determination in this investigation on October 27, 2016 in terms of Section 37 of the Act and imposed 7.04 percent *ad valorm* provisional antidumping duty for a period of four months. The Commission issued a notice of preliminary determination, which was published on October 28, 2016 in Official Gazette of Pakistan and in two widely circulated national newspapers (one English “Dawn” and **two Urdu Language**) notifying the preliminary determination.

22.2 The commission also sent on October 28, 2016 copy of the notice of preliminary determination to the High Commission of India in Islamabad, the exporters, the importers, domestic producers and the Applicant in accordance with the requirements of section 37(4) of the Act. The findings of the commission in the preliminary determination were as follows:

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- i. the application was filed by the domestic industry of the food grade dextrose monohydrate;
- ii. the investigated product and the domestic like product are like products in terms of the provisions of the Act;
- i. during POI, the investigated product was exported to Pakistan by the exporters/ foreign producers from India at prices below its normal value;
- iv. the volume of dumped imports of the investigated product and the dumping margin established for the exporters/ foreign producers of the investigated product are above the negligible and *de minimis* levels;
- v. during the POI the domestic industry suffered material injury on account of volume of dumped imports, price undercutting, price suppression, decline in market share, decline in sales, decline in productivity and increase in inventories in terms of Section 15 and 17 of the Act; and
- vi. there is a causal relationship between dumped imports of the investigated product and the material injury faced by the domestic industry.

23. **Hearing**

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

23.2 Hearing in this investigation was held on January 31, 2017 upon the request of CandyLand, Confectionary Division, Ismail Industries Ltd., Karachi The Applicant and the representative of CandyLand Confectionary Division – Ismail Industries Ltd attended the hearing. Record of hearing were placed on the public file for review and copying of the interested parties.

23.3 CandyLand had broadly raised issues with respect to the following:

- i. standing of the application;
- ii. determination of normal value;
- iii. domestic price of the investigated product; and
- iv. profit margin of the Applicant.

23.4 The above stated comments have been taken into account by the Commission while making this final determination. Further, comments germane to this investigation under the Act and Commission's response are placed at Annexure-I.

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24. **Disclosure of Essential Facts**

24.1 In terms of Rules 14(8) of the Rules, and Article 6.9 of Agreement on Antidumping, the Commission disclosed essential facts, and in this context dispatched a Statement of Essential Facts (hereinafter referred to as the “SEF”) on March 07, 2017 to all interested parties including the known exporters/producers, the Applicants, the known Pakistani importers, and to the High Commission of India in Pakistan.

24.2 Under Rule 14(9) of the Rules, the interested parties were required to submit their comments (if any) on the facts disclosed in SEF, in writing, not later than fifteen days of such disclosure. The Commission received comments from following interested parties:

- i. Gujarat Ambuja Exports Limited, Ahmedabad, Gujrat, India; and
- ii. CandyLand Confectionary Division, Ismail Industries Ltd., Karachi

24.3 Comments received on essential facts have been considered in this final determination. Further, comments germane to this investigation under the Act and Commission’s response are placed at Annexure-I.

B. DETERMINATION OF DUMPING

25. **Dumping**

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

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

26. **Normal Value**

26.1 In terms of Section 5 of the Act normal value is defined as follows:

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

Further, Section 6 of the Act states:

“(1) when there are no sales of like product in the ordinary course of trade in domestic market of an exporting country, or when such sales do not permit a proper comparison because of any particular market situation or low volume of the sales in the domestic market of the exporting country, the Commission shall establish normal value of an investigated product on the basis of either:

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“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 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.”.

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

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

“(a) within an extended period of time which shall normally be a period of one year and in no case less than a period of six months;

“(b) in substantial quantities; and

“(c) at prices which do not provide for the recovery of all costs within a reasonable period of time.

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

“(a) a weighted average selling price of transactions under consideration for the determination of normal value is below a weighted average cost; or

“(b) the volume of sales below per unit cost represents twenty per cent or more of the volume sold in transactions under consideration for the determination of normal value.

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

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27. **Export Price**

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

28. **Dumping Determination**

28.1 As stated earlier (paragraph 17 supra) the Applicant identified six exporters/ foreign producers from India involved in dumping of the investigated product. For collection of data/information exporter’s questionnaire were sent to all exporters/foreign producers whose addresses were available. Copy of the questionnaire was also provided to the High Commission of India in Islamabad with a request to forward it to all exporters/ foreign producers of the investigated product based in India to submit information to the Commission.

28.2 The Commission received information in response to the questionnaire only from one exporter/ foreign producer i.e. Gujarat Ambuja.

28.3 Individual dumping margins for the Gujarat Ambuja has been determined on the basis of information provided by it, which was verified. However, a residual dumping margin/duty rate for all other exporters/producers is established on the basis of best information available. Details of determination of dumping margins are provided in the following paragraphs.

29. **Determination of Normal Value and Export Price for Gujarat Ambuja**

29.1 **Normal Value of Gujarat Ambuja**

29.1.1 Normal value for Gujarat Ambuja has been determined on the basis of the information provided by it in response to the questionnaire on its domestic sales.

29.1.2 During the POI, Gujarat Ambuja sold 55 percent of its total sales of Food Grade Dextrose Monohydrate in its domestic market. These sales are in sufficient quantities to determine normal value in terms of Section 6(2) of the Act, as these are more than 5 percent of the export sales of the investigated product exported by the Gujarat Ambuja to Pakistan during the POI.

29.1.3 Gujarat Ambuja sold like product to unrelated parties in its domestic market. Therefore, the Commission has determined normal value for Gujarat Ambuja on the basis of its total sales of the like product in domestic market during the POI.

29.1.4 Section 7 of the Act requires the Commission to determine ordinary course of trade for domestic sales to determine normal value. As per the information submitted by M/s Gujarat Ambuja its entire domestic sales were at profit during the POI. Therefore, normal

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value is determined on the basis of its total sales in the domestic market during the POI.

29.1.5 Gujrat Ambuja has two manufacturing plants at Himatnagar, Gujrat and Uttranchal, Uttrakhand. The Gujrat Ambuja has stated that its major exports, about 85 percent to Pakistan, were made from Himatnagar Unit. Therefore, the Gujran Ambuja requested that the domestic sales of Uttranchal plant may not be considered for the purposes of determination of normal value. The normal value may be determined on its domestic sales made from Himatnagar plant only. In support of this, the Gujrat Ambuja has stated as follows:

- i. 85% of the exports to Pakistan during the period of investigation of the investigated product was made from the said Himatnagar Unit and only balance exports were made from the other Unit from the State of Uttaranchal to meet the deadline of export; and
- ii. Uttaranchal Unit's domestic price is not comparable with export price in view of fact that the said unit has been established in economic backward area of India where fiscal incentive in terms of excise duty exemption for certain period of time is available.

29.1.6 The Commission has accepted request of the Gujrat Ambuja keeping in view Section 11(1) of the Act, which provides that the export price and the normal value will be compared at the same place of delivery. Therefore, the Commission has calculated normal value and export price separately made from Himatnagar unit and Uttaranchal unit.

29.1.7 Gujrat Ambuja sold like product in its domestic market at ex-works, delivered and sales at 'ZSP' (the company sells at ex-factory terms but arranged transport for the buyer and the freight was paid by the buyer to Ambuja) basis. The Gujrat Ambuja claimed that the domestic sales were made on advance payment and on credit ranging from 7 to 60 days. Therefore, to determine ex-works price of the domestic sales the Gujrat Ambuja claimed following adjustment in gross value:

- i. Credit cost;
- ii. Commission;
- iii. Cash discount;
- iv. Excise & other duty;
- v. VAT & Additional VAT;
- vi. Central Sales Tax;
- vii. Freight, advance freight of ex-works sales; and
- viii. Handling cost.

29.1.8 The Commission has accepted above mentioned adjustments and normal value is determined after deducting values for these adjustments from gross price. Calculations of normal value for Gujrat Ambuja are placed at Annexure-II.

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29.2 Export Price of Gujarat Ambuja

29.2.1 Export price for Gujarat Ambuja is determined on the basis of the information provided by it on its export sales of the investigated product to Pakistan made during the POI.

29.2.2 Gujrat Ambuja exported 45 percent of its total sales of Food Grade Dextrose Monohydrate to different countries including Pakistan during POI. 35 percent of its total exports of the investigated product were to Pakistan during the POI which were made on CFR basis.

29.2.3 To determine ex-works export price of the investigated product, Gujrat Ambuja reported following adjustments.

- i. Inland freight
- ii. Ocean freight
- iii. Commission
- iv. Bank charges
- v. Handling Cost
- vi. Credit Cost

29.2.3 During the on-the-spot investigation at premises of the Gujrat Ambuja it was found that it took an average 20 days to receive payment from bank on exports to Pakistan during the POI. It was also found that Gujrat Ambuja reported partial payment on account of inland freight. Further, LC charges were not reported in its response. The Commission, on the basis of verified data has determine export price of the investigated product for Gujrat Ambuja. Summary calculations of the export price is placed at Annexure-II.

29.3 Determination of Dumping for All Other Exporters

A residual dumping margin for all other exporters/foreign producers who have not provided information in this investigation has been determined, which is the dumping margin determined for Gujarat Ambuja. The Commission is of the view that this is the best representative dumping margin for the exporters/ foreign producers who have not cooperated in this investigation in providing information for the purposes of determination of their individual dumping margin.

30. Dumping Margin

30.1 The Act defines “dumping margin” in relation to a product to mean “*the amount by which its normal value exceeds its export price*”. In terms of Section 14(1) of the Act the Commission shall determine an individual dumping margin for each known exporter or producer of an investigated product. In this final determination, the Commission has determined individual dumping margin for one exporter who cooperated with the Commission and supplied necessary information for this purpose. However, residual

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dumping margin/antidumping duty rate has been determined for non-cooperating exporters/ foreign producers of India.

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

30.3 The Commission has also complied with the requirements of Section 11 of the Act which states that;

“the Commission shall, where possible, compare export price and normal value with the same characteristics in terms of level of trade, time of sale, quantities, taxes, physical characteristics, conditions and terms of sale and delivery at the same place”.

30.4 Taking into account all requirements set out above, the dumping margin works out 0.67 percent of the adjusted export price at ex-works level and 0.61 percent at the C&F level.

31. **De minimis Dumping Margin and Negligible Volume of Dumped Imports**

Section 41(3) of the Act states that the dumping margin shall be considered to be negligible if it is less than **two percent**, expressed as a percentage of the export price. Dumping margin set out in paragraph 30.4 supra, is negligible (*de minimis*) as it is less than 2 percent.

C. TERMINATION OF THE INVESTIGATION

32. Section 41(2) of the Act provides that *“an investigation shall be immediately terminated if Commission determines that the dumping margin is negligible or that volume of dumped imports, actual or potential, or injury is negligible.”* As dumping margin determined for the investigated product for the POI is negligible, therefore, the Commission has decided to terminate this investigation immediately under Section 41(2) of the Act.

33. The Commission had imposed provisional antidumping duty @ 7.04 percent on the investigated product vide official gazette (extra ordinary) dated October 28, 2016 for a period of four months effective from October 28, 2016. In terms of Section 55(2) of the Act, if definitive antidumping duty is lower than the amount of provisionally determined antidumping duty, the difference shall be refunded by the Commission. Therefore, importers of the investigated product may request for refund of the provisional antidumping duty (if any) on imports of the investigated product from India to the extent of the difference between the rate of definitive anti-dumping duty and the rate of provisional anti-dumping duty to the Secretary, National Tariff Commission, State Life Building No. 5, Blue Area, Islamabad within a period of *thirty* days of the publication of notice of this final determination.

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(Tipu Sultan)
Member
May 8, 2017

(Robina Ather)
Member
May 8, 2017

(Abdul Khaliq)
Member
May 8, 2017

(Qasim M. Niaz)
Chairman
May 8, 2017

Annex-I

VIEWS/COMMENTS OF THE INTERESTED PARTIES

Views/Comments	Commission's Response
Views/Comments of Gujrat Ambuja Ltd.	
<p>“At the outset preliminary determination of duty was made beyond the time limit allowed under the Anti- Dumping Duties Act,2015 read with Anti-Dumping Duties Rules, 2001 and hence further and final investigation is also beyond the scope of the Act and rules and thus illegal. As per our understanding, there is no provision for relaxation of time limit allowed for preliminary determination of duty under the said Act and Rules and no amendment thereto have been made. Investigation commenced on 15/10/2015 based on Application received on 16/09/2015 whereas preliminary determination of duty was made on 27/10/2016 i.e. more than 1 year after commencement of investigation against time limit allowed for maximum period of 180 days.”</p>	<p>Please refer paragraphs 2 to 6 of the report of final determination.</p>
<p>“there is only one Company i.e. Rafhan Maize Products Limited (Applicant) representing the entire industry of the Pakistan and hence it can not be said to have represented the domestic market of Pakistan. On the contrary, it is monopoly situation of the said Applicant in the Pakistan's domestic Market and due to various reasons, the single producer can keep their price exorbitant high including their cost of production as they are not facing any competition from domestic players as well as restricting the entry of outside players through making such applications. It is clearly evident from various Para of Essential facts that they having huge share in Pakistan's domestic market and also making exorbitant profits on sale of investigated products. It is further submitted that as per our understanding and</p>	<p>Domestic industry for the purposes of this investigation is determined in accordance with Section 2(d) of the Act. Please refer paragraph 10 of the report.</p> <p>Further, injury to the domestic industry is not determined as the investigation is terminated under Section 41(2) of the Act on the basis of <i>de minimus</i> dumping margin.</p>

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<p>knowledge the said Applicant has been established on the basis of foreign funds and also there is no true reflection of domestic industry as such.”</p>	
<p>“It is categorically unaccepted that documents submitted by GAEL during on-the-spot investigation do not confirm terms (credit days), cash discounts and commission being not mentioned at Contracts or invoices. It is submitted that we have shown all documents and evidences to the investigating team during the on-the-spot investigation.”</p> <p>“In fact, it was clearly explained to the investigating team that as per Business Practice of the industry, terms of contract are not reflected on invoice but the same are clearly given in the Contract of sale. It also explained to them with correlation of contract with invoices with payment received on the said invoices and also payment of commission and cash discounts made for same.”</p> <p>“It was also explained to the team that in the domestic market of India, there are three types of buyers (1) small buyers who give order through telephonic conversation (2) sales orders coming from dealers/ distributors and (3) institutional buyers — big corporate buyers. In case of sales order from 1 and 2, normally it comes through telephonic conversation with respective marketing head and for such contracts executed/ accepted during the day, final contract sheet for the day is prepared containing all terms and conditions of the contract in specified format and the same is signed at three level including last approval level of Managing Director of the Company. For institutional buyer contracts comes through email on specified email ID of the Company from such buyer which again is generated through their SAP system and does not require any signature as it is computer generated. On the basis of the same, internal sales order is generated in the SAP system of the Company and contract is executed and goods are delivered as per contractual terms.”</p>	<p>All adjustments claimed by the Gujran Ambuja in normal value have been accepted. (paragraph 29 of the report)</p>
<p>“comparison of export price vis a vis domestic price should only be restricted to Himatnagar Unit in the State of Gujarat as :</p> <p>(i) 95% of the exports to Pakistan during the period of investigation of the investigated product was made from the said Himatnagar Unit and only balance 5% export was made from our another Unit from the State of Uttaranchal to meet the deadline of export.</p> <p>(ii) Uttaranchal Unit domestic price is not comparable with export price in view of fact that the said unit has been</p>	<p>The Commission has acceded to the request of the Gujrat Ambuja and normal value is determined separately on the basis of sales made from Himatnagar unit and Utranchal unit (paragraph 29 of the report)</p>

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<p>established in economic backward area of India where fiscal incentive in terms of excise duty exemption for certain period of time is available.”</p>	
<p>“Applicant being Monopolistic entity in Pakistan is making huge profit and in term of % of cost of make and sell same has increased considerably during FY 2013-14 and in term of %, it has reduced slightly in FY 2014-15. The same is also evident from Para 34 which shows return on investment (ROI) @ 36.49% for the Applicant industry which is substantially higher by any standards.”</p>	<p>Injury to the domestic industry is not determined as the investigation is terminated under Section 41(2) of the Act on the basis of <i>de minimus</i> dumping margin.</p>
<p>“It is established facts that there is only one industrial Unit in Pakistan for investigated product, thus there is no depth in the market and comparison of market share in isolation based on single monopoly industrial unit does not show any correct impact. Without prejudice to the same, still domestic one industrial Unit i.e. applicant have monopolistic share in the domestic market of Pakistan market.”</p>	<p>Domestic industry for the purposes of this investigation is determined in accordance with Section 2(d) of the Act. Please refer paragraph 10 of the report. Injury to the domestic industry is not determined as the investigation is terminated under Section 41(2) of the Act on the basis of <i>de minimus</i> dumping margin..</p>
<p>“it is clear that one industrial Unit can not represent the entire industry of the Country and it is monopoly position within the domestic market for which customer at large is sufferer as they will get the same product at very high price whereas the actual cost of product may be less in the international market. From the para 35 it is further evident that only Applicant i.e. single industrial unit is expanding its production capacity which will prove against the interest of Pakistan as a Nation in longer duration. Customers will suffer the most.”</p>	<p>Domestic industry for the purposes of this investigation is determined in accordance with Section 2(d) of the Act. Please refer paragraph 10 of the report.</p>
<p>Views/Comments of Ismail Industries (CandyLand) Ltd., Karachi</p>	
<p>“That as per contents of the para 21.1.5 of the Statement of the Essential Facts (hereinafter referred to as “Statement”) Gujarat Ambuja Export Ltd. (GAEL) claimed following adjustments in domestic Price/ Normal Value: “i. CREDIT COST ii. COMMISSION iii. EXCISE DUTY iv. ADDITIONAL EXCISE DUTY v. VALUE ADDED TAX (VAT) vii. CENTRAL SALES TAX (CST) viii. FREIGHT ADVANCE FOR EX ix. HANDLING COST. “However, while acting against the principles laid down in the Act and contrary to facts, NTC seems to be inclined not to allow the following adjustments to benefits the complainant and to artificially force the domestic value on higher side:</p> <p>i. PAYMENT TERMS (CREDIT DAYS). ii. CASH DISCOUNT</p>	<p>All adjustments claimed by the Gujran Ambuja in normal value have been accepted. (paragraph 29 of the report)</p>

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<p>iii. COMMISSION</p> <p>“Since GAEL happens to be the supplier of Dextrose Monohydrate to Ismail Industries Limited as well, therefore, we contacted them regarding the above. In response, they informed us that GAEL have shown all documents and evidences to the investigating team during the on-the-spot investigation. GAEL further apprised us that during on-the-spot investigation no communication whether oral or written was made by the investigating team for non-submission of any documentary evidences. GAEL have also sent all documents required by NTC through courier in two separate box files. It was clearly explained to the investigating team that as per Business Practice of the industry, terms of contract are not reflected on invoice but the same are clearly given in the Contract of Sale. It was also explained to NTC team with correlation of contract with invoices with payment received on the said invoices and also payment of commission and cash discounts made for same. It was also briefed to the team that in the domestic market of India, there are three types of buyers (1) small buyers who give order through telephonic conversation (2) sales orders coming from dealers/distributors and (3) institutional buyers – big corporate buyers. In case of sales order from 1 and 2, normally it comes through telephonic conversation with respective marketing head and for such contracts executed/accepted during the day, final contract sheet for the day is prepared containing all terms and conditions including last approval level of Managing Director of the Company. For institutional buyer contracts comes through email on specified email ID of the Company from such buyer which again is generated through their SAP system and does not require an signature as it is computer generated. On the basis of the same, internal sales order is generated in the SAP system of the Company and contract is executed and goods are delivered as per contractual terms. GAEL have given all such documentary evidences and the documents. Therefore, the CREDIT COST, DISCOUNT and COMMISION must be taken into account to calculate the Normal Value in the best interest of justice.”</p>	
<p>“That contents of the para 35 of the Statement are self-explanatory to prove that there is no injury caused to the complainant due to the alleged dumping of the Dextrose Monohydrate and complainant remained stable and profitable throughout the POI, therefore, complainant has claimed millions of Dollars foreign investment in its company for future expansion. It is further submitted that how come the complainant M/s Rafhan Maize Products Limited being injured industry, as per its complaint, can have</p>	<p>Domestic industry for the purposes of this investigation is determined in accordance with Section 2(d) of the Act. Please refer paragraph 10 of the report.</p> <p>Injury to the domestic industry is not determined as the investigation is terminated under Section 41(2) of</p>

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<p>such further foreign investment expansion. Hence, it is enough to submit that complainant filed the instant application for alleged dumping merely to protect/maintain its MONOPOLISTIC POSITION to extort more profits from the downstream industries/consumers.”</p>	<p>the Act on the basis of <i>de minimus</i> dumping margin.</p>
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Annex-II

Summary Calculations of Normal Value (INR/MT)

Description	Domestic Sales from:		
	Himatnagar	Uttranchal	Total
Quantity (MT)	Actual figures have been omitted to maintain confidentiality		
Gross price			
Credit cost			
Commission			
Excise Duty			
Value added tax			
additional VAT			
CST			
Freight			
Freight Adv.			
Handling Cost			
Adjusted Normal Value			

Summary Calculations of Export Price

Description	Himat Nagar		Uttranchal		Total	
	US\$/MT	INR/MT	US\$/MT	INR/MT	US\$/MT	INR/MT
Quantity (MT)	Actual figures have been omitted to maintain confidentiality					
Gross price						
Credit cost						
Commission						
Inland freight						
Ocean freight						
Handling cost						
Bank charges						
LC charges						
Adjusted Export price						

Note: Exchange Rate US\$ = INR 61.86 for himitnagar exports and and 61.02 for Uttranchal exports (average provided in C-3 after verification)