



**Government of Pakistan
National Tariff Commission**

REPORT

ON

**PRELIMINARY DETERMINATION AND LEVY OF PROVISIONAL
ANTI-DUMPING DUTIES ON DUMPED IMPORTS OF PHTHALIC
ANHYDRIDE INTO PAKISTAN ORIGINATING IN AND/OR
EXPORTED FROM THE RUSSIAN FEDERATION**

A.D.C No. 47/2016/NTC/PA

May 29, 2017

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The National Tariff Commission (hereinafter referred to as the Commission) having regard to the Anti-Dumping Duties Act, 2015 (hereinafter referred to as the Act) and the Anti-Dumping Duties Rules, 2001 (hereinafter referred to as the Rules) relating to investigation and determination of dumping of goods into the Islamic Republic of Pakistan (hereinafter referred to as Pakistan), material injury to the domestic industry caused by such imports, and imposition of anti-dumping duties to offset the impact of such injurious dumping, and to ensure fair competition thereof and to the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (hereinafter referred to as the Agreement on Anti-dumping) is conducting this investigation, on imports of Phthalic Anhydride (PA) into Pakistan originating in and/or exported from the Russian Federation (the "Russia"), 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 the Rule 10 of the Rules.

2. In terms of Section 37 of the Act, the Commission shall make a preliminary determination of dumping and injury, if any, not earlier than sixty days and not later than one hundred and eighty days, after initiation of an investigation. Such preliminary determination shall be based on the information available to the Commission at that 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 05, 2016 (formal acceptance date), the Commission received a written application under Section 20 of the Act from Nimir Chemicals Pakistan Limited, Lahore (the "Applicant") on behalf of the domestic industry. The application has been filed by the Applicant, who is the sole producer of PA.

4.2 The Applicant alleged that PA is being exported to Pakistan at dumped prices from Russia. According to the Applicant, alleged dumped imports of PA from Russia have caused and are causing material injury to Pakistan's domestic industry producing PA.

4.3 The Embassy of Russia was notified on October 13, 2016 through Ministry of Foreign Affairs about the receipt of anti-dumping application under section 21 of the Anti-Dumping Duties Act, 2015.

5. Evaluation and Examination of the Application

5.1 The examination of the application showed that it met the requirements of Section 20 of the Act as it contained sufficient evidence of dumping of PA into Pakistan from the Russia 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

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

*“domestic industry” means the domestic producers as a whole of a domestic like product or those of them whose collective output of that product constitutes a major proportion of the total domestic production of that product, except that when any such domestic producers are related to the exporters or importers, or are themselves importers of the allegedly dumped investigated product in such a case “domestic industry” shall mean the rest of the domestic producers”.
Explanation.- For the purposes of this clause, producers shall be deemed to be related to exporters or importers only if;*

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

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

6.2 As per information provided in the application, the domestic industry manufacturing PA comprises of one unit i.e. the Applicant. The Applicant is neither related to any importer or exporter or it import PA itself. Therefore, the Applicant is eligible to apply for anti-dumping investigation.

7. Standing of the Application

7.1 The application fulfils the requirements of Section 24 of the Act, which enjoins upon the Commission to assess the standing of the application on the basis of the degree of support for or opposition to the application expressed by domestic industry.

7.2 In terms of Section 24(1) of the Act, an application shall be considered to have been made by or on behalf of the domestic industry only if it is supported by those domestic producers whose collective output constitutes more than fifty percent of the total production of a domestic like product produced by that portion of the domestic industry expressing either support for or opposition to the application. Furthermore,

Section 24(2) of the Act provides that no investigation shall be initiated when domestic producers expressly supporting an application account for less than twenty five percent of the total production of domestic like product produced by the domestic industry.

7.3 The application has been filed by the Applicant, who is the sole producer of the domestic like product and represents 100 percent of domestic production. The Applicant produced 23,424 MT of domestic like product during the POI.

7.4 On the basis of the above information and analysis it is determined that the application has been made by or on behalf of domestic industry as it fulfils the requirements of Section 24 of the Act.

8. Applicants' Views

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

- i. Impose provisional measures under Section 43 of the Act to prevent injury being caused during the investigation.
- ii. Impose appropriate anti-dumping duties on alleged dumped imports of PA in accordance with Section 50 of the Act; and
- iii. Exports of PA by the exporters/producers from Russia to Pakistan at dumped prices has caused and is causing material injury to the domestic industry producing PA mainly through:-
 - i. volume of alleged dumped imports;
 - ii. price undercutting;
 - iii. price depression;
 - iv. market share;
 - v. inventories;
 - vi. ability to raise investment;
 - vii. return on investment;
 - viii. profits/profitability; and
 - ix. growth

9. Exporters/Foreign Producers of PA

9.1 The Applicant identified 7 Exporters/Foreign Producers of PA involved in alleged dumping of the investigated product from Russia. The Applicant have requested for imposition of anti-dumping duty on all imports of the investigated product originating in and/or exported from Russia.

10. Initiation of Investigation

10.1 The Commission, in accordance with Section 23 of the Act examined the accuracy and adequacy of the evidence provided in application, and established that there was sufficient evidence of alleged dumping of PA into Pakistan from Russia and consequent material injury to the domestic industry. Accordingly, 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 December 03, 2016. Investigation concerning alleged dumped imports of PA into Pakistan classified under PCT No³. 2917.3500 originating in and/or exported from Russia was thus initiated on December 03, 2016.

10.2 In pursuance of Section 27 of the Act, the Commission notified Embassy of Russia in Islamabad of the initiation of investigation (by sending a copy of the notice of initiation) on December 05, 2016 with a request to forward it to all exporters/producers involved in production, sales and export of PA from Russia. Copy of the notice of initiation was also sent on December 05, 2016 to known exporters/producers of PA from Russia whose addresses were available with the Commission with a request to be registered as an interested party in the investigation with-in 15 days of publication of the notice. Copy of the notice of initiation was also sent to known Pakistani importers and the Applicant on December 05, 2016.

10.3 In accordance with Section 28 of the Act, on December 05, 2016, the Commission sent copy of full text of the written application (non-confidential version) and Exporter's Questionnaire to the exporters of Russia. On December 07, 2016, copy of the full text of the written application along with Exporter's Questionnaire was also sent to the Embassy of Russia in Pakistan with a request to forward it to all exporters/producers involved in production and/or sale/export of PA.

11. Investigated Product, Domestic Like Product and Like Product

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

i. Investigated Product

¹ The official Gazette of Pakistan (Extraordinary) dated December 03, 2016.

² "The Nation" and "Dunya News" of December 03, 2016 issue.

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

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

ii. Domestic Like Product

“means a like product that is produced by the domestic industry”.

iii. Like Product

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

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

11.3 Investigated Product

11.3.1 The investigated product is Phthalic Anhydride (“PA”) imported from Russia. It is classified under Pakistan Customs Tariff (“PCT”) Heading No. 2917.3500. The investigated product is in form of white flakes, with mild odour, slightly soluble in ether and hot water.

11.3.2 Investigated product is an industrial input used in plasticizers, alkyd resins, polyester resins, dyes and pigments.

11.3.3 The tariff structure applicable to the investigated product for the five years is given below in the table I below;

**Table-I
Tariff Structure**

Years	PCT Code	PCT Description	Customs Duty	Sales Tax
2013-14	2917.3500	Phthalic Anhydride	15%	17%
2014-15	2917.3500	Phthalic Anhydride	15%	17%
2015-16	2917.3500	Phthalic Anhydride	15%	17%
2016-17	2917.3500	Phthalic Anhydride	11%	17%

11.4. Domestic Like Product

11.4.2 The domestic like product is Phthalic Anhydride (“PA”) manufactured by domestic industry. It is classified under Pakistan Customs Tariff (“PCT”) Heading No. 2917.3500. The domestic like product is in form of white flakes, with mild odour, slightly soluble in ether and hot water.

11.4.3 Domestic like product is an industrial input used in plasticizers, alkyd resins, polyester resins, dyes and pigments.

11.5. Like Product

11.5.1 There is no difference between investigated product and the domestic like product. Both products are produced with same/similar inputs and manufacturing process. Both the products have same color and appearance. Both products are substitutable in use and application.

11.6 The Commission is satisfied that both products (investigated product and domestic like product) are alike products in terms of Section 2(m) of the Act.

12. Period of Investigation

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

- i. *"for the purposes of an investigation of dumping, an investigation period shall normally cover twelve months preceding the month of initiation of the investigation for which data is available and in no case the investigation period shall be shorter than six months."*
- ii. *"for the purposes of an investigation of injury, the investigation period shall normally cover thirty-six months:*

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

12.2 The Commission received the application on October 05, 2016 and initiated the investigation on December 03, 2016. The Applicant has provided the information/data up to June 30, 2016 in the application. Therefore, to fulfill the requirement of Section 36 of the Act, the POI selected by the Commission for dumping and injury are, as follows:

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

13. Information/Data Gathering

13.1 The Commission sent Exporter's Questionnaire to all known exporters/foreign producers from the Russia whose addresses were available with the Commission on December 05, 2016 for collection of data/information. The exporters/foreign producers were asked to respond within 37 days of dispatch of the Questionnaire. Reminder was

sent to the exporters/foreign producers on January 17, 2017 that the Commission would make preliminary and final determination of dumping in this investigation on the basis of "Best Information Available" including those contained in the application submitted by the domestic industry, in terms of Section 32 of the Act. However, no response has been received from any exporter/foreign producer.

13.2 On December 07, 2016, Questionnaires were also sent to Pakistani importers of the investigated product known to the Commission and these importers were asked to respond within 37 days of dispatch of the Questionnaires. Reminder was sent to the importers on January 17, 2017 that the Commission would make preliminary and final determination of dumping in this investigation on the basis of "Best Information Available" including those contained in the application submitted by the domestic industry, in terms of Section 32 of the Act. In response, International Petrochemicals (Pvt.) Limited, submitted the information on importer questionnaire on January 28, 2017.

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

13.4 Interested parties were also invited to make their views/comments and submit information (if any) relevant to this investigation within 45 days of initiation of investigation. Ministry of Industry and Trade of the Russian Federation, Qaisar L.G Petrochemicals (Pvt.) Ltd, and Nimir Resins Ltd submitted their views/comments.

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

14. Verification of the Information

14.1 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 supplied by the interested parties to the extent possible for the purposes of this preliminary determination.

14.2 In order to verify information/data provided by the Applicant and to obtain further information (if any), officers of the Commission conducted on the spot investigation at the Applicant office on April 3-5, 2017.

15. 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 1100 hours to 1300 hours throughout the investigation (except public holidays). This file contains non-confidential versions of the application, responses to the questionnaires, submissions, notices, correspondence, and other documents for disclosure to the interested parties.

16. Confidentiality

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

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

16.3 On the basis of request made by the Applicant and 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 Applicants made a request to keep it confidential.

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

17. Views/Comments of Interested Parties

The Commission received views/comments from Ministry of Industry and Trade of the Russian Federation, Qaisar L.G Petrochemicals (Pvt.) Ltd and Nimir Resins Ltd., regarding initiation of this investigation during the course of investigation. The comments which are germane to this investigation have been taken into consideration while making this preliminary determination. Major issues raised by the interested parties are below:-

- i. Confidentiality
- ii. Construction of normal value
- iii. Like product
- iv. Evidences of injury
- v. Monopoly of the Applicant

B. DETERMINATION OF DUMPING

18. Dumping

18.1 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”.

19. Normal Value

19.1 In terms of Section 5 of the Act “normal value” is defined as follows:

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

19.2 Further, Section 6 of the Act states:

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

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

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

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

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

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

“(b) in substantial quantities; and

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

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

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

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

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

19.4 In case there is no cooperation from the exporters/foreign producers, the Commission may rely on best information available to reach preliminary or final determinations as identified in Section 32 of the Act. Section 32 of the Act states:

(1) Subject to Sub-section (2), if, at any time during an investigation, any interest party
(a) refuses access to or otherwise does not provide, necessary information within the period of times as may be prescribed; or

(b) otherwise significantly impedes the investigation.

The Commission may reach preliminary and final determinations, whether affirmative or negative, on the basis of the best information available.

(2) The provisions of the Schedule to this Act shall be followed in the application of subsection (1).

(3) The Commission shall take due account of any difficulties experienced by interested parties, in particular, small companies, in supplying information requested by it and may, where it deems fit, provide such assistance as is practicable including, but not limited to, extension of any time period prescribed submission of information under this Act.

(4) The Commission shall satisfy itself of the accuracy of the information supplied by interested parties during the course of an investigation in such manner as may be prescribed.

20. Determination of Normal Value

20.1 The normal value for Russia has been constructed as the domestic prices for Russia are not available. The methodology used for construction normal value is below:-

- a) For locally purchased raw and packing material, actual cost of raw/packing materials of the Applicant has been deflated to the C & F prices in International Market after deducting the import taxes/ charges/incidentals from the landed cost/purchase prices of the raw and packing material.
- b) For imported raw materials, export price of Orthoxylene from Russia has been used by adjusting for ocean freight, insurance and handling cost. The general perception is that Orthxylene is not imported in Russia as it is manufacturing the same. The same was asked from the Applicant and the Applicant stated that prices of PA as well as Orthxylene were not publically available in Russia. It was also informed that the prices could not be obtained by browsing on various websites of the Russian producers. The availability of Orthxylene in Russia was not denied. To take into account the fact that Orthoxylene is produced in Russia, C & F Prices of imported raw materials have been deflated by an adjusting amount of ocean freight, insurance and handling cost.
- c) Labor hours of domestic industry to produce one MT of PA have been multiplied by labor rate applicable in Russia.
- d) Electricity cost has been calculated by using actual energy consumption required to produce one MT of PA. The same has been multiplied with electricity rate prevailing in Russia.
- e) Variable overhead cost of domestic industry has been converted into equivalent fuel/petrol consumption. The same has been multiplied by fuel/petrol rate application in Russia to arrive at variable overhead cost in Russia.

- f) Other fixed charges including depreciation of domestic industry have been converted into US\$ on per ton basis.
- g) Methodology explained in Para (a) to Para (f) above gives the per ton production cost of PA.
- h) Selling and Admin expenses have been converted to US\$ on per ton basis.
- i) Financial charges are calculated by using actual financial charges of the Applicant and the same has been changed by difference between interest rate of Russia and Pakistan.
- j) Profit Mark up of 5% has been applied on cost to make & sell.

21. Export Price

21.1 In terms of Section 10 of the Act, export price is a price actually paid or payable for an investigated product when sold for export from an exporting country to Pakistan.

21.2 Export price has been worked out on the basis of information/data obtained from Pakistan Revenue Automation Limited (“PRAL”). The data obtained from PRAL shows prices at C & F level. These prices have been adjusted to reach at ex-factory level by deducting domestic freight, ocean freight and insurance provided by the Applicant.

22. Dumping Margin

22.1 Section 2(f) of the Act defines “dumping margin” in relation to a product means the amount by which its normal value exceeds its export price. Section 11 of the Act requires the export price and normal value to be compared with the same characteristics in terms of level of trade, time of sale, quantities, taxes, physical characteristics, conditions and terms of sale and delivery at the same place.

22.2 Alleged dumping margin works out as follows by comparing normal value at ex-factory level with weighted average adjusted export price at ex-factory level basis:

**Table-IV
Dumping Margin of PA imported from Russia**

Product	Calculation of Dumping Margin for Russian Exporters/Foreign Producer	
	Percentage of export price	Percentage of C&F price
PA	16.51	13.87

23. De minimis Dumping Margin and Negligible Volume of Alleged Dumped Imports

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

23.2 As regards the volume of dumped imports, Section 41(3) of the Act provides that the volume of such imports shall normally be regarded as negligible if the volume of dumped imports of an investigated product is found to account for less than three percent of total imports of a like product unless imports of the investigated product from all countries under investigation which individually account for less than three percent of the total imports of a like product collectively account for more than seven per cent of the imports of like product. The information/data on imports of the investigated product from alleged dumped sources and import of PA from other sources has been obtained from PRAL. Volume of alleged dumped imports of the investigated product and the PA imported from other sources during the POI (July 01, 2015 to June 30, 2016) is given in a table below:

Table-V
Volume of Imports of PA during POI

Country	Volume of Imports in:
	Percentage
Russia	80.04
Other Sources	19.96
Total	100.00

Source: the PRAL

Note: For the purpose of confidentiality, the actual figures have been indexed with respect to total volume of imports by taking it as equal to 100

23.3 It is evident from the above table that the volume of alleged dumped imports of the investigated product from Russia is above the negligible threshold set out in Section 41(3) of the Act.

C. INJURY TO DOMESTIC INDUSTRY

24. Determination of Injury

24.1 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...*"

24.2 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".

24.3 The Commission has taken into account all factors in order to determine whether the Applicant 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.

25. Domestic Industry

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

"domestic industry" means the domestic producers as a whole of a domestic like product or those of them whose collective output of that product constitutes a major proportion of the total domestic production of that product, except that when any such domestic producers are related to the exporters or importers, or are themselves importers of the allegedly dumped investigated product in such a case "domestic industry" shall mean the rest of the domestic producers".
Explanation.- For the purposes of this clause, producers shall be deemed to be related to exporters or importers only if;

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

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

25.2 As stated in Para 7.2 above, the domestic industry manufacturing PA comprises of one unit i.e. the Applicant. The Applicant is neither related to any importer or exporter or it import PA itself. Therefore, the Applicant is eligible to apply for anti-dumping investigation.

25.3 The Applicant represents 100% of the domestic production by the domestic industry. Thus the standing requirements as given in section 24 of the Act are met and it is determined that the application was made by or on behalf of the domestic industry.

25.4 On the basis of the above information and analysis, for the purposes of this investigation, the Applicant is considered as the “domestic industry” in terms of Section 2(d) of the Act.

25.5 Analysis of injury factors carried out in this preliminary determination in the following paragraphs is, therefore, based on the information provided by the Applicant and verified by the Commission.

26. Volume of Dumped Imports

Facts

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

26.2 In order to assess the impact of volume of dumped imports of the investigated product in relation to production and consumption of the domestic like product, the information obtained from PRAL has been used. Following table shows the change in imports of the investigated product in absolute terms during POI:

Table-VI
Absolute change in Dumped Imports

Period	Volume of Dumped Imports	Increase/ (Decrease)	Increase/ (Decrease) (%)
2013-14	100.00		
2014-15	364.87	264.87	264.87
2015-16	647.55	282.68	77.47

Source: The PRAL Year is from July to June

Note: For the purpose of confidentiality, the actual figures have been indexed with respect to total volume of dumped imports in 2013-14 by taking it as equal to 100.

Analysis

26.3 It appears from the above table that the dumped imports increased by 264.87 percent in the year 2014-15 over the imports of the year 2013-14. Imports of the investigated product further increased by 77.47 percent in the year 2015-16 over the imports in the year 2013-14.

26.4 Above information show that the volume of dumped imports of the investigated product increased significantly in absolute terms during the POI.

27. Price Effects

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

27.2 Price undercutting**Facts**

27.2.1 Price undercutting is calculated in the following table on the basis of the information provided in application on ex-factory price of the domestic like product and landed cost of the investigated product:

**Table-VII
Calculation of Price Undercutting**

Period	Average Domestic Price	Average Landed Cost of Dumped Imports	Price Undercutting (%)
2013-14	100.00	97.61	2.39
2014-15	74.21	80.57	
2015-16	59.81	55.20	7.71

Source: the Applicant and PRAL Year is from July to June.

Note: For the purpose of confidentiality, the actual figures have been indexed with respect to average price of the domestic industry in year 2013-13 by taking it as equal to 100

Analysis

27.2.2 The information provided in the above table shows that the weighted average landed cost of the investigated product imported from Russia was lower than ex-factory price of the domestic like product during the years 2013-14 and 2015-16. Resultantly, the investigated product undercut prices of the domestic like product in 2013-14 and 2015-16.

27.3 Price Depression**Facts**

27.3.1 The weighted average ex-factory price of the domestic like product of the PA for the POI is given in the following table:

Table-VIII
Ex-factory Price (Rs./MT)

Year	Price of domestic like product	Price Depression	Price Depression (%)
2013-14	100		
2014-15	74.21	25.79	25.79
2015-16	59.81	19.40	19.40

Source: the Applicant Year is from July to June

Note: For the purpose of confidentiality, the actual figures have been indexed with respect to price of the domestic industry in year 2013-14 by taking it as equal to 100

Analysis

27.3.2 The above table shows that ex-factory sales price of the domestic like product decreased during the POI. Thus there is a price depression during the POI. Prices of PA decreased during the POI mainly because the prices of Orthoxylene, which is major raw material for manufacturing of PA, decreased substantially during the POI.

27.4 Price Suppression

Facts

27.4.1 Information/ data submitted by the Applicants on weighted average cost to make and sell and ex-factory price of the domestic like product during the POI is given in the following table:-

Table-IX
Cost to Make and Sell and Ex-factory Price of the Domestic Like Product

Period	Average Cost to Make & Sell	Domestic Average Price	Increase/ (Decrease) in Average Cost to Make and Sell	Increase/ (Decrease) in Average Domestic Price	Price Suppression
2013-14	95.69	100.00			----
2014-15	75.90	74.21	(19.79)	(25.79)	----
2015-16	56.87	59.81	(19.03)	(14.40)	----

Source: the Applicant Year is from July to June

Note: For the purpose of confidentiality, the actual figures have been indexed with respect to domestic average price of the domestic industry in year 2013-14 by taking it as equal to 100.

Analysis

27.4.2 The domestic industry did not experience price suppression during the POI for injury.

28. Effects on Market Share**Facts**

28.1 The total domestic demand of the PA in Pakistan is met through local production and imports. The sales made by the domestic industry and the market share of domestic industry in the domestic market during POI for original investigation and last three years are given in the table below:

**Table-X
Market Share**

Period	Volume of Sales of domestic industry	Volume of Dumped Imports from Russia	Volume of Other Imports	Total Domestic Market (sales of local industry plus all imports)
2013-14	90.81	4.98	4.21	100.00
2014-15	89.78	18.17	4.38	112.33
2015-16	113.20	32.25	8.04	153.49

Source: the Applicant and PRAL

Year is from July to June

Note: For the purpose of confidentiality, the actual figures have been indexed with respect to total domestic market in year 2012-13 by taking it as equal to 100

Analysis

28.2 The above table shows that the domestic market of PA expanded by 12.33 percent and 36.64 percent in the year 2014-15 and 2015-16 respectively. It is evident from the table above that share of alleged dumped imports and other imports increased whereas share of domestic industry decreased during the POI for injury.

29. Effects on Sales**Facts**

29.1 Sales of the domestic like product are given in the following table:

**Table-XI
Sales of the Applicant**

Year	Sales of the Applicant
2013-14	100.00
2014-15	98.86
2015-16	124.65

Source: the Applicant Year is from July to June

Note: For the purpose of confidentiality, the actual figures have been indexed with respect to sales of domestic industry in year 2013-14 by taking it as equal to 100

Analysis

29.2 The above table shows that the sales by the Applicant decreased during 2015 as compared to 2014. However, the sales of the Applicant increased during 2016 as compared to 2015. The domestic industry was able to increase its sales in an expanding market.

30. Effects on Production and Capacity Utilization**Facts**

30.1 The installed capacity, quantity produced and the capacity utilization of the Applicant during the POI are provided in following table:

Table-XII
Installed Capacity and Capacity Utilization

Year*	Capacity Utilization (%)
2013-14	64.57
2014-15	65.35
2015-16	83.65

Source: the Applicant Year is from July to June

Analysis

30.2 The capacity of applicant unit remained the same over three years. The above table shows that the production by the Applicant increased during 2015 as compared to 2014. Production of the Applicant further increased during the year 2016.

31. Effects on Inventories**Facts**

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

Table-XIII
Inventories

Period	Opening inventory	Production	Sales		Internal Consumption	Closing Inventory
			Domestic	Export		
2013-14	4.13	100.00	75.71	2.12	25.23	1.06
2014-15	1.06	101.20	77.87	0.53	23.49	0.37
2015-16	0.37	129.56	99.35	1.17	27.95	1.46

Source: the Applicant Year is from July to June

Note: For the purpose of confidentiality, the actual figures have been indexed with respect to production of the domestic industry in year 2013-14 by taking it as equal to 100

Analysis

31.2 The above table shows that closing inventory of the Applicant increased during the POI for dumping and last year of POI for injury.

32. Effects on Profit/Loss

Facts

32.1 Profit/loss during POI has been arrived at by adding up the net profit of MA into operating profit of PA as the MA is its by-product. The profit/(Loss) position of domestic like product during the POI is stated below:

**Table-XIV
Profit/(Loss) Position for PA**

Year*	Profit/(Loss)
2013-14	100.00
2014-15	(39.50)
2015-16	88.06

Source: the Applicant Year is from July to June

Note: For the purpose of confidentiality, the actual figures have been indexed with respect to profit/loss of domestic industry in year 2013-14 by taking it as equal to 100

Analysis

32.2 It appears from the above table that the Applicant was making profits in the year 2013-14 but it made loss in year 2014-15. However, domestic industry earned profit in year 2015-16.

33. Effects on Cash Flow

Facts

33.1 The applicant has provided separate data for the cash flow of PA. The working provided takes into account profit and depreciation. The Commission is of the view that cash flow depends upon factors other than profit and depreciation, therefore cash flow of the whole company has been adopted and figures are reproduced as under:-

**Table-XV
Operating Cash Flow**

Year	Cash flow
2013-14	100
2014-15	(3.02)
2015-16	(48.55)

Source: The Applicant Year is from July to June

Note: For the purpose of confidentiality, the actual figures have been indexed with respect to cash flow of domestic industry in year 2013-14 by taking it as equal to 100

Analysis

33.2 The cash flow of the Applicant decreased during the year 2014-15. Furthermore, cash outflow increased during the period 2015-16. It is pertinent to mention in this regard that cash flow of the Applicant is reported on consolidated basis for all business segments. Therefore, it is not possible to calculate cash flow for PA business segments separately. On the basis of overall cash flow, the domestic industry faced negative effect on its cash flow.

34. Effects on Employment, Productivity and Salaries & Wages**Facts**

34.1 The Applicants employment, production and the salaries and wages paid during the POI is given in following table:-

Table-XVI
Employment, productivity and wages

Year	Number of Employees	Productivity Per Worker	Salaries and Wages Per unit
2013-14	100	100	100
2014-15	93	108.72	112.69
2015-16	91	141.86	102.70

Source: The Applicant Year is from July to June

For the purpose of confidentiality, the actual figures have been indexed with respect to respective figures of the domestic industry in year 2013-14 by taking it as equal to 100

Analysis

34.2 The above table shows that the employment in the domestic industry decreased during the POI. However, productivity per worker increased in the year 2014-15 and 2015-16 as compared to the productivity in the year 2013-14. Salaries and wages per MT decreased during the year 2015-16.

35. Effects on Return on Investment**Facts**

35.1 figures for consolidated profit after tax and equity were obtained from annual and six monthly accounts of the Applicant. Return on investment realized by the domestic industry during the POI is given in following table:

Table-XVII
Return on Investment

Year*	Return on Investment (%)
2013	7.76
2014	10.19
2015	7.85
2016**	5.62

Source: the Applicant

* Year is from 1st Jan to December 30 ** For the period 1st Jan to 30th June

Analysis

35.2 The above table shows that the return on investment remained positive during the POI for injury. However, the return on investment decreased during the POI for injury.

36. Ability to Raise Capital

In application, the Applicant has stated, "In the presence of continued losses by the domestic industry, its ability to raise investment has definitely been eroded. It is also a known fact that the losses are mainly due to continued dumping from various sources. At present, anti-dumping duties are levied on India, Brazil, China, Indonesia, South Korea, Taiwan, Italian Republic, Islamic Republic of Iran and Kingdom of Thailand, but lately Russia has started dumping from 2013-14 onwards. In order to provide protection to the domestic industry against unfair trade practices of foreign producers/exporters, the Commission is requested to impose anti-dumping duty on dumped imports from Russia, to avoid further losses to the domestic industry." As the Applicant has not provided evidence in this regard, the Commission is inconclusive about the effects of dumped imports on ability to raise capital.

37. Effect on Growth

37.1 Figures for total assets were obtained from the annual accounts for calculation growth as under:-

Table-XVIII
Growth (Rs. 000)

Year*	Total Assets	Growth
2013	100	
2014	119.95	19.95
2015	89.40	-30.55
2016**	83.71	-5.69

Source: the Applicant

* Year is from 1st Jan to December 30 ** for the period 1st Jan to 30th Jun

For the purpose of confidentiality, the actual figures have been indexed with respect to total assets of the domestic industry in year 2013-14 by taking it as equal to 100

Analysis

37.2 It is evident from the data above that the domestic industry faced negative effects on its growth, measured in terms of total assets, during the POI

38. Summing up of Material Injury

38.1 It appears from above that volume of dumped imports has increased significantly in year 2014-15 and further increased in year 2015-16. Dumped imports are undercutting prices of the domestic industry during the POI for injury. There is significant price depression of the domestic like product. This was partially due to decrease in the prices of raw material and partially due to landed cost of dumped import as the cost to make and sell has decreased in the period of investigation due to reduction in petroleum prices in this period. However, it did not benefit the domestic industry due to further decrease in the prices of dumped imports as the domestic industry had to further decrease its prices. As a result market share of the dumped imports is continuously increasing and the domestic industry could not maintain market share despite reduction of prices to compete dumped imports. Return on investment and growth has declined during the POI for injury.

38.2 This clearly reveals that domestic industry suffered material injury during the POI. The effect of dumped imports on various injury factors is summarized in the table below;

Table-XIX
Effects of Dumped Imports

Year	2013-14	2014-15	2015-16
Volume of Dumped Imports (MT)	100	364.87	647.55
Price Undercutting (%)	2.39	--	7.71
Price Depression (%)	--	25.79	19.41
Market Share (%)	90.81	79.92	73.75
Inventory	1.06	0.37	1.46

38.3 Apart from above, the domestic industry had also faced negative effect on account of cash flow, return of investment and growth.

38.4 The above effects are significant enough on the basis of which it is determined that domestic industry has suffered material injury due to dumped imports of the investigated product.

D. CAUSATION

39. Effect of Dumped Imports

39.1 On the basis of the analysis and conclusions, the Commission has concluded that there was a causal link between dumped imports of the investigated product and material injury suffered by the domestic industry.

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

- i. Volume of dumped imports of the investigated product increased significantly in absolute terms;
- ii. Domestic industry experienced price undercutting due to dumped imports of the investigated product;
- iii. Domestic industry experienced price depression partially due to dumped imports of the investigated product;
- iv. Market share of dumped imports of the investigated product increased significantly whereas market share of the domestic like product declined simultaneously;
- v. Domestic industry faced negative effect on inventories;
- vi. Domestic industry faced negative effect on return on investment; and
- vii. Domestic industry faced negative effect on growth.

40. Other Factors

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

40.2 The Commission's investigation showed that the domestic industry did not suffer injury due to imports of the like product from sources other than Russia during the POI for dumping. The imports from sources other than Russia were in lesser quantities. The landed cost of such imports was higher than ex-factory price of the

domestic like product and landed cost of investigated product except for the second year of POI for injury. Following table shows volume and landed cost of PA imported from other sources during the POI:

Table-XX
Imports from Other Sources

Year	Volume of Dumped Imports	Imports from Other Sources	Landed Cost from dumped source	Landed cost from other sources
2013-14	100.00	84.44	100.00	100.17
2014-15	364.87	87.96	82.54	68.97
2015-16	647.55	161.45	56.55	59.07

Note: For the purpose of confidentiality, the actual figures of volume of imports have been indexed with respect to volume of dumped imports and actual figures of landed cost with respect to landed cost of dumped imports in year 2013-14 by taking it as equal to 100

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

- i. There was no contraction in demand;
- ii. There was no change in technology to produce PA; and
- iii. The export performance of the domestic industry did not change during the POI. Productivity of the domestic industry improved during the POI. Hence the above factors did not caused injury to the domestic industry.
- iv. During the POI there was no change in trade restrictive practices.

40.4 The Commission is of the view that the dumped imports are only likely factor to cause injury to the domestic industry.

E. CONCLUSIONS

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

- i. the application was filed on behalf of the domestic industry as the Applicants represent 100% of the domestic production.
- ii. the investigated product and the domestic like product are like products;

- iii. the volume of dumped imports of the investigated product and the dumping margins established for the exporters/producers of the investigated product from the Russia were above the negligible and *de minimis* levels respectively.
- iv. the domestic industry suffered material injury during the POI on account of increase in volume of dumped imports, price undercutting, price depression, decline in market share, negative effect on inventories, negative effect on return on investment and growth in terms of Section 15 and 17 of the Act; and
- v. there was a causal relationship between dumped imports of the investigated product and the material injury suffered by the domestic industry.

F. IMPOSITION OF PROVISIONAL ANTI-DUMPING DUTY

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

43. As there was no cooperation from exporters/foreign producers, therefore, Individual dumping margins could not be determined. Dumping margins and anti-dumping duty rates for the Russian Federation is determined on the basis of best available information in terms of Section 32 of the Act.

44. For the purpose of imposition of lesser duty in terms of Section 43(1) of the Act injury margins have been calculated for Russian Federation to ascertain whether a lower duty would be adequate to remove injury being suffered by the domestic industry due to dumped imports of the investigated product. The calculation of injury margin is as under:

**Table-XXI
Injury Margin**

	Rs./MT
Cost to make & sell of domestic industry	100
Estimated Profit (5% of cost to make & sell)	5
Estimated non-injurious price	105
Injury Margin	
C & F price of the investigated product	82.74
Landed cost of the investigated product	93.68
Injury Margin (Non-injurious price - landed cost)/C&F Price *100	13.68%

Note: For the purpose of confidentiality, the actual figures have been indexed with respect to cost to make and sell of the domestic industry in year 2015-16 by taking it as equal to 100

45. It may be observed from the above that injury margin calculated for the exporters/foreign producers of the investigated product from the Russian Federation is less than the respective dumping margin. In terms of Section 43(1) of the Act, therefore, lesser duty is applied where it is adequate to remove injury of the domestic industry.

46. Provisional anti-dumping duty of 13.68% is hereby imposed on the dumped imports of the investigated product importable from the Russian Federation for a period of four months effective from May 31, 2017 under Section 43 of the Act. The dumped investigated product is classified under PCT heading No. 2917.3500.

47. In accordance with Section 51 of the Act, the provisional anti-dumping duty shall take the form of *ad valorem* duty and be held in a non-lapsable personal ledger account established and maintained by the Commission for the purpose. Release of the investigated product for free circulation in Pakistan shall be subject to imposition of such provisional anti-dumping duty.

48. Provisional anti-dumping duties levied would be in addition to other taxes and duties livable on import of the investigated product under any other law.

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

(Abdul Khaliq)
Member
May 29, 2017

(Robina Ather)
Member
May 29, 2017

(Tipu Sultan)
Member
May 29, 2017

Qasim M. Niaz
Chairman
May 29, 2017

Preliminary Determination In Anti-Dumping Investigation Against Dumped Imports of Phthalic Anhydride into Pakistan Originating
in and/or Exported from the Russian Federation
