

(NON-CONFIDENTIAL)



**Government of Pakistan
National Tariff Commission**

REPORT

ON

**PRELIMINARY DETERMINATION AND LEVY OF PROVISIONAL
ANTI-DUMPING DUTIES ON DUMPED IMPORTS OF SULPHONIC ACID
ORIGINATING IN AND/ OR EXPORTED FROM THE PEOPLE'S
REPUBLIC OF CHINA, REPUBLIC OF INDIA, REPUBLIC OF
INDONESIA, ISLAMIC REPUBLIC OF IRAN, REPUBLIC OF KOREA
AND CHINESE TAIPEI INTO THE ISLAMIC REPUBLIC OF PAKISTAN**

ADC NO 49/2016/NTC/SA

May 24, 2017

Preliminary Determination and Levy of Provisional Antidumping Duties on Dumped Imports of Sulphonic Acid into Pakistan Originating in and/ or Exported from China, India, Indonesia, Iran, South Korea and Chinese Taipei

The National Tariff Commission (the “Commission”) having regard to the Anti-Dumping Duties Act, 2015 (the "Act") and the Anti-Dumping Duties Rules, 2001 (the "Rules") is responsible to conduct anti-dumping investigations 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 (the “Antidumping Agreement”).

2. The Commission is conducting an investigation on alleged dumped imports of Sulphonic Acid (“SA”) into Pakistan originating in and/or exported from the People’s Republic of China, Republic of India, Republic of Indonesia, Islamic Republic of Iran, Republic of Korea and Chinese Taipei (the “Exporting Countries”), under the Act and the Rules. The Commission has made preliminary determination in this investigation under Section 37 of the Act. This report on preliminary determination has been issued in accordance with Rule 10 of the Rules. This preliminary determination is based on the information available with the Commission at this point of time.

A. PROCEDURE

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

4. Receipt of Application

4.1 On October 14, 2016, the Commission received a written application under Section 20 and 24 of the Act from M/s Tufail Chemical Industries Limited, Karachi (the “Applicant”). The Applicant is producer of SA and has alleged that SA originating in and/or exported from the Exporting Countries is being dumped into Pakistan, which has caused and is causing material injury to the domestic industry producing SA.

4.2 The Commission informed the Embassies/High Commission of the Exporting Countries in Islamabad through note verbal dated October 19, 2016 of the receipt of application in accordance with the requirements of Section 21 of the Act.

5. 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 SA into Pakistan from the Exporting Countries 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.

6. The Domestic Industry

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

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“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 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”

8.2 As per the information available with the Commission, the domestic SA manufacturing industry comprises of the following 3 units. Its installed production capacity is about 82,664 MT per annum:

Table-I
The Domestic Industry

S. No.	Unit Name
i.	Tufail Chemical Industries Ltd.
ii.	Tufail Chemical & Surfactants Pvt. Ltd.
iii.	Colgate Palmolive Ltd.
	Total

Sources: the Applicant

8.3 Units mentioned at S.Nos. i. and ii. above are sister concerns (related companies).

9 Standing of the Application

9.1 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

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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.”

9.2 There are total three units manufacturing Sulphonic Acid in the country i.e. the Applicant (M/s Tufail Chemical Industries), M/s Tufail Chemical & Surfactants Pvt. Ltd. and M/s Colgate Palmolive Ltd. According to the Applicant M/s Colgate Palmolive Ltd. produces only for its captive use. After initiation of the investigation the Commission requested M/s Colgate Palmolive Ltd. for information on its production and sales of SA, however, it did not respond and did not share its information. Therefore, M/s Colgate Palmolive Ltd. has been considered as indifferent for the purposes of this application.

9.2 Two Indian exporters of Sulphonic Acid namely A.R.Sulphonates Pvt. Ltd., Kolkata and Sai Fertilisers & Phosphates Pvt. Ltd. Kolkata have requested the Commission that India may be excluded from the scope of this investigation. They have stated as follows in their representations:

- i. *“The exports from A.R. Sulphonates Pvt. Ltd to Pakistan is 500MT and from Sai Fertilisers & Phosphates Pvt. Ltd is 811.2MT; Thus, totalling to 1311.2MT during the period of investigation. out of which 960 MT (73.2o/o of total export by us to Pakistan) has been sold to one of the petitioner company - Tufail Chemical Industries Limited, Pakistan. In light of such imports by the petitioner company from a subject country we urge the Commission to consider the related petitioner company ineligible as domestic industry in the present investigation under section 2(d)of the Anti Dumping Act 2015.”*
- ii. *“We have strong reasons to believe that the petitioner company has imported LABSA from other producers, thereby voiding it's position as domestic industry in Pakistan.”*
- iii. *“The total exports of Indian companies during the period of investigation are 4.42% of the total imports of the LABSA in Pakistan. Out of these imports, 3% (960 MT) has been made by the petitioner company themselves. Therefore we pray to the Commission to exclude these imports in the calculation of total imports for the purpose of calculating the threshold for termination of investigation on Indian imports. Further the quantities of such imports shall also be excluded from the injury and causal link calculation based on the verification of such purchases by the petitioner during the verification procedure carried out for domestic industry.”*

- iv. *“We hope that the our prayers will be suitably considered in the course of this investigation and the Commission will carry out a fair assessment of the standing of the petitioner, injury and causal link caused by Indian imports. We also pray to the Commission to exclude imports from India on the grounds that these are below the de-minimus levels for continuation of investigation after elimination of imports by the petitioners themselves. If needed we would request to' provide us an opportunity of being heard in person.”*

9.3 Investigation of the Commission has revealed that the Applicant (M/s Tufail Chemical Industries) and its related company (M/s Tufail Chemical & Surfactants Pvt. Ltd.) have imported Sulphonic Acid from India during the POI. The Applicant was provided an opportunity to clarify its position vis-à-vis Sections 2(d) and 24 of the Act. The Applicant has stated as follows:

- i. *“The applicant is under an agreement with multinational companies for continuous supply of domestic like product. During the POI, some of the shipments of the applicant for raw material were delayed due to weather conditions. Therefore, the applicant had to import minimal quantity to fulfill its supply commitment to the regular customers.”*
- ii. *“It may also be added for the kind consideration of the Commission that filing of this antidumping application by the domestic industry (TCIL in support of its sister concern Tufail Chemical and Surfactants Ltd) for imposition of antidumping duties indicates that its basic interest lies in the production of domestic like product and demonstrates that in no way it behaved differently even after import of this meager quantity of the investigated product as per the proviso under Section 2(d) of the Antidumping Duties Act, 2001, reproduced below:*

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

- iii. *“The applicant and its related company Tufail Chemicals and Surfactants Limited (TCSL) are the only units who sells their product in the domestic market. There is one more unit “Colgate Palmolive” who produces the domestic like product but consume the entire production internally. Therefore, the applicant and its related company represents major share in total domestic production of the domestic like product during POI i.e. Jul 15–*

Jun 16. This indicates its overwhelming commitment towards the domestic production.”

- iv. *“The applicant imported 260 MT during POI which represents only 0.72% of its domestic production whereas the related company TCSL imported 500 MT which represents 4.92% of its total domestic production during POI. Hence the total imports by two companies represent only 1.6% of their total domestic production during POI.”*
- v. *“The primary or sole interest of the Applicant domestic industry lies in domestic production rather than in importation and filing of this application is evident of this fact.”*
- vi. *“The Applicant cannot derive any significant financial benefit from the pricing level of such meager imports of the product concerned.”*
- vii. *“The purpose of import was to meet the requirement (demand) of its regular customers, otherwise, TCIL would have lost its customers.”*
- viii. *The issue of exclusion of applicant from definition of domestic industry on basis of import of investigated product by the applicant producer itself or by its related company was dealt by the Commission as per para 7 of the final determination made by the Commission in Antidumping Investigation of BOPP. Accordingly the Commission as per sub-para 7.11 of the said final determination held that “in spite of the fact that Tri-pack is assumed as associated producer, even then, the Commission has, determined that it cannot be excluded from the definition of the domestic industry in the light of the above and forgoing explanations.”*
- ix. *“There is no legal basis behind the prayer made by the exporters. The panel in Korea – Certain Paper from Indonesia noted that:
“Indonesia’s argument that the KTC should have excluded imports made by Korean producers from the scope of dumped imports for purposes of its injury determination in the investigation at issue. However, we are unaware of any provision in the Agreement which could support the proposition that dumped imports made by the domestic industry have to be excluded from the scope of dumped imports for purposes of the IA’s injury determination. Imports from sources subject to an anti-dumping investigation may properly be treated as dumped imports irrespective of the identity of the importers making these imports. We therefore do not agree with Indonesia’s view in this regard either.”
“Hence, Panel rejected the Indonesia’s claim that the KTC acted inconsistently with Articles 3.4 and 3.5 of the Agreement with regard to the treatment of dumped imports made by the Korean producers from the subject countries.”*

- x. *“In view of the above submissions, we request the Commission to disregard the prayer made by the exporters.”*

9.4 The Commission has considered views/comments and requests of the Indian exporters as well as explanations, views/comments of the Applicant keeping in view relevant provisions of the Act, the Antidumping Agreement and the practices of other investigating authorities in the same/similar situations. The Commission has reached on the following conclusions:

- i. Section 2(d) of the Act as well as Article 4.1 of the Anti-Dumping Agreement provides that, if domestic producers are related to exporters or are themselves importers of the investigated product the term “domestic industry” may be interpreted as referring to the rest of the producers. Thus, these provisions give an investigating authority the option and discretion, but does not impose an obligation, to exclude related producers/importing producers from the definition of the domestic industry.
- ii. Exclusion of any producer from the definition of domestic industry is conditional i.e. dependent upon the behavior of the producer concerned. Section 2(d) of the Act stipulates that the concerned producer **may be** excluded from domestic industry if it “behave differently from non-related producers”. Thus, in this case different behavior would have been opposition of the application, which is not the case. Rather, such producers themselves are the Applicant and supporter of the application.
- iii. The Applicant and its related producer are the legitimate producers of Sulphonic Acid in Pakistan and have made considerable investments for production of Sulphonic Acid in the country. Therefore, their primary objective lies in domestic production and sales of the domestic like product rather than in imports of the investigated product.
- iv. The applicant and its related producer are the only units who produce and sell Sulphonic Acid in the domestic market. The third unit in the country i.e. Colgate Palmolive Ltd. only produces for its own consumption. Therefore, the Applicant and its related producer’s interest lies in domestic production of the Sulphonic Acid.
- v. Quantity imported by the Applicant and its related producer accounts for a meager share in the domestic production and domestic market. It accounts for 1.63 percent and 1.18 percent of domestic production and domestic market during the POI. Therefore, the Applicant has not gained significant financial benefit from the imports of the investigated product.

- vi. The WTO panel in Korea – Certain Paper from Indonesia has held that the dumped imports made by the domestic industry would also be included in injury determination and has stated that, “Imports from sources subject to an anti-dumping investigation may properly be treated as dumped imports irrespective of the identity of the importers making these imports.” Therefore, requests of the exporters to exclude these imports in the calculation of total imports for the purpose of calculating *de minimus* threshold for volume of dumped imports and injury determination are not in conformity with provisions of the Act and the Antidumping Agreement.

9.5 Based on the above conclusions the Commission has determined that the Applicant and its related producer cannot be excluded from the definition of the domestic industry and the application filed in this instance is in accordance with provisions of the Act and the Antidumping Agreement.

9.6 As production of M/s Colgate Palmolive Ltd. is not available, therefore, its full capacity is assumed as its production for the purposes of determination of standing of the application. The Applicant’s share in domestic production during 2015-16 (July-June) was 49.86 percent of the total domestic production of the domestic like product. The other unit in the industry i.e. M/s Tufail Chemical & Surfactants Private Limited, which is a related company of the Applicant, has supported the application. Both the Applicant and supporting company jointly account for 63.79 percent of the total domestic production. The following table shows details of the production and standing of the domestic producers:

Table-II
Standing of the Domestic Industry

S. No.	Unit Name	% share	Status
i.	Tufail Chemical Industries Ltd.	49.86	Applicant
ii.	Tufail Chemical & Surfactants Pvt. Ltd.	13.93	Supporting
iii.	Colgate Palmolive Ltd.	36.21	Indifferent
iv.	Total	100.00	

Sources: the Applicant & TCSL

9.4 The above table shows that the supporting producers account for 63.79 percent of the total domestic production of the domestic like product and no producer has opposed the application. Therefore, on the basis of the above information it is determined that the application is made on behalf of the domestic industry as it fulfils the requirements of Section 24 of the Act.

10. **Applicant’ Views**

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

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- i. Exporters/ producers from the Exporting Countries are exporting SA to Pakistan at dumped prices;
- ii. SA imported from the Exporting Countries and produced in Pakistan by the domestic industry are like products; and
- iii. Imports of SA from the Exporting Countries into Pakistan at dumped prices has caused and is causing material injury to the domestic industry producing SA mainly through:
 - a. volume of dumped imports;
 - b. decrease in profits;
 - c. decline in production;
 - d. decline in market share;
 - e. decline in productivity;
 - f. decline in return on investment;
 - g. decline in utilization of capacity;
 - h. price undercutting;
 - i. price suppression;
 - j. price depression;
 - k. magnitude of the margin of dumping;
 - l. Negative effects on employment;
 - m. Negative effects on and wages; and
 - n. Negative effects on growth.

10.2 The Applicant has further alleged that there is threat of material injury as well to the domestic industry due to significant rate of increase and prices of alleged dumped imports of SA from the Exporting Countries.

10.3 The Applicant has made following requests to the Commission:

- i. Initiate an investigation against alleged dumping of SA from the Exporting Countries under Section 23 of the Act;
- ii. Impose appropriate antidumping duty on alleged dumped imports of SA 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.

11. Initiation of Investigation

11.1 The Commission, in accordance with Section 23 of the Act examined the accuracy

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and adequacy of the evidence and information provided in the application, and established that there was sufficient evidence of alleged dumping of SA into Pakistan from the Exporting Countries and consequent alleged material injury to the domestic industry. Therefore, the Commission decided on November 24, 2016 to initiate an investigation in this case.

11.2 The Commission issued a notice of initiation in accordance with Section 27 of the Act, which was published in the Official Gazette¹ of Pakistan and in two widely circulated national newspapers² (one in English language and one in Urdu Language) on November 28, 2016. Investigation concerning alleged dumped imports of SA into Pakistan originating in and/or exported from the Exporting Countries was thus initiated on November 28, 2016 in accordance with Section 27(2) of the Act.

11.2 In pursuance of Section 27 of the Act the Commission notified Embassies/High Commission of the Exporting Countries in Islamabad of the initiation of the investigation (by sending a copy of the notice of initiation) on November 28, 2016 with a request to forward it to all exporters/ producers involved in production, sales and export of SA from the respective country. Copy of the notice of initiation was also sent to exporters/ producers directly (whose addresses were available with the Commission), Pakistani importers, the Applicant and other domestic producers on November 29, 2016.

11.3 In accordance with Section 28 of the Act, on November 29, 2016 copies of full text of the written application (non-confidential version) were sent to all exporters/producers, whose complete addresses were available with the Commission and to the Embassies/ High Commission of the Exporting Countries in Islamabad with a request to forward it to all exporters/ producers in respective country involved in production, sale and/or export of SA.

12. Investigated Product, Domestic Like Product and Like Product

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

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

¹ The official Gazette of Pakistan (Extraordinary) dated November 28, 2016.

² The daily ‘The News’ and ‘Jang’ of November 28, 2016 issues.

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

12.2 For the purposes of this investigation and given the definitions set out above, investigated product, domestic like product and like product are provided in the following paragraphs.

12.3 **Investigated Product:**

12.3.1 The investigated product is Linear Alkyl Benzene Sulphonic Acid (“LABSA”) imported from the Exporting Countries. It is a group of organosulfur compounds with the formula $RS(=O)_2-OH$ where R = Organic aryl or alkyl group and $S(=O)_2-OH$ = Sulfonyl hydroxide group. The major raw materials used in production of sulphonic acid are linear alkyl benzene, Sulphur and caustic soda.

12.3.2 Sulphonic acids are considered strong acids because sulfonic acids are so acidic and tend to be quite soluble in water. Sulphonic acid groups are often introduced into organic molecules such as dyes to stabilize them for use in aqueous dye baths. Sulfonic acid groups also improve the washfastness of the fabric and silk dyes by enabling the dye to bind more tightly to the fabric. Major use of sulphonic acid is for sulphonation of many substances, such as paraffin in preparation of detergents.

12.3.3 It is classified under Pakistan Customs Tariff¹ (“PCT”) Heading No. 3402.1110. Investigated product is used in production of detergent powder, dish washing liquid and other industrial cleaning application. Following was the tariff structure for import of Sulphonic Acid during POI:

**Table-III
Tariff Structure**

Description	2013-14	2014-15	2015-16
PCT No	3402.1110	3402.1110	3402.1110
Description of the product	Sulphonic Acid (soft)		
Customs Duty (MFN)	10%	10%	10%
Customs duty under Pak-China FTA and SAFTA	5%	5%	5%
Regulatory Duty	Nil	5%	Nil

12.4 **Domestic Like Product**

The domestic like product is Linear Alkyl Benzene Sulphonic Acid produced by the domestic industry. It is classified under the same PCT number of 3402.1110, as the

¹ PCT heading in Pakistan is equivalent to Harmonized Commodity Description and Coding System up to six-digit level.

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investigated product is classified. The domestic like product is also used for same purposes as the investigated product is used.

12.5 Like Product:

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 importers in the following terms:

- i. basic raw materials used in the production of the investigated product, and the domestic like product are the same/similar;
- ii. the investigated product and the domestic like product are produced with a similar manufacturing process;
- iii. both the products have similar appearance. Further, physical properties, nature and quality of the investigated product and the domestic like product are also 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.

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

13 Period of Investigation (“POI”)

13.1 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”.*

13.2 The POI selected for the purposes of this investigation for dumping and injury are, as

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follows:

For determination of dumping:	From July 01, 2015 to June 30, 2016
For determination of injury:	From July 01, 2013 to June 30, 2016

14 **Exporters/ Producers Involved in Alleged Dumping of SA**

The Applicant identified 19 exporters/ producers involved in alleged dumping of the investigated product from the Exporting Countries. The Applicant has stated that there may be other exporters and producers of the investigated product, which are not known to them. Therefore, they have requested for imposition of antidumping duty on all imports of the investigated product originating in and/or exported from the Exporting Countries.

15 **Information/Data Gathering**

15.1 The Commission sent exporter's questionnaire on November 28, 2016 to the Embassies/ High Commission of the Exporting Countries in Islamabad with a request to forward it to all exporters/ producers of the investigated product in their respective countries. Exporter's questionnaire was also sent to 19 exporters/ producers based in the Exporting Countries whose addresses were available to the Commission on November 29, 2016 for collection of data and information necessary for this investigation. The exporters/ producers were asked to supply information within 37 days of the dispatch of questionnaire.

15.2 In response to the Commission's request for information, on December 12, 2016 following exporters/ producers requested for extension the deadline to submit information exporter's questionnaire.

- (i) Jintung Petrochemical Corp. Ltd., China (Jintung, China)
- (ii) Miwon Chemicals Co. Ltd., Korea (Miwon, Korea)
- (iii) LG Household & Health Care, South Korea

15.3 The Commission granted extension of two weeks to submit data/ information on exporter's questionnaire. However, LG Household & Health Care, South Korea did not provide any information.

15.4 M/s PT Kao Indonesia Chemicals, West Java, Indonesia and M/s PT. Solvay Manyar, Indonesia, producers of LABSA, responded to the Commission and stated that they have not exported LABSA to Pakistan. On February 27, 2017, both Indonesian companies were informed through a letter that they have not exported the investigated product to Pakistan, therefore, individual dumping margin for them cannot be determined. However, they were

invited to provide views/comments or any information, if they wish so, but no comments have received from these parties.

15.5 Jintung, China response on exporter's questionnaire received on January 19, 2017 which was found deficient in certain aspects. Deficiencies were communicated to Jintung China vide a letter dated February 27, 2017. Jintung China submitted its response to the deficiencies on March 07, 2017, which was also deficient. The Commission again provided an opportunity to Jintung, China vide its letter dated March 13, 2017 to submit requisite deficiencies. Jintung's response received on March 14, 2017. Information submitted by Jintung is used for determination of its individual dumping margin

15.6 Miwon, Korea submitted its response on exporter's questionnaire to the Commission on January 30, 2017 which was found deficient in certain aspects. Those deficiencies were communicated to it vide a letter dated February 24, 2017. Miwon, Korea submitted its response to the deficiencies on March 06, 2017 which was also found deficient. The Commission again provided an opportunity to Miwon, Korea vide its letter dated March 13, 2017 to submit requisite deficiencies. Miwon's response received on March 14, 2017. Information submitted by Miwon is used for determination of its individual dumping margin.

15.7 On November 29, 2016 questionnaires were also sent to Pakistani importers of SA, requesting them to provide information within 37 days of the issuance of the questionnaire. None of the importers provided data/ information to the Commission on the prescribed questionnaire.

15.8 On January 12, 2017 the exporters/ producers and importers, other than Jintung China and Miwon Korea, were informed through a letter that, as they have not responded to the Commission in providing necessary information, therefore, the Commission is constrained to make preliminary and/or final determination of dumping for them on the basis of "Best Information Available" in terms of Section 32 of Anti-Dumping Duties Act, 2015 and Article 6.8 of Agreement on Implementation of Article VI of GATT, 1994, including those contained in the application submitted by the domestic industry.

15.9 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 preliminary determination the Commission has used import data obtained from PRAL in addition to the information provided by the Applicant and cooperating exporters.

15.10 Interested parties were also invited to make their views/comments and submit information (if any) relevant to this investigation within 45 days of the initiation of this investigation. Following parties submitted views/comments, which are duly considered by the Commission while making this preliminary determination. Following parties have submitted views/comments on initiation of the investigation:

- i. Government of Indonesia;

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- ii. A.R.Sulphonates Pvt. Ltd., Kolkata, India; and
- iii. Sai Fertilisers & Phosphates Pvt. Ltd. Kolkata
- iv. Miwon Chemicals Co. Ltd., Korea

15.11. These interested parties have raised concerns on standing of the applicant, volume of alleged dumped imports, price effects and causal relationship. Views/Comments of the interested parties germane to this investigation and response of the Commission are provided at Annex-I of this report:

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

16 Verification of the Information

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

16.2 In order to verify information/data provided by the Applicant & its sister concern company namely Tufail Chemical & Surfactants Pvt. Ltd. and to obtain further information (if any), officers of the Commission conducted on-the-spot investigations at the offices and plants of the Applicant from January 05 to 07, 2017. The information provided by the cooperating exporters is still to be verified, which will be done after preliminary determination.

17 Public File

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.

18 Confidentiality

18.1 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.

18.2 The Applicant and the cooperating exporters have requested to keep confidential the

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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, salaries & wages, number of employees etc. of the domestic like product.

18.3 On the basis of request 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 of the Act non-confidential summaries of all confidential information, which provides reasonable understanding of the substance, have been placed in public file.

B. DETERMINATION OF DUMPING

19 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”.

20. Normal Value

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:

*“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”.

1. 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.”

22. **Export Price**

The “export price” is defined in Section 10 of the Act as follows:

“a price actually paid or payable for an investigated product when sold for export from an exporting country to Pakistan”.

23. **Dumping Determination**

23.1 As stated earlier the Applicants identified 19 exporters/producers from the Exporting Countries involved in alleged dumping of the investigated product. The Commission sent questionnaires to those exporters/ producers whose complete addresses were available with the Commission. A copy of the questionnaire was also provided to the Embassies/ High Commission of the Exporting Countries in Islamabad with a request to forward it to all exporters/ producers of the investigated product to submit information to the Commission.

23.2 In response to the questionnaire the following two exporters/ producers of SA have provided information:

- (i) Jintung Petrochemical Corp. Ltd., China
- (ii) Miwon Chemicals Co. Ltd. South Korea

23.3 Individual dumping margins in this investigation are determined for the above-mentioned two exporters/ producers on the basis of the information provided by them. Normal value, export price and individual dumping margins for the above-mentioned exporters/producers have been determined in accordance with Part III, IV and V of the Act on the basis of the information provided by them. However, dumping margin for non-cooperating exporters/producers from the Exporting Countries has been determined on the basis of best information available.

24. **Determination of Normal Value for Jintung Petrochemical Corp. Ltd., China**

24.1 Normal value for Jintung Petrochemical Corp. Ltd., China (“Jintung”) has been determined on the basis of the information provided by it in response to the questionnaire.

24.2 Jintung sold 74.50 percent of its total sales of LABSA in domestic market during the POI. 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 Jintung to Pakistan during POI.

24.3 Section 7 of the Act requires the Commission to determine ordinary course of trade for domestic sales to determine normal value, which are normally determined by comparing gross price with cost to make and sell. For this purpose the Jintung has provided cost to

make and sell for domestic and export sales separately. However, on review of the information submitted by Jintung it is found that no inventory adjustment has been made in cost to make and sell for export sales. Entire inventory adjustment is made in cost to make and sell of the domestic sales. Further, in cost to make and sell for domestic sales an considerable amount is adjusted for outside processed goods, which is not supported by any evidence and no explanation is provided for these adjustments. Therefore, cost to make and sell for domestic sales is determined on the basis of cost of production plus administrative, selling and financial expenses, which is used to determine ordinary course of trade for the purposes of determination of normal value.

24.4 Investigation has revealed that below costs sales of the like product were in substantial quantities (57.68%) in terms of Section 7(2) of the Act. Furthermore, below costs sales were in extended period of time and its prices did not provide recovery of all costs within a reasonable period of time. Thus, in determination of normal value the Commission has disregarded sales, which were not in the ordinary course of trade in accordance with provisions of Section 7 of the Act.

24.5 To arrive at the ex-factory price the Jintung has claimed adjustments on account of inland freight, credit cost and bank charges. The Commission has accepted these adjustments and the normal value at ex-factory level for the like product is worked out by deducting value of these adjustments from the gross price. Summary calculations of normal value is placed at Annex-II.

25. Determination of Export Price for Jintung Petrochemical Corp. Ltd., China

25.1 Export price for Jintung Petrochemical Corp. Ltd. China (“Jintung”) has been determined on the basis of the information provided by it on its export sales to Pakistan made during the POI.

25.2 According to the information provided by Jintung it exported 34.24 percent of its total sales of LABSA to all export markets including Pakistan during the POI. However, its exports of the investigated product to Pakistan during the POI were 7.26 percent of its total export sales of LABSA. Export sales to Pakistan, during the POI, were directly to Pakistani customers.

25.3 To arrive at the ex-factory level, Jintung has reported adjustments on account of inland freight, ocean freight handling cost and bank charges. However, on review of documents (invoices, bank receipts, freight receipts etc.) provided by Jintung has revealed that it received sales proceedings (cash) on average after ** days from the issuance of commercial invoice. Further, Jintung has also stated that value added tax (VAT) rate on LABSA is 17 percent, however, 13 percent of FOB price is refunded on exports. Therefore, to reach at ex-works export price 4 percent VAT (of FOB price) is also deducted in addition to the above-mentioned adjustments. Summary calculations of export price is placed at Annex-II.

26. **Determination of Dumping Margin for Chinese All Other Exporters**

Since major exporter of the investigated product from China during the POI was Jintung. It exported 96 percent of the total imports of the investigated product imported from China during the POI. Therefore, The Commission has decided to apply individual dumping margin of Jintung to all other Chinese exporters as a residual dumping margin.

27. **Determination of Normal Value for Miwon Chemicals Co. Ltd. South Korea**

27.1 Normal value for Miwon Chemicals Co. Ltd. South Korea (“Miwon”) has been determined on the basis of the information provided by it in response to the questionnaire.

27.2 Miwon sold 32.57 percent of its total sales of LABSA in domestic market during the POI. 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 Miwon to Pakistan during POI.

27.3 Section 7 of the Act requires the Commission to determine ordinary course of trade for domestic sales to determine normal value, which are normally determined by comparing gross price with cost to make and sell. For this purpose the Miwon has provided cost to make and sell of the LABSA produced and sold by it during the POI, which is used to determine ordinary course of trade for the purposes of determination of normal value.

27.4 Investigation has revealed that below costs sales of the like product were in substantial quantities (80.07%) in terms of Section 7(2) of the Act. Furthermore, below costs sales were in extended period of time and its prices did not provide recovery of all costs within a reasonable period of time. Thus, in determination of normal value the Commission has disregarded sales, which were not in the ordinary course of trade in accordance with provisions of Section 7 of the Act.

27.5 Miwon sold like product to related and unrelated parties in its domestic market. However, investigation has shown that its sales to related parties were at arms’ length, therefore, the Commission has determined normal value for its all profitable sales during the POI.

27.6 To arrive at the ex-factory price the Miwon has claimed adjustments on account of inland freight, credit cost, packing cost and duty draw-back. The Commission has accepted adjustments on account of inland freight and credit cost. However, adjustments on account of packing cost and duty draw-back are not accepted due to the following reasons:

- i. It is stated at S. No. C - 2.3 of the questionnaire that there is no difference between packing for domestic and exports sales. However, analysis of the information provided by it has shown that it has charged 5 percent of sales value on domestic sales price, where as packing cost for export sales of the

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investigated product works out 0.07 percent of the export price. Therefore, packing cost is neither adjusted for normal value nor for export price.

- ii. Duty drawback is added in the export price, therefore, it is not adjusted in normal value.

27.7 Keeping in view the above, normal value at ex-factory level for the like product is worked out by deducting value of inland freight and credit cost from the gross price. Summary calculations of normal value is placed at Annex-III.

28. **Determination of Export Price for Miwon Chemicals Co. Ltd. South Korea**

28.1 Export price for Miwon has been determined on the basis of the information provided by it on its export sales to Pakistan made during the POI.

28.2 According to the information provided by Miwon it exported 67.43 percent of its total sales of LABSA to all export markets including Pakistan during the POI. However, its exports of the investigated product to Pakistan during the POI were 14.10 percent of total exports of LABSA. Export sales to Pakistan, during the POI, were directly to Pakistani customers, however, it has an agent in Pakistan to whom it pays commission.

28.3 To arrive at the ex-factory level, Miwon has reported adjustments on account of inland freight, ocean freight handling cost and bank charges, agent's commission, credit cost and duty drawback. Summary calculations of export price is placed at Annex-III.

29. **Determination of Dumping Margin for All Other Exporters from Korea**

Since major exporter of the investigated product from Korea during the POI was Miwon. The Commission is of the view that the dumping margin determined in this preliminary determination is also the best representative for other Korean exporters. Therefore, The Commission has decided to apply individual dumping margin of Miwon to all other Korean exporters as a residual dumping margin.

30. **Determination of Dumping for Exporters of India, Indonesia, Iran and Chinese Taipei**

30.1. As stated earlier, the Commission sent questionnaires to exporters/ producers of India, Indonesia, Iran and Chinese Taipei for collection of data/information. Copy of the questionnaire was also provided to the Embassies/High Commission of these countries in Islamabad with a request to forward it to all exporters/ producers of the investigated product based in their countries to submit information to the Commission. However, the Commission did not receive information in response to the questionnaire from any of the

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exporters/ producers from these countries (paragraphs 15.1 to 15.8 supra). Therefore, dumping of the investigated product in this investigation for these countries is determined on the basis of best information available in accordance with Section 32 of the Act. The basis of determination of normal value, export price and dumping margin are provided in the following paragraphs.

30.2 Determination of Normal Value

30.2.1 Normal value for the investigated product is constructed on the basis of the cost of production in the concerned exporting country plus a reasonable amount for administrative, selling and general costs and profits in accordance with Section 6 of the Act. Following are the basis of construction of the normal value:

- i. For locally purchased raw and packing materials, actual cost of raw/ packing materials of the Applicant has been deflated to the C&F level prices after deducting the import taxes/charges/incidentals from the landed cost/purchase price of the raw and packing materials.
- ii. For imported raw materials C&F prices of the Applicant have been used for construction of normal value.
- iii. C&F prices arrived as per explanation at serial (i & ii above) are multiplied with the per unit consumption of the raw materials to arrive at material cost per ton. Consumption of raw material per unit is based on the yearly average of the Applicant. Inland and ocean freight is then deducted from C&F prices to arrive at ex-factory prices of raw and packing materials.
- iv. Labor hours employed by the domestic industry to produce one ton of Sulphonic Acid have been multiplied by labour rate applicable in the concerned exporting country to work out labour cost.
- v. Electricity cost has been calculated by using actual energy consumption required to produce one ton of Sulphonic Acid by the Applicant. The same has been multiplied with electricity rate prevailing in the concerned exporting country to workout conversion cost.
- vi. Variable overhead cost of domestic industry has been converted into equivalent fuel /petrol consumption. The same has been multiplied by fuel/petrol rate applicable in the concerned exporting country to arrive at variable overhead cost in construction of normal value.
- vii. Selling and admin expenses of the Applicant on per ton basis have been taken as selling and administration expenses for construction of normal value.

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- viii. Other fixed charges including depreciation of the Applicant on per ton basis have been taken as it is in construction of normal value.
- ix. In construction of the normal value, financial charges are calculated by using actual financial charges of the Applicant and the same has been deflated by difference between interest rate of the concerned exporting country and Pakistan.
- x. Profit mark up of 5% has been applied on cost to make & sell to reach at constructed normal value for the concerned exporting country.

30.2.2 The constructed normal value for the investigated product on the above mentioned basis for India, Indonesia, Iran and Chinese Taipei is placed at Annex-IV.

30.3. **Determination of Export Price**

30.3.1 As no exporter/ producer of the investigated product from India, Indonesia, Iran and Chinese Taipei has provided information on its exports of the investigated product, therefore, export price is determined on the basis of best information available with the Commission. For this purpose information obtained from PRAL on imports of the investigated product during the POI is used.

30.3.2. The information obtained from PRAL is at CIF level. To reach at ex-factory level CIF export price is adjusted on account of ocean freight, inland freight, handling costs, insurance, credit cost, and bank charges. These adjustments have been obtained from the information provided by the Chinese cooperating exporters/producers i.e. Jintung. The CIF export price for India, Indonesia, Iran and Chinese Taipei is adjusted for above mentioned adjustments on the same ratios that works out for Jintung's export price. The calculations of export price of the investigated product for India, Indonesia, Iran and Chinese Taipei is placed at Annex-V.

31. **Dumping Margin**

31.1 The Act defines “dumping margin” in relation to a product as “*the amount by which its normal value exceeds its export price*”.

31.2 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 calculated dumping margin by comparing weighted average normal value with weighted average export price at ex-factory level.

31.3 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 at the same level i.e. ex-factory level.

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31.4 The Commission has determined individual dumping margins for the two cooperating exporters one each from China and Korea. Dumping margins and antidumping duty rates for all other exporters from the Exporting Countries, who did not cooperate and have not provided requisite information, have been determined on the basis of best information available in accordance with Section 32 of the Act.

31.5 Taking into account all requirements set out above, the preliminary dumping margins are provided in the following table:

**Table-IV
Dumping Margins**

Country	Exporter/ Producer Name	Dumping Margin as %age of	
		Export Price	C&F Price
China	Jitung Petrochemical Corp. Ltd., China	3.65%	3.21%
	All others from China	3.65%	3.21%
Korea	Miwon Chemicals Co. Ltd. Korea	32.68%	31.26%
	All others from South Korea	32.68%	31.26%
India	All exporters from India	30.48%	27.95%
Indonesia	All exporters from Indonesia	30.63%	28.17%
Iran	All exporters from Iran	40.79%	37.51%
Chinese Taipei	All exporters from Chinese Taipei	32.28%	29.68%

32. **De minimis Dumping Margins and Negligible Volume of Dumped Imports**

32.1 In terms of Section 41(3) of the Act, dumping margin shall be considered to be negligible if it is less than two percent, expressed as a percentage of the export price. Dumping margins, set out in paragraph 31.5 supra, are above the *de minimis* level.

32.2 In terms of Section 41(3) (b) of the Act, volume of dumped imports shall normally be regarded as negligible if it accounts for less than 3 percent of total imports of the like product unless imports of the investigated product from all countries under investigation which individually account for less than three percent of the total imports of the like product collectively account for more than seven percent of total imports of the like product. The data obtained from PRAL on volume of imports of LABSA from all sources during the POI (July 01, 2015 to June 30, 2016) is given in the table below:

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Table-V
Volume of Imports of LABSA during POI

Country/Source of Import		% share in total
Dumped Sources	China	9.78
	Korea	41.32
	India	6.59
	Indonesia	9.15
	Iran	13.12
	Chinese Taipei	19.47
Other Sources		0.58
Total		100.00

Source: PRAL

32.3 It appears from the above table that the volume of dumped imports of the investigated product from each dumped source during the POI was above the negligible threshold set-out in Section 41(3) of the Act.

C. INJURY TO THE DOMESTIC INDUSTRY

33. Determination of Injury

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

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

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

33.2 Section 15 of the Act further provides that:

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

33.3 The Commission has taken into account all factors in order to determine whether 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 Act.

33.4 As stated earlier that there are three units in the industry (paragraph 8.2 supra). The application is filed by the Applicant i.e. M/s Tufail Chemical Industries Ltd., who accounts for 49.86 percent of the total domestic production of the domestic like product. The other producer, M/s Tufail Chemical & Surfactants Pvt. Ltd., which is a sister concern of the Applicant represents 13.93 percent of the total production during the POI is in support of the application and has provided necessary information on injury factors. The third producer, M/s Colgate Palmolive Ltd., who represents 36.21 percent of the total production produces only for its captive consumption is indifferent in this investigation and has not provided any information. Therefore, analysis of the injury factors carried out in this preliminary determination in the following paragraphs is based on the information submitted by Applicant and Tufail Chemical & Surfactants Pvt. Ltd. (TCSL)

34. **Cumulation of Dumped Imports**

34.1 Section 16 of the Act states that: “*where imports of a like product from more than one country are the subject of simultaneous investigation under this Act, the Commission may cumulatively assess the effects of such imports on the domestic industry only if it determines that*

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

34.2 Investigation of the Commission has revealed that the dumping margin for each Exporting Country is more than the negligible amount (i.e. less than 2 percent of export price) (paragraph 31.5 supra). Further, the volume of dumped imports during the POI from each Exporting Country individually was also well above the negligible quantity (i.e. less than 3 percent of total imports of LABSA) (paragraph 32.2 supra).

34.3 It is evident that the weighted average export price of the investigated product imported from the Exporting Countries during the POI were in the same range, therefore, there was a price competition between the imports of the investigated product during the POI. Weighted average export price of the investigated product during the POI for dumping

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from the Exporting Countries is given in the table below:

Table-VI
Weighted Average C&F Export Price

Country	Price
China	100.00
Korea	103.83
India	96.94
Indonesia	93.94
Iran	90.80
Chinese Taipei	94.60

Source: PRAL

Note: Actual figures have been indexed with respect to China's C&F price by taking it equal to 100 to maintain confidentiality.

34.4 The investigation has also 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 35 to 46 infra.

34.5 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.

35. **Volume of Dumped Imports**

35.1 In order to ascertain the volume of dumped imports of the investigated product, the Commission has obtained import data from PRAL. With regard to the volume of dumped imports, in terms of Section 15(2) of the Act, the Commission has considered whether there has been a significant increase in the volume of dumped imports, either in absolute terms or relative to the production of the domestic like product in Pakistan. The following table shows imports of the investigated product during the POI:

Table-VII
Volume of Imports and Domestic Production (MT)

Year	Imports from:			Domestic production
	Dumped sources	Other Sources	Total imports	
2013-14	10,437	189	10,626	32,140
2014-15	12,783	270	13,053	42,358
2015-16	18,066	105	18,171	46,513

Sources: the Applicant and PRAL

35.2 It appears from the above table that dumped imports of the investigated product

increased significantly in absolute terms as well as relative to the production of the domestic like product. Dumped imports of the investigated product increased from 10,437 MT in the year 2013-14 to 12,783 MT in the year 2014-15 and to 18,066 MT in the year 2015-16.

35.3 The production of the domestic like product also increase from 32,410 MT in the year 2013-14 to 42,358 MT in the year 2014-15 and to 46,513 in the year 2015-16.

35.4 The dumped imports of the investigated product were 32 percent of the domestic production in the year 2013-14, which reduced to 30 percent of the domestic production in the year 2014-15 and increased to 39 percent of the domestic production in the year 2015-16 (the POI for dumping)

36. Price Effects

36.1 Effect of dumped imports on sales price of the domestic like product in the domestic market has been examined to establish whether there was significant price undercutting (the extent to which the price of the investigated product was lower than the price of the domestic like product), price depression (the extent to which the domestic industry experienced a decrease in its selling prices of domestic like product over time), or price suppression (the extent to which increased cost could not be recovered by way of increase in selling price of the domestic like product). Effects of dumped imports on price of the domestic like product are analyzed in following paragraphs:

36.2 Price undercutting

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

**Table-VIII
Price Undercutting**

Year	Domestic product's price	Landed cost of dumped imports	Price undercutting in:	
			absolute	percentage
2013-14	100.00	98.63	1.37	1.37%
2014-15	89.06	95.42	--	--
2015-16	73.80	82.28	--	--

Sources: the Applicant and PRAL

Note: Actual figures have been indexed with respect to domestic product's price in the year 2013-14 by taking it equal to 100 to maintain confidentiality

36.2.2 Analysis of the information provided in the above table shows that the weighted average landed cost of the investigated product was slightly lower than the weighted average price of the domestic like product in the year 2014-15, resulting thereby price undercutting to

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the tune of 1.37 percent. However, weighted average landed cost of the investigated product remained above the weighted average ex- factory price of the domestic like product during the years 2014-15 and 2015-16. Therefore, landed cost of the investigated product did not undercut prices of the domestic like product during the POI.

36.3 Price Suppression

36.3.1 Weighted average cost to make and sell and ex-factory prices of the domestic like product for the POI are given in the following table for determination of price suppression:

Table – IX
Weighted average Cost to Make & Sell and Ex-factory Price

Year	Cost to make & sell	Ex-factory price	Increase/(decrease) in:		Price Suppression
			Cost to m&s	Price	
2013-14	100.00	103.28	--	--	--
2014-15	88.56	91.98	(11.44)	(11.30)	--
2015-16	74.03	76.22	(14.53)	(15.76)	--

Sources: the Applicant

Note: Actual figures have been indexed with respect to cost to make & sell in the year 2013-14 by taking it equal to 100 to maintain confidentiality

36.3.2 The above table shows that weighted average cost to make and sell of the domestic like product decreased by 11 percent and 16 percent during the years 2014-15 and 2015-16 respectively, whereas its weighted average price declined 11 percent and 17 percent respectively for the same years. Therefore, there was no price suppression during the POI

36.4 Price Depression

36.4.1 Weighted average ex-factory prices of the domestic like product prevailed during POI are given in table below:

Table – X
Price Depression (Rs/MT)

Year	Domestic product's price	Price Depression	
		Absolute	Percentage
2013-14	100.00	--	--
2014-15	89.06	10.94	10.94
2015-16	73.80	15.26	17.14

Source: the Applicant

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Note: Actual figures have been indexed with respect to domestic product's price in the year 2013-14 by taking it equal to 100 to maintain confidentiality

36.4.2 The above table shows that the price of the domestic like product decreased by 10.94 percent in the year 2014-15 and 17.14 percent in the year 2015-16. However, investigation has shown that the decline in price was as a result of decline in cost to make and sell of the domestic like product (paragraph 36.3 supra) and was not due to dumped imports of the investigated product as its landed cost was higher than the prices of domestic like product (paragraph 36.2 supra).

37. Effects on Market Share

37.1 Total domestic demand for LABSA in Pakistan is met through local production and imports. Size of the domestic market is established by adding sales of domestic like product, imports of the investigated product from Exporting Countries and imports of the like product from other sources. Following table shows the market share from each source during the POI:

**Table – XI
Market Share**

Year	Domestic industry's Sales		Imports from:				Total Market	
			Dumped source		Other sources		volume	% increase
	volume	% share	volume	% share	volume	% share		
2013-14	74.13	74.13	25.41	25.41	0.46	0.46	100.00	--
2014-15	107.14	77.12	31.13	22.41	0.66	0.47	138.92	39
2015-16	111.37	71.57	43.99	28.27	0.26	0.16	156.11	12

Sources: the Applicant and PRAL

Note: Actual figures have been indexed with respect to total domestic market in the year 2013-14 by taking it equal to 100 to maintain confidentiality

37.2 The above table shows that the domestic market of LABSA increased by 39 percent and 12 percent during the years 2013-14 and 2014-15 respectively.

37.3 The domestic industry's market share increased by 3 percent in the year 2014-15 and decreased by 5.47 percent in 2015-16. Market share of the dumped imports decreased by 3.10 percent in the year 2014-15, however, its share increase by 5.77 percent in the year 2015-16. Share of imports from other sources also decreased from 0.47 percent in the year 2014-15 to 0.16 percent in the year 2015-16.

38. Effects on Sales

38.1 The sales of the domestic like product in the domestic market by the domestic industry during the POI are given below:

**Table- XII
Sales by the Domestic**

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Year	Sales volume	% increase
2013-14	100.00	--
2014-15	144.54	44.54%
2015-16	150.25	3.95%

Source: the Applicant

Note: Actual figures have been indexed with respect to the sales in the year 2013-14 by taking it equal to 100 to maintain confidentiality

38.2 The above table shows that the domestic industry's sales of the domestic like product in the domestic market increased significantly, by 45 percent in the year 2014-15, which corresponds increase in the domestic market (paragraph 37 supra). However, domestic industry's sales increased only 4 percent in the year 2015-16, which was much less than the increase in domestic market in this year.

39. **Effects on Production and Capacity Utilization**

39.1 The installed production capacity, quantity produced and the capacity utilization of the domestic industry during the POI were as follows:

Table – XIII

Installed Capacity, Production and Capacity Utilization

Year	Installed Capacity	Production	Capacity Utilization (%)
2013-14	175.06	100.00	57.12
2014-15	175.06	131.79	75.28
2015-16	175.06	144.72	82.67

Sources: the Applicant & TCSL

Note: Actual figures have been indexed with respect to the production in the year 2013-14 by taking it equal to 100 to maintain confidentiality

39.2 The above table shows that the installed capacity of the domestic industry remained the same whereas its production and capacity utilization increased during the POI.

40. **Effects on Inventories**

40.1 The data relating to the inventories of the domestic like product during the POI is given below:

Table – XIV

Inventories of the Domestic Like Product

Year	Opening Inventory	Closing inventory
2013 – 14	100.00	359.17
2014 – 15	359.17	106.32

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2015 – 16	106.32	225.89
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Source: the Applicant

Note: Actual figures have been indexed with respect to the opening inventory in the year 2013-14 by taking it equal to 100 to maintain confidentiality

40.2 The above table shows that the closing inventory level of the domestic like product decreased significantly in the year 2014-15 whereas it increased significantly in the year 2015-16 which is the period of dumping.

41. Effects on Profit/Loss

41.1 The table below shows the profits/(loss) and profitability on production and sales of the domestic like product of the domestic industry during the POI:

**Table – XV
Profits/(Loss) of the Applicant**

Year	Profits in:	
	Total value	% of sales revenue
2013-14	100.00	3.18
2014-15	149.48	3.69
2015-16	100.13	2.87

Sources: the Applicant & TCSL

Note: Actual figures have been indexed with respect to the profits in the year 2013-14 by taking it equal to 100 to maintain confidentiality

41.2 The information provided in the above table shows that the total profits of the domestic industry on production and sales of the domestic like product increased by 49 percent in the year 2014-15 and decreased by 33 percent in the year 2015-16. However, profitability (profits per MT) of the domestic industry increased by 3 percent in the year 2014-15 and declined by 36 percent in the year 2015-16.

42. Effects on Cash Flows

42.1 The Applicant/domestic industry is multi-product company and the cash flows cannot be determined separately for different products, as number of factors of cash flows are combine for all products. However, its major share of revenues, in the range of 70 percent to 86 percent, during the POI was from sales of LABSA.

42.2 As per Section 17(2) of the Act, *the Commission shall assess effect of dumped imports in relation to production of a domestic like product in Pakistan when available data permit separate identification of that production on the basis of criteria of production process, producer’s sales and profits:*

Provided that if such separate identification of that production is not possible, the

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Commission shall assess effects of dumped imports by examination of the production of the narrowest group or range of products, which includes a domestic like product, for which necessary information can be provided.”

42.3 Keeping in view the above the effects on cash flows are assessed for entire operations of the Applicant/domestic industry. Information on cash flows for the POI are provided in the following table:

**Table – XVI
Net Cash Flow**

Year	Net Cash flow
2013-14	(100.00)
2014-15	15.55
2015-16	(69.96)

Sources: the Applicant

Note: Actual figures have been indexed with respect to the net cash flow in the year 2013-14 by taking it equal to 100 to maintain confidentiality

42.4 The above table shows that the domestic industry’s net cash flow from its operations activities improved in the year 2014-15 and declined significantly during the year 2015-16.

43. **Effects on Employment, Productivity and Salaries & Wages**

43.1 The data relating to the employment, salaries & Wages and productivity of the Applicant for the POI is given in the following table:

**Table – XVII
Employment, Wages and Productivity**

Year	Number of Employees	Productivity per worker	Salaries & Wages Per MT
2013-14	100.00	100.00	100.00
2014-15	106.25	118.66	87.47
2015-16	93.75	134.22	88.53

Sources: the Applicant

Note: Actual figures have been indexed with respect to the figures in the year 2013-14 by taking them equal to 100 to maintain confidentiality

43.2 The above table shows that the employment in the domestic industry marginally increase in the year 2013-14 and then decreased during 2015-16. The productivity per worker increased throughout the POI. Salaries and wages per MT also decreased during the POI.

44. **Effects on Return on Investment**

44.1 The Applicant and TCSL are multi-product companies, therefore the investment and return on investment cannot be determined separately for different products as

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investment (equity/loans) is made for entire group. Therefore, return on investment is calculated for entire companies is as follows:

Table-XVIII
Return on Investment

Year	ROI (%)
2013-14	08
2014-15	18
2015-16	15

Sources: the Applicant & TCSL

44.2 The above table shows that the domestic industry's return on investment increased during the POI from 10 percent in the year 2013-14 to 18 percent in the year 2014-15 and slightly declined to 16 percent in the year 2015-16.

45 **Effects on Growth and Investment**

As stated earlier, the domestic industry was not able to utilize its optimum installed production capacity during the POI despite the fact that domestic demand was more than the installed production capacity of the domestic industry. Therefore, there was no growth and new investment in the domestic industry during the POI.

46. **Summing up of Material Injury and Effect of Dumped Imports**

46.1 Analysis of the volume of imports of the investigated product shows that the dumped import increased both in absolute terms and relative to domestic production. As a result of significant increase in volume of dumped imports its market share increased whereas market share of domestic industry decreased. Resultantly, domestic industry faced decline in profits and profitability, potential decline in sales and negative effect on inventories of the domestic like product. Further, there was a time correlation between dumped imports of the investigated product and material injury faced by the domestic industry on above mentioned factors as both happened during the same time period. Following table shows correlation between volume of dumped imports and material injury faced by the domestic industry:

Table – XIX
Causal Relationship between Dumped Imports and Injury to the Industry

S.No	Description	2013-14	2014-15	2015-16
i.	Volume of dumped imports	10,437	12,783	18,066
ii.	Increase in dumped imports	--	22.48%	41.33%
iii.	Increase in domestic production	--	31.79%	9.81%
iv.	Dumped imports as % of domestic production	32.47%	30.18%	38.84%
v.	Market share of dumped imports	25.41%	22.41%	28.27%
vi.	Market share of domestic like product	74.13%	77.12%	71.57%
vii.	Domestic industry's capacity utilization	57.12%	75.28%	82.67%
viii.	Return on investment	08%	18%	15%

46.2 On the basis of information and analysis in the fore-going paragraphs the

Commission has concluded the domestic industry suffered material injury on account of volume of dumped imports, decline in market share, potential decline in sales, decline in profits and profitability, and increase in inventories of the domestic like product due to dumped imports of the investigated product during the POI.

47. **Magnitude of Dumping Margins**

The dumping margin determined in this preliminary determination for imports of the investigated product is ranging from 3.65 percent to 40.79 percent, which is considered enough to cause material injury to the domestic industry. Further, injury factors discussed above show that domestic industry has suffered materially injury due to dumped imports of the investigated product.

48. **Other Factors**

48.1 In accordance with Section 18(2) and 18(3) of the Act, the Commission has examined following factors other than dumped imports which could at the same time cause injury to the domestic industry, in order to ensure that possible injury caused by other factors is not attributed to the injury caused by dumped imports:

- i. Volume and price of imports not sold at dumping prices;
- ii. Contraction in demand or changes in the patterns of consumption;
- iii. Trade restrictive practices and competition between imports and domestic producers;
- iv. Developments in technology; and
- v. Export performance and productivity of domestic industry.

48.2 **Volume of other Imports and Contraction in Demand**

48.2.1 The Commission has preliminarily determined that the domestic industry did not suffer material injury due to other factors including imports of LABSA from sources other than the dumped sources during the POI. Volume of imports from other sources, dumped sources and sales by the domestic industry are provided in the following table to analyze whether there is contraction in demand for LABSA or there are changes in its patterns of consumption in accordance with Section 18(3) of the Act:

Table-XX
Total Domestic Market of SA

Year	Domestic Industry's sales	Imports from:		Total Domestic Market
		Dumped Sources	Other Sources	
2013-14	74.13	25.41	0.46	100.00
2014-15	107.14	31.13	0.66	138.92

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2015-16	111.86	43.99	0.26	156.11
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Sources: the Applicant and PRAL

Note: Actual figures have been indexed with respect to the total domestic market in the year 2013-14 by taking it equal to 100 to maintain confidentiality

48.2.2 The above table shows that the volume of imports of LABSA from sources other than the dumped sources was negligible (less than 1% of total domestic market) throughout the POI, which declined over the POI for dumping. Whereas volume of dumped imports of the investigated product increased significantly during the POI. Thus, imports of LABSA were not the cause of material injury to the domestic industry during the POI.

48.2.3 The above table further shows that there was no contraction in domestic demand of the LABSA during the POI rather domestic market increased significantly, from 41,067 MT in 2013-14 to 64,108 MT in 2015-16. Thus there was no contraction in demand or there was no change in pattern of consumption of the SA during the POI.

48.3 Investigation has also shown that there was no exports of LABSA by the Applicant during the POI. Thus, there was no change in export pattern of the domestic industry during POI, which has caused injury to it.

48.4 Other factors mentioned in Section 18(3) of the Act were also analyzed and it was found that:

- i. There was no change in trade restrictive practices and competition between producers other than producers from the dumped source and domestic producer; and
- ii. There was no considerable change in technology to produce LABSA during the POI;

48.5 Based on the above information and analysis the Commission has concluded that there was no other factor which has caused material injury to the domestic industry during the POI except dumped imports of the investigated product.

49. **Causal Relationship between Dumped Imports of the Investigated Product and Material Injury to the Domestic Industry**

Examination of the volume of dumped imports shows a causal relationship between dumped imports of the investigated product and material injury suffered by the domestic industry during the POI, as volume of dumped imports increased significantly at dumped prices which simultaneously adversely affected market share, sales, profits/profitability, and inventories of the domestic industry.

D. CONCLUSIONS

50. After taking into account all considerations, evidences, information and analysis the Commission has reached the following conclusions for the purposes of this preliminary

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determination:

- i. The application was filed by the domestic industry;
- ii. The investigated product and the domestic like product are like products in terms of provisions of the Act;
- iii. During POI, the investigated product was exported to Pakistan by the exporters/ producers from the Exporting Countries at prices below its normal value;
- iv. Volume of dumped imports of the investigated product and the dumping margins established for the exporters/ producers of the investigated product are above the negligible and *de minimis* levels;
- v. The dumping margins expressed as a percentage of weighted average adjusted export price at ex-factory level is ranging between 3.65 percent to 40.79 percent;
- vi. The domestic industry suffered material injury on account of volume of dumped imports, decline in market share, potential decline in sales, decline in profits and profitability, and negative effects on inventories in terms of Section 15 and 17 of the Act; and
- vii. There is a causal relationship between dumped imports of the investigated product and the material injury faced by the domestic industry.

E. IMPOSITION OF PROVISIONAL ANTIDUMPING DUTY

51. Section 43(1) of the Act empowers the Commission to impose provisional anti-dumping duty and states as follows:

“The Commission may impose provisional measures if it makes an affirmative preliminary determination of dumping and injury, and determines that provisional measures are necessary to prevent injury being caused during the course of an investigation:

Provided that provisional measures shall not be applied sooner than sixty days from the date of initiation of the investigation:

Provided further that the amount of the provisional anti-dumping duty shall not exceed the margin of dumping as provisionally established, but it may be less than the margin if such lesser duty would be adequate to remove the injury to the Domestic Industry.”

52. Investigation of the Commission has shown that during course of this investigation imports of the investigated product are taking place in significant volume and its weighted

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average C& F price is lower than the C&F price of the POI. During July 2016 to March 2017 volume of imports from dumped sources was 10,828 MT with weighted average C&F price of US\$ 1186/MT as compared to the weighted average C&F price of US\$ 1236/MT of dumped imports of the investigated product during the POI for dumping.

53. In view of the analysis and conclusions with regard to dumping, material injury, and causation, imposition of provisional antidumping duty on dumped imports of the investigated product is needed in accordance with Section 43 of the Act to prevent injury being caused to the domestic industry during the course of this investigation.

54. Individual dumping margins have been determined for the two exporters/ foreign producers (Jitung and Miwon) of the investigated product who supplied information for this investigation and the provisional rate of antidumping duty for them is determined according to their individual dumping margins.

55. Dumping margin/duty rate for all other exporters/foreign producers of the Exporting Countries who have not provided information in this investigation has been determined on the basis of best information available in accordance with Section 32 of the Act.

56. Keeping in view the provisions of Section 43 of the Act, following provisional antidumping duty rates are hereby imposed on the dumped imports of the investigated product importable from the Exporting Countries for a period of four months effective from May 25, 2017. The provisional antidumping duties rates are determined on C&F value in *ad val.* terms. The investigated product, sulphonic acid (soft) is classified under PCT heading No. 3402.1110.

Table-XXI
Provisional Anti-dumping Duty Rates

Country	Exporter/ Producer Name	Duty Rates
China	Jitung Petrochemical Corp. Ltd., China	3.21%
	All others from China	3.21%
Korea	Miwon Chemicals Co. Ltd. Korea	31.26%
	All others from South Korea	31.26%
India	All exporters from India	27.95%
Indonesia	All exporters from Indonesia	28.17%
Iran	All exporters from Iran	37.51%
Chinese Taipei	All exporters from Chinese Taipei	29.68%

57. Sulphonic acid (soft) imported from other sources (other than the above mentioned countries) shall not be subject to the provisional antidumping duty.

52. In accordance with Section 51 of the Act, the provisional antidumping duty shall take the form of *ad valorm* duty and be held in a non-lapsable personal ledger account established and maintained by the Commission for the purposes of antidumping duties.

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Release of the investigated product for free circulation in Pakistan shall be subject to the imposition of such antidumping duty.

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

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

(Tipu Sultan)
Member
May 24, 2017

(Robina Ather)
Member
May 24, 2017

(Abdul Khaliq)
Member
May 24, 2017

(Qasim M. Niaz)
Chairman
May 24, 2017

Annex-I

VIEWS/COMMENTS OF THE INTERESTED PARTIES

Views/Comments	Commission’s Response
Views/Comments of the Government of Indonesia	
1. “Volume and Price Effects of Alleged Dumped Imports	
a) Volume Effect “Article 3.2 of ADA emphasizes the relevance of a significant increase in dumped imports, either in absolute or relative to production or consumption in the importing member. Based on data of Petition (Table 6, page 21), the import volume from the alleged dumped sources showed that there was an increase by 24% over the POI, however if compared to the production or consumption during the POI, it was insignificant (0.99% and 6.24% respectively). Thus, there was no volume effect of alleged dumped imports.”	Investigation of the Commission has revealed that the volume of dumped imports of the investigated product has increased significantly during the POI in absolute as well as relative to the domestic production. Please see paragraph 35 of the report.
“b) Price Effect “Appendix 8 of the Petition showed that the declining average of sales price of domestic products during the POI has been caused by the declining of the average cost of domestic production. It means that the import did not cause the price suppression/depression. Thus, the Investigating Authority (IA) is inconsistent with Article 3.2 of the A.D.A which stated "With regard to the effect of the dumped imports on prices, the investigating authorities shall consider whether there has been a significant price undercutting....”	After investigation, the Commission has preliminarily determined that the domestic industry did not face price effects (price undercutting, price suppression or price depression) due to dumped imports of the investigated product during the POI. Please refer paragraph 36 of the report
“2. Causation between Alleged Dumped Imports and Injury	The Commission’s investigation has

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<p>“The GOI believes that there is no causal link between the alleged dumped imports and injury suffered by the domestic industries on following reasons:</p> <p>“a) The production and sales of the domestic industry (Appendix 7) showed positive development during the POI along with the increase of demand by more than 10%.</p> <p>“b) The inventory changes (Appendix 7) showed that in Jul 13-Jun 14 to Jul 14-Jun 15, the closing inventory has decreased coupled with the increase of sales. However during the dumping POI, the closing inventory has increased along with the sales. It is an indicator that there is other factor than dumping which caused the injury.</p> <p>“c) The domestic industry still dominates the domestic market as shown on Table 8 Page 23 of the petition, where there were no significant increase on the share of dumped imports in Domestic Market of Pakistan from base year to POI (0.99%). It clearly indicates that the dumped imports has insignificant impact on the injury suffered by the domestic industry.</p> <p>“d) The injury suffered by the domestic industry has been caused by other factor than alleged dumped import namely expansion of new plant during 2014 as stated in para 10.1 page 18 of the Petition. Based on the above explanation, the GOI concludes that there is no causal link between the alleged dumped imports and the injury suffered by the domestic industry. Thus, the IA is inconsistent with Article 3.5 of ADA as "the demonstration of a causal relationship between the dumped imports and the injury to the domestic industry shall be based on examination of all relevant evidence before the authorities".</p>	<p>shown that there is a causal relationship between volume of dumped imports of the investigated product and material injury faced by the domestic industry. Please refer paragraph 46 of the report.</p> <p>The Commission has preliminarily determined that the production of domestic like has increased during the POI, therefore, domestic industry did not suffer injury on account of production (paragraph 39 of the report). However, the domestic industry faced injury on account of decline in market share, potential decline in sales and increase in inventories during the POI as its sales did not increase in accordance with increase in domestic market during POI despite the fact that it has idle capacity. (paragraphs 37, 38 and 40 of the report).</p> <p>The Commission has also analysed other factors which could cause injury to the domestic industry during the POI and has found that there was no other factor except dumped import which caused material injury to the domestic industry. Please refer paragraphs 46 and 48 of the report.</p>
<p>“3. Threat of Material Injury</p> <p>“Article 3.7 of ADA sets out 4 (four) factors that should be considered by the IA in determining the threat of material injury, namely:</p> <p>“a) A significant rate of increase of dumped imports into the domestic market indicating the likelihood of substantially increased importation;</p> <p>“b) Sufficient freely disposable, or an imminent, substantial increase in, capacity of the exporter indicating the likelihood of substantially increased dumped exports to the importing Member's market, taking into account the availability of other export markets to absorb any additional exports;</p> <p>“c) Whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports; and</p> <p>“d Inventories of the product being investigated.</p> <p>“The GOI in the previous explanation showed that there were no volume and price effect of the alleged dumped imports, there is other factor which caused the increase of closing inventory and there was no data nor information on the substantial increase in capacity of the</p>	<p>Although the Applicant has claimed threat of material injury as well, but the Commission has not investigated threat of material injury for the purposes of this preliminary determination as the investigation has shown that the domestic industry has suffered material injury during the POI.</p>

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<p>exporter. Therefore, the petitioner failed to prove the threat of material injury which may occurred in the future.”</p>	
<p>Views/ Comments of A.R.Sulphonates Pvt. Ltd., Kolkata and Sai Fertilisers & Phosphates Pvt. Ltd. Kolkata, India</p>	
<p>1. “The exports from A.R. Sulphonates Pvt. Ltd to Pakistan is 500MT and from Sai Fertilisers & Phosphates Pvt. Ltd is 811.2MT; Thus, totalling to 1311.2MT during the period of investigation. out of which 960 MT (73.2o/o of total export by us to Pakistan) has been sold to one of the petitioner company - Tufail Chemical Industries Limited, Pakistan. In light of such imports by the petitioner company from a subject country we urge the Commission to consider the related petitioner company ineligible as domestic industry in the present investigation under section 2(d)of the Anti Dumping Act 2015.”</p> <p>2. “We have strong reasons to believe that the petitioner company has imported LABSA from other producers, thereby voiding it's position as domestic industry in Pakistan.”</p> <p>3. “The total exports of Indian companies during the period of investigation are 4.42% of the total imports of the LABSA in Pakistan. Out of these imports, 3% (960 MT) has been made by the petitioner company themselves. Therefore we pray to the Commission to exclude these imports in the calculation of total imports for the purpose of calculating the threshold for termination of investigation on Indian imports. Further the quantities of such imports shall also be excluded from the injury and causal link calculation based on the verification of such purchases by the petitioner during the verification procedure carried out for domestic industry.”</p> <p>4. “We hope that the our prayers will be suitably considered in the course of this investigation and the Commission will carry out a fair assessment of the standing of the petitioner, injury and causal link caused by Indian imports. We also pray to the Commission to exclude imports from India on the grounds that these are below the de-minimus levels for continuation of investigation after elimination of imports by the petitioners themselves. If needed we would request to provide us an opportunity of being heard in person.”</p>	<p>Please refer paragraphs 9.2 to 9.4 of the report</p>
<p>Views/ Comments of Miwon, Korea</p>	
<p>“At Section 2.1 of the Non-Confidential Application, the Applicant has stated that in terms of share of domestic production, there are only 2 producers of the domestic like product.</p> <p>“It is to be noted that the aforementioned claim by the applicant is incorrect, false, unsubstantiated, uncorroborated and unverified, as it is an undisputed fact that there are many other producers of the Investigated Product who conjointly represent the domestic industry and failure to reflect their representation in either support or dissent in the filling the application, reflects the absence of meeting the requirements of Section 2 (d) and Section 24 of the Anti-Dumping Duties Act (the “Act”).”</p>	<p>The domestic industry and standing of the application is determined in accordance with Sections 2(d) and 24 of the Act. Please refer paragraphs 8 and 9 of the report.</p>
<p>“Section 20 (b) of the Act requires the Application to include sufficient evidence of dumping and injury. Furthermore, the</p>	<p>On receipt of the application the Commission assessed it in light of</p>

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<p>Application, under Rule 3 of the Rules, shall contain such information as is reasonably available to the Applicant on the following (among others): (i) information on prices of the investigated product both domestic and export; (ii) information on an evolution of volume of the allegedly dumped imports, (iii) the effect of such imports on prices of the domestic like product and the consequent impact of the imports on the domestic industry, as demonstrated by relevant factors and indices having a bearing on the state of the Pakistan industry, such as those listed in Section 15, 16, 17 and 18 of the Act.</p> <p>“The Applicant has failed to provide any of the relevant information that is required for an interested party to draw an intelligible conclusion of the substance of the information provided, as information relating to prices, information relating to volume of dumped products and effects of imports has been deliberately categorised as being confidential and the summaries provided of the same do not permit any interested party to draw the conclusion that dumping and or injury has been caused by the import of Sulphonic Acid into the economy of Pakistan.”</p>	<p>Section 20 and Rule 3 of the Rules and was found compliant with requirements of the Act and Rules. Further, the information and evidence provided in application was analysed in accordance with Section 23 of the Act and the Commission determined that there is sufficient evidence and information in the application to justify an investigation in this case. Further, a non-confidential version of the analyses of the information and evidence provided in application was placed in the public file titled as “initiation memo”</p>
<p>“While reviewing the Application for the Investigation, it has come to our notice that the Commission has provided access to certain information/PRAL data in respect of the Investigated Product which was otherwise not available in the public domain. More importantly, while this information relates to South Korean Exporters and importers from Pakistan, it has been kept confidential from other interested parties. Therefore, not only have the interested parties been prejudiced by the Commission, the Commission has also acted outside the discretion that has been provided under the Act and the implementation of Article 6 on the Anti-Dumping Agreement.</p> <p>“Section 155H of the Customs Act, 1969 requires mandatory respect of confidentiality of the information gathered by the relevant customs authority and only allows its usage in limited respects.”</p>	<p>The Commission has not provided/ disclosed information of imports or exports of any particular importer or exporter, rather total value and volume of imports for the POI (previous period) is available for the purposes of an application, which is otherwise publically available on different websites such as FBR’s website and ITC’s website</p>
<p>“As demonstrated above, the Applicant under the garb of confidentiality has withheld vital information that should otherwise have been provided in the non-confidential version of the Application”</p>	<p>Confidentiality of the information is determined in accordance with Section 31 of the Act (paragraph 18 of the report).</p>
<p>“..... it appears that the Commission did not examine the accuracy and adequacy of the information provided in the Application. The obligation <i>vis-à-vis</i> determination of adequacy, accuracy and sufficiency of information has been the discussion of various Panels in their findings. The Panels have emphasized on the responsibility of the investigating authorities to examine the adequacy and accuracy of the information.....”</p>	<p>The Commission has determined accuracy and adequacy of the evidence and information provided in application in accordance with Section 23 of the Act and has complied with requirements of the Act.</p>
<p>“The Application does not meet the requirement laid under Section 3 of the Act, which states that an imposition of anti-dumping duty will only be made when the Commission determines that an investigated product <i>has been dumped into the economy of Pakistan.</i></p> <p>“In Section 8 (page 14) of the Non-Confidential Application, it is stated that the Normal Value is based on the constructed cost method which is confidential in nature. It is important to see that Section 6 of the Act states that.....”</p> <p>“The Commission is therefore under a duty placed by Section 6 of the Act that only in the circumstances where there is evidence that there are no sales of a like product in the ordinary course of trade in the domestic market or when such sales do not permit a fair comparison,</p>	<p>In this preliminary determination the Commission has determined normal value for Miwon on the information provided by it on its domestic sales and in accordance with Section 5 of the Act.</p> <p>The application fulfills requirements of Section 20 of the Act and Rule 3 of the Rules, which states “<i>An application shall,..... contain such information as is reasonably available to an applicant.....</i>”. Further, the</p>

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<p>the Commission shall establish normal value by taking the comparable price paid in an appropriate third country or construct the normal value.”</p> <p>“The Applicant has not furnished any reasons as to why the methods provided by Section 5 of the Act were not employed to establish Normal value and deliberately marked the calculations of normal value as confidential, therefore any interested party has to extinguish their rights as to respond to the accuracy of the same.”</p> <p>“The Commission had the authority to ascertain that Normal value was established in accordance with Section 5 of the Act and in the event that the Applicant fails to do so, the Commission could solicit further information in accordance with Section 23 of the Act. The Applicant has therefore, by reason of the omission of the Commission to solicit further information as required, has not put in any reasonable effort to provide evidence of normal value in accordance with Section 5 of the Act and intentionally misguided the Commission, which has resulted in the situation that the Commission has initiated an investigation which should have been returned due to lack of having any evidentiary or factual backing.”</p>	<p>Commission has complied with requirements of the Act in assessment of the application and making decision to initiate this investigation.</p>
<p>“The Commission is empowered to impose anti-dumping measures on imports of the Investigated Product <i>inter alia</i> if it determines that the Domestic Industry is sustaining ‘injury’ within the meaning of the Act on account of the allegedly dumped imports of the Investigated Product from South Korea. Accordingly, the Commission is required to undertake a detailed examination of nature and scale of the adverse impact, if any, on account of the allegedly dumped imports on all domestic producers engaged in the production of the Domestic Like Product..... the Applicant has not suffered material injury on account of alleged dumping of the Investigated Product. In fact, the reasons which are attributable to the alleged decrease in cash flow and return on investment, is directly attributable to poor management decisions, payments of long term loans and failing marketing strategies on account of the Applicant. The selling prices of imports from Miwon Chemicals are publicly available in Pakistan and it is pertinent to note that Miwon Chemicals has the highest selling price when compared with prices of the domestic industry. Such a difference in the price indicates that Miwon Chemicals and domestic industry are aiming for different target markets and therefore there is no causal relationship between the alleged loss of market share and the product produced by Miwon Chemicals.....”</p>	<p>The Commission has determined injury to the domestic industry in accordance with Part VI of the Act (please refer paragraphs 33 to 47 of the report).</p>
<p>“The Exporter submits that the Commission is obliged to examine known factors, other than imports of the Investigated Product, which are injuring the domestic industry to ensure that any injury caused by such other factors is not misattributed in accordance with Section 18 of the Act and Article 3.5 of the Anti-Dumping Agreement.”</p>	<p>The Commission has also examined other factors in accordance with Section 18 of the Act (paragraph 48 of the report)</p>

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Annex-II

Summary Calculations of Normal Value of Jintung, China

Description	Sales at Loss			Profitable Sales		
	Related	Unrelated	Total	Related	Unrelated	Total
Gross price	100.06	100.00	100.00	95.94	100.04	100.00
Credit cost	0.36	0.18	0.19	0.33	0.74	0.74
Inland freight	0.00	1.10	1.07	0.12	1.81	1.79
Bank Charges	0.00	0.02	0.02	0.00	0.01	0.01
Adjusted Normal Value	99.71	98.70	98.73	95.49	97.48	97.46
Sales at loss (% of total sales)			57.68%			

Note: Actual figures have been indexed with respect to total gross price to maintain confidentiality

Summary Calculation of Export Price of jintung, China

Description	value
C&F export price	106.71
Credit cost	0.61
Inland freight	1.43
Ocean freight	4.09
Handling Cost	1.53
Bank Charges	0.93
VAT Adjustment (4% of FOB)	4.10
Adjusted export price	94.02

Note: Actual figures have been indexed with respect to total gross price of profitable ales provided in calculations of normal value in above table to maintain confidentiality

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Annex-III

Summary Calculations of Normal Value of Miwon, Korea

Description	Sales at Loss			Profitable Sales		
	Related	Unrelated	Total	Related	Unrelated	Total
Gross price	--	100.00	100.00	119.10	98.55	100.00
Inland freight	--	0.00	0.00	3.12	2.52	2.56
Credit cost	--	0.70	0.70	0.83	0.89	0.89
Adjusted Normal Value	--	99.30	99.30	115.15	95.14	96.55

Below cost sales as % of total sales | 80.07%

Note: Actual figures have been indexed with respect to total gross price to maintain confidentiality

SUMMARY CALCULATION OF EXPORT PRICE OF MIWON, KOREA

Description	Value
C&F export price Price	76.08
Billing Adjustment (KRW/MT)	0.04
Agent Commission (KRW/MT)	0.71
Inland Freight (KRW/MT)	0.53
Ocean Freight, Document Fee, T.H.C, Container Seal Fee (KRW/MT)	2.02
Wharfage Fee (KRW/MT)	0.01
Bank Commission (KRW/MT)	0.42
Duty Drawback (KRW/MT)	0.51
Credit Expenses (KRW/MT)	0.09
Adjusted export price	72.77

Note: Actual figures have been indexed with respect to total gross price of profitable sales provided in calculations of normal value in above table to maintain confidentiality

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Annex-IV**CONSTRUCTION OF NORMAL VALUE FOR INDIA, INDONESIA, IRAN AND CHINESE TAIPEI**

S.No.	Name of Raw & Packing Material	Usage	Cost of to Make & Sell			
			India	Indonesia	Iran	Chinese Taipei
i.	Linear Alkyl Benzene (imported)	0.8539	100.00	100.00	100.00	100.00
ii.	Sulphur (imported)	0.1600	2.16	2.16	2.16	2.16
iii.	Caustic Soda (local)		0.57	0.57	0.57	0.57
iv.	Total Raw materials		102.73	102.73	102.73	102.73
v.	Packing cost		1.81	1.81	1.81	1.81
vi.	Cost of raw & Packing material (Local & Imported)		104.54	104.54	104.54	104.54
vii.	Less: Ocean Freight		-4.21	-4.21	-4.21	-4.21
viii.	Less Inland Freight @ 10% of Ocean Freight		-0.42	-0.42	-0.42	-0.42
ix.	Total Cost of Raw & Packing Material - FOB		99.91	99.91	99.91	99.91
x.	Labour Cost	3.33 hrs	0.25	0.20	0.66	2.02
xi.	Factory Overheads		11.73	8.48	6.94	9.94
xii.	Operating Expenses		2.19	2.19	2.19	2.19
xiii.	Financial Charges		2.68	2.83	8.66	1.79
xiv.	Total Cost to make and sell		116.76	113.60	118.36	115.86
xv.	Profit / (Loss)		5.84	5.68	5.92	5.79
xvi.	Constructed NV (US\$/MT)		122.60	119.28	124.27	121.65

Note: Actual figures have been indexed with respect to the cost of linear alkyl benzene to maintain confidentiality

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Annex-V

Summary Calculations of Export Price For India, Indonesia, Iran And Chinese Taipei

Description	Ratio	India	Indonesia	Iran	Chinese Taipei
C&F export price		102.47	99.30	95.98	100.00
Credit cost	0.57%	0.58	0.57	0.55	0.57
Inland freight	1.34%	1.37	1.33	1.29	1.34
Ocean freight	3.83%	4.20	3.80	3.68	3.83
Handling Cost	1.43%	1.47	1.42	1.37	1.43
Bank Charges	0.87%	0.89	0.86	0.83	0.87
Adjusted export price		93.96	91.32	88.27	91.96

Note: Actual figures have been indexed with respect to the cost of linear alkyl benzene provided in construction of normal value in Annex-IV to maintain confidentiality