

(NON-CONFIDENTIAL)



**Government of Pakistan
National Tariff Commission**

Report

on

**Sunset Review of Anti-dumping Duties Imposed on Dumped Imports
of Phthalic Anhydride from the Republic of India**

**A.D.C No. 08/2005/NTC/PA/SR/10
December 8, 2011**

A. INTRODUCTION

The National Tariff Commission (hereinafter referred to as the "Commission") implements the Anti-Dumping Duties Ordinance, 2000 (hereinafter referred to as the "Ordinance") and the Anti-Dumping Duties Rules, 2001 (hereinafter referred to as the "Rules"). The Sections 58 and 62 of the Ordinance relate to review and determination of likelihood of continuation or recurrence of dumping of goods into the Islamic Republic of Pakistan (hereinafter referred to as "Pakistan"), and likely continuation or recurrence of material injury to the domestic industry caused by such imports. The Commission initiated this review in pursuance to Section 58 of the Ordinance to determine likelihood of continuation and recurrence of dumping and injury to the domestic industry.

Having regard to the Section 58 of the Ordinance, a definitive anti-dumping duty shall not expire if the Commission determines in a review that the expiry of such anti-dumping duty would be likely to lead to continuation or recurrence of dumping and injury.

Having regard 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").

The Commission has conducted and concluded a review under the Ordinance and the Rules.

B. BACKGROUND

Imposition of Definitive Anti-dumping Duties

2. The Commission imposed definitive anti-dumping duty @ 10.94% *ad val* of C&F price on dumped imports of Phthalic Anhydride ("PA") originating in and/or exported from India to Pakistan by all exporters/producers. The anti-dumping duty was imposed for a period of five years effective from February 13, 2006. However, in terms of Section 58(3) of the Ordinance, a definitive anti-dumping duty shall not expire if the Commission determines in a review that the expiry of such anti-dumping duty would be likely to lead to continuation or recurrence of dumping of the investigated product and injury to the domestic industry.

3. The Commission has also imposed definitive anti-dumping duties ranging from 5.87% to 27.28% on imports from of PA from Brazil, China, Indonesia, Korea and Taiwan on September 30, 2010 for period of five years.

C. PROCEDURE

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

5. Notice of Impending Expiry of Definitive Anti-dumping Duty

The Commission published a notice, in official Gazette¹ and national press², of impending expiry of anti-dumping duty in this case on November 12, 2010 in accordance with Section 58(2) of the Ordinance.

¹ The official Gazette of Pakistan (Extraordinary) dated November 12, 2010

6. **Receipt of Application**

On January 11, 2011 the Commission received a written application from domestic producer of PA namely M/s Nimir Chemicals Pakistan Limited. 51-N, Industrial Area, Gulberg-II, Lahore (the "Applicant") under Section 58(3) of the Ordinance. This application was filed in response to the notice of impending expiry of the anti-dumping duties. The Applicant alleged that expiry of anti-dumping duty on PA would likely to lead to recurrence of dumping of PA from India and injury to the domestic industry producing PA.

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

The examination of the application showed that it met the requirements of Section 58(3) of the Ordinance as it contained sufficient evidence of recurrence of dumping of PA and injury to the domestic industry.

8. **Domestic Industry**

8.1 Domestic industry in terms of Section 2(d) of the Ordinance is defined as follows:

"“domestic industry” means the domestic producers as a whole of the 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.”

8.2 The domestic PA manufacturing industry comprises of only one unit i.e., the Applicant. At present its installed production capacity to produce PA is 28,000 MT per annum. The plant operates 24 hours a day (three shifts of 8 hours each).

9. **Standing of the Application**

9.1 In order to determine whether the request has been made by or on behalf of domestic industry, relevant provisions of Section 24 of the Ordinance have been considered. In terms of Section 24(1) of the Ordinance, 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 opinion either support for or opposition to the application.

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

² The 'Business recorder' and the 'Asas' dated November 12, 2010

9.3 The domestic PA manufacturing industry comprises of only one unit i.e., the Applicant, therefore it comprises of 100 percent of domestic production of PA.

9.4 On the basis of the above information the Commission has determined that the application was made by the domestic industry as the Applicant represents 100 percent of the domestic production of PA.

10. Applicant's Views

The Applicant, *inter alia*, raised the following issues in its application regarding likelihood of recurrence of dumping of PA, and injury to the domestic industry caused there from:

- i. PA produced by Indian producers and PA produced in Pakistan by the domestic industry are like products;
- ii. After imposition of definitive anti-dumping duties, exporters from India stopped exporting PA to Pakistan. Therefore, it is likely to result into recurrence of dumping if anti-dumping duties are terminated; and
- iii. Likely recurrence of dumping of PA by the Indian exporters into Pakistan is likely to cause material injury to the domestic industry producing PA, mainly through:
 - a. increased volume of dumped imports;
 - b. decline in market share;
 - c. negative effect on sales and output;
 - d. negative effect on capacity utilization;
 - e. negative effect on profit
 - f. negative effect on inventories;
 - g. negative effect on cash flow;
 - h. negative effect on employment and wages; and
 - i. negative effect on growth, investment.

11. Initiation of Review

11.1 Upon examination of the application, the Commission established that it met requirements of Section 58(3) of the Ordinance, the Commission initiated a review on February 12, 2011 to determine whether expiry of the anti-dumping duty imposed on PA would be likely to lead to recurrence of dumping and injury.

11.2 In terms of Section 27 of the Ordinance, the Commission issued a notice of initiation of the review, which was published in the official Gazette³ of Pakistan and in two widely

³ The official Gazette of Pakistan (Extraordinary) dated February 12, 2011.

⁴ The 'Daily DAWN' and the 'Daily Express' of February 12, 2011 issue.

circulated national newspapers⁴ (one in English language and one in Urdu Language) on February 12, 2011.

11.3 The Commission notified the Embassy of the Republic of India (hereinafter referred to as the "India") in Pakistan (by sending a copy of the notice of initiation of review) on February 12, 2011. Copies of notice of initiation were also sent to the known exporters and the Applicant on February 12, 2011, in accordance with the requirements of Section 27 of the Ordinance.

11.4 In accordance with Section 28 of the Ordinance, on February 15, 2011, the Commission also sent copy of full text of the written application (non-confidential version) to the known Indian Exporters of PA.

12. Product under Review and Domestic Like Product

Product under Review

12.1 The product under review is Phthalic Anhydride exported by the Indian exporters into Pakistan. PA is an industrial raw material and is used by a number of chemical industries. It is mainly used in the production of plasticizers, alkyd resins, polyester resins, dyes and pigments etc. It is classified under Pakistan Customs Tariff ("PCT") No. 2917.3500.

Domestic like product

12.2 The domestic like product is PA produced by the domestic industry. PA is an industrial raw material. The domestic like product and the product under review are used for same purposes and are interchangeable in use. It is also classified under PCT No. 2917.3500.

12.3 The Commission in its original investigation had determined that the investigated product and the domestic like product were like products.

12.4 In order to establish whether the product under review and the domestic like product are like products, as contended by the Applicant, the Commission has reviewed all the relevant information received/obtained from various sources including the Applicant in following terms:

- i. the basic raw materials used in the production of the product under review and the domestic like product are the same;
- ii. both the products (the product under review and the domestic like product) are produced with a similar manufacturing process;
- iii. both the products have similar appearance;
- iv. both the products are used for same purposes as they are mainly used in the production of plasticizers, alkyd resins, polyester resins, dyes and pigments etc; and

v. both the products are classified under the same PCT/HS No. 2917.3500.

12.5 In light of the above, the Commission has determined that the product under review and the domestic like product are like products.

13. Period of Review (POR)

The Commission has sought necessary information for the last three years and dumping margin is based on the data for one year from October 01, 2009 to September 30, 2010.

14. Interested Parties

The Commission gave an opportunity (through notice of initiation) to all interested parties to participate in this review and register themselves as an interested party with the Commission. However, no one registered itself as interested party in this review except the Applicant.

15. Information/Data Gathering

15.1 The Commission sent questionnaires on February 15, 2011 to I.G Petrochemical Limited India, Thirumalai Chemicals Limited India, Herdillia Chemicals Limited India and the known exporters of PA, Mysore Petro Chemicals Ltd India, asking them to respond within 37 days of the dispatch of the questionnaires. The Commission also sent a copy of the questionnaire to the Indian High Commission in Islamabad on February 15, 2011 with a request to forward it to Indian exporter/producer of PA. However, no Indian exporter/producer responded to the questionnaire and did not provide requisite information.

15.2 The Commission has an access to the 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 review the Commission has also used import data obtained from PRAL's database in addition to the information provided by the Applicant.

15.3 The Commission also did research and obtained information available at different websites. In this review the Commission has also used that information.

15.4 Thus the Commission has sought from all available sources the relevant data and information deemed necessary for the purposes of determination of likelihood of recurrence of dumping of PA and injury to the domestic industry. In terms of Rule 12 of the Rules, during the course of this review, the Commission satisfied itself as to the accuracy of information supplied by the interested parties to the extent possible.

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

The Commission sent questionnaires to I.G Petrochemical Limited India, Thirumalai Chemicals Limited India, Herdillia Chemicals Limited India, Mysore Petro Chemicals Ltd India on February 15, 2010, asking it to respond within 37 days of the dispatch of questionnaires. The Commission also sent a copy of the questionnaire to Indian High Commission in Islamabad on February 15, 2011 with a request to forward it to all Indian exporters/producers of PA. But none of the Indian exporter/producer responded to questionnaire. On expiry of the time period given to the exporters to respond the questionnaire, a letter was sent to them on March 25, 2011 explaining that in case of non-response, the Commission would be constrained to make determination of likelihood of recurrence of dumping on the basis of 'Best Information Available' including those contained in the application submitted by the domestic industry, in accordance with Section 32 of the Ordinance and Article 6.8 and Annex II of the Agreement on Antidumping.

17. Public File

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

18. Confidentiality

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

19. Hearing

19.1 In terms of Rule 14 of the Rules, the Commission shall, upon request by an interested party, hold a hearing at which all interested parties may present information and arguments.

19.2 In this review the interested parties were required to make a request for hearing not later than forty-five days after publication of notice of initiation. No request for hearing was received in this review.

20. Written Submissions by the Interested Parties

All interested parties were invited to make their views/comments and to submit information and documents (if any) not later than 45 days of the date of publication of notice of initiation of the review. The Commission did not receive any written submissions/comments from any interested party on this review.

21. Disclosure of Essential Facts

21.1 In terms of Rules 14(8) of the Rules, and Article 6.9 of Agreement on Anti-dumping, the Commission disclosed essential facts, and in this context circulated a Statement of

Essential Facts (hereinafter referred to as the "SEF") on September 10, 2011 to the Applicant and exporters from India.

21.2 Under Rule 14(9) of the Rules, the interested parties were required to submit their comments (if any) on the facts disclosed in SEF, in writing, not later than fifteen days of such disclosure. However the Commission did not receive any comments from any stakeholder except the Applicant in which he identified its reservation on certain injury factors.

D. LIKELY RECURRENCE OF DUMPING OF PA

22. In accordance with Section 58 of the Ordinance, it was examined whether dumping was currently taking place or whether or not the expiry of the measures (definitive anti-dumping duty) would likely to lead to recurrence of dumping of the product under review.

23. What is Dumping

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

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

24. Normal Value

24.1 In terms of Section 5 of the Ordinance "normal value" is defined as follows:

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

24.2 Section 6 of the Ordinance states:

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

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

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

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

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

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

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

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

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

25. Export Price

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

26. Determination of Likely Recurrence of Dumping from Indian Exporters

26.1 As stated earlier (paragraph 16 supra) that exporters from India i.e I.G Petrochemical Limited India, Thirumalai Chemicals Limited India, Herdillia Chemicals Limited India and Mysore Petro Chemicals Ltd India did not respond to the Commission’s questionnaire and provided no information for the purposes of this review. The Commission has, therefore, determined likelihood of dumping of the product under review on the basis of best information available in terms of Section 32 of the Ordinance and Schedule to the Ordinance.

26.2 During the POR there were no imports of PA originating in/or exported from India, mainly due to imposition of antidumping duty @ 10.94% *ad val* of C&F price. The exporters are not able to export their product to Pakistan due to imposition of anti-dumping duty. The Commission has also imposed anti-dumping duties on import of PA from Brazil, China, Indonesia, Korea and Taiwan w.e.f September 30, 2010. It, therefore, goes without saying that there is a potential in Pakistani market for exporters of PA from India, hence, there is likely recurrence of dumping from India.

26.3 As there was no cooperation from Indian exporters therefore, the Commission conducted independent research and analysis of the above-mentioned facts. The Commission found that China has also imposed anti-dumping duties on import of PA from India on August 31, 2003 @ 13% (semi-annual report submitted by China to WTO) and extended the same on January 7, 2009 through sunset review. Imposition of anti-dumping duties from Chinese Government shows that Indian's exporters have potential to dump in neighboring markets. In present circumstances, if anti-dumping duties imposed by Pakistan on PA from India is terminated there is likelihood that dumping from India will recur as the Chinese market for Indian exporters of PA is already protected by anti-dumping duties.

26.4 The Commission also found annual audited accounts available on websites of the I.G Petrochemical Limited India and Thirumalai Chemicals Limited India. It was revealed in the latest audited account of I.G Petrochemical that it is enhancing its capacity from 116,000 MT to 166,000 MT³. This enhanced capacity can be used for dumping in Pakistan if anti-dumping duties imposed on import of PA from India is terminated. In addition to this, Thirumalai Chemicals Limited India's last available audited report shows that it is specially focusing on exports and has also earned title of 'One Star Export House'. Report of audited accounts of Thirumalai Chemicals Limited shows that it has capacity to produce 140,000 MT per annum⁴. However, at present, it is only producing 98,663 MT per annum. This idle capacity can be utilized to dump in Pakistan. Conditions of major exporters of India show that there is likely recurrence of dumping if anti-dumping duties imposed on PA from India is terminated.

26.7 The Commission has also reviewed trends of imports of PA from India to other countries after imposition of anti-dumping duties by Pakistan. Following was the trend:

Countries	2005		2006		2007		2008		2009	
	Qty (MT)	Value (USD/MT)	Qty (MT)	Value (USD/MT)	Qty (MT)	Value (USD/MT)	Qty (MT)	Value (USD/MT)	Qty (MT)	Value (USD/MT)
World	55,183	857	64,031	1,106	67,915	1,305	51,911	1,165	25,578	939
UAE	10,032	850	10,973	1,153	10,366	1,332	11,093	1,155	7,542	922
Saudi Arabia	10,761	831	15,197	1,105	13,512	1,310	15,760	1,253	5,928	997
Turkey	1,376	951	2,935	1,206	8,823	1,342	4,021	1,143	5,262	936
Algeria	0		40	1,250	556	1,239	1,083	1,191	1,793	883
Egypt	4,795	913	7,745	1,176	8,649	1,323	4,527	1,144	840	870

³ Audited Accounts 2010-11 of IG Petrochemical Limited

⁴ Audited Accounts 2010-11 of Thirumalai Chemicals Limited

Report on Conclusion of Sunset Review of Anti-dumping Duty Imposed on Dumped Imports of Phthalic Anhydride Originating in and / or Exported from the Republic of India

Kuwait	1,802	842	2,578	1,115	4,892	1,322	1,347	1,109	550	1,009
Tunisia	1,254	888	1,815	1,066	3,008	871	1,246	997	56	946
China	4,438	834	6,865	1,073	260	1,094	1,170	740	-	-

Source: International Trade Centre

Above data shows that World export of PA from India has increased in year 2006 and increase further in year 2007. However, it decreased in year 2008, probably due to world recession. Export to UAE showed consistent trend and there was sudden increase in 2008 though there was world recession. Exports to Saudi Arabia showed increase in year 2006. However, decreased in year 2007 and increased again in year 2008. Exports to Turkey constant increase in till 2007 and decreased in year 2008. There were no exports to Algeria in year 2005. However, it increased consistently from 0 to 1,793 MT in year 2009. Similar trend also existed in Kuwait and Tunisia.

26.8 Export price from India ranged in year 2005 from 831 USD/MT to 951 USD/MT, in year 2006 from 1,066 USD/MT to 1,250 USD/MT, in year 2008 from 740 USD/MT to 1,253 USD/MT and in year 2009 from 870 USD/MT to 1,009 USD/MT.

26.9 The above information shows that India has been introducing PA at variety of prices and has large capacity to export. If anti-dumping duties were removed it may lead to large influx of imports of PA from India that may lead to complete damage to the domestic industry of Pakistan.

26.10 It is established that if anti-dumping duty imposed on imports of PA from India is terminated it may lead to recurrence of dumping as Indian exporters were not able to import during imposition of anti-dumping duty, Chinese market for Indian exporters is closed and there is idle capacity available with India exporters to dump in Pakistan. As mentioned earlier, imports from Indian exporters who have not cooperated with the Commission. Therefore, it is not possible for the Commission to calculate fresh dumping margin for Indian exporters. The Commission has also tried to find out domestic prices of PA produced by Indian producers through websites. However, failed to find out. In case, if it were available, the Commission does not have export prices to Pakistan to determine dumping margin. In these circumstances, the best available information to the Commission is the dumping margin calculated in the original investigation. In addition to this, in terms of Section 62 of the Ordinance it is not mandatory to calculate dumping margin in the review under Section 58 of the Ordinance. Therefore, the Commission has determined that there is likelihood of recurrence of dumping from India, in case antidumping duty @10.94 *ad val* is removed. It is therefore, important to continue the same anti-dumping duty for next five years with effect from February 13, 2011.

E. LIKELY CONTINUATION OR RECURRENCE OF MATERIAL INJURY TO DOMESTIC INDUSTRY

27. Likelihood of Continuation and Recurrence of Injury

Report on Conclusion of Sunset Review of Anti-dumping Duty Imposed on Dumped Imports of Phthalic Anhydride Originating in and / or Exported from the Republic of India

In order to determine the likelihood of recurrence and continuation of injury in terms of Section 58(3) of the Ordinance, the Commission analysed likelihood of injury in the following paragraphs:

28. Likely Volume of Dumped Imports

Facts

28.1 The information obtained from PRAL shows that after imposition of anti-dumping duties there were no imports of PA from India. Following table shows quantity of PA imports from dumped and other sources:

Table- I
Imports of PA

Year*	Imports from India Qty (MT)	Imports from other sources Qty (MT)	Total Imports Qty(MT)
2004-05	3,233	1,626	4,859
2007-08	0	4,997	4,997
2008-09	0	1,317	1,317
2009-10	0	992	992

* Year is from 1st October to 30th September

Source: PRAL

Analysis

28.2 The above table shows that there were no imports of PA from India during last three years mainly because it was subject to 10.94% *ad val* anti-dumping duty. The above data shows that imposition of anti-dumping duty led to increase in imports from other sources. However, imposition of anti-dumping duties on dumped imports of PA from from Brazil, China, Indonesia, Korea and Taiwan on September 30, 2010 for period of five years, led to decrease in imports from other sources also. In case anti-dumping duty imposed on India is terminated, it is likely that dumping would recur.

Conclusion

28.3 On the basis of above information and analysis the Commission has concluded that in case anti-dumping duty are terminated it is likely that the dumping would recur as imports of PA from India would start again.

29 Likely Price Effects

29.1 There was no import of the product under review from Indian exporters during last three years. Therefore, domestic industry did not face any price undercutting, price depression or price suppression due to product under review during period of review. However, during original POI, the domestic industry faced price undercutting and price

suppression due to dumped imports of the product under review. Therefore, likely price effect was determined on the basis of information collected during original investigation.

Conclusion

29.2 There is likelihood that recurrence of dumping may lead to price undercutting, price depression and price suppression.

30 Likely Effects on Market Share

30.1 Data obtained from PRAL on imports of PA and sales by the domestic industry during original POI and last three years is given in the following table:

**Table- II
Domestic Market of PA**

Year	Share of domestic industry in domestic market (domestic sales +in house consumption)	Dumped imports from India	Imports from other sources	Total Domestic market
2004-05**	72.69	18.17	9.14	100
2007-08*	84.88	0	28.09	112.97
2008-09*	96.78	0	7.40	104.18
2009-10 *	103.06	0	5.57	109.82

Note: Actual figures have been indexed with reference to the figure of total domestic market of the year 2004-05 by taking it equal to 100

* Year is from 1st October to 30th September

** Year is from 1st Jan to 31st Dec

Source: Applicant and PRAL data.

Analysis

30.2 The above table shows that during the original POI more than 18% of market share was captured by dumped sources from India. Whereas, share of domestic industry in the market was 72.69%. Imposition of anti-dumping duty @ 10.94% *ad val* on imports of PA from India stopped the imports from India but it led to increase in imports from other dumped sources i.e. Brazil, China, Indonesia, Korea and Taiwan. The Commission also imposed anti-dumping duty on these sources on September 30, 2010. This resulted in increase in the share of domestic industry in years 2008-09 and 2009-10.

Conclusion:

30.3 The above information and analysis shows that as there were no imports from dumped sources during the POR. However, termination of anti-dumping duty on import of PA from India could lead to again loss of market share of domestic industry.

31 Likely Effects on Production and Capacity Utilization

Facts

31.1 The installed capacity, production and the capacity utilization of the domestic industry during the last three years and original POI, are as follows:

**Table-III
Production and Capacity Utilization**

Year	Capacity Utilization (%)
2004-05**	107
2007-08*	78
2008-09*	73
2009-10 *	70

* Year is from 1st October to 30th September

** Year is from 1st January to 31st December

Source: Applicant.

Analysis

31.2 It is evident from the above table that the domestic industry has increased its installed capacity by more than double after imposition of the anti-dumping duty imposed on dumped imports of PA from India. In 2004-05 domestic industry was operating on 107% of the capacity, after increasing the capacity it has almost doubled the production and is utilized more than 70% of its installed capacity.

Conclusion

31.3 Due to imposition of anti-dumping duty the Applicant was able to increase its production capacity to increase its share in the domestic market of PA. In case anti-dumping duty imposed on India is terminated it is likely that recurrence of dumping would result in lower capacity utilization of the Applicant.

32. Likely Effects on Profits**Facts**

32.1 Information submitted by the Applicant on its profits is given in the following table:

**Table-IV
Net Profit/(Loss) of the Applicant**

Year	Net Profit / (Loss)
2004-05**	100
2007-08*	106.85
2008-09*	(63.68)
2009-10 *	12.26

Note: Actual figures have been indexed with reference to the figure of the year 2004-05 by taking it equal to 100

* Year is from 1st October to 30th September

** Year is from 1st January to 31st December

Source: Applicant.

Analysis

32.2 After imposition of anti-dumping duty, profits of the domestic industry increased. During last three years, Applicant's net profit increased in the year 2007-08 and decreased in the year 2008-09. Applicant increased loss in the year 2008-09 which was due voluminous dumped imports from other countries. In the same year, the Applicant reduced its prices to take market share in the domestic market which resulted in loss to the domestic industry.

Conclusion

32.3 The Commission has concluded that in case anti-dumping duty imposed on imports of PA from India is removed the domestic industry is likely to face injury on account of bearing further losses.

33. Likely Effects on Inventories

Facts

33.1 The data provided by the Applicant on the position of inventories is as follows:

Table-V
Opening and Closing Inventory

Year	Opening inventory	Closing inventory
2004-05**	100	77
2007-08*	290	249
2008-09*	249	74
2009-10 *	74	121

Note: Actual figures have been indexed with reference to the figure of opening inventory of the year 2004-05 by taking it equal to 100

* Year is from 1st October to 30th September

** Year is from 1st January to 31st December

Source: Applicant

Analysis

33.2 The inventories of the Applicant increased as compared to the original POI, mainly due to increased production capacity of the domestic industry. However in the last two years of POR inventories started decreasing. In case anti-dumping duty is removed the dumped imports of PA are likely to recur, which will effect the sales of domestic industry and there is likelihood of increase in inventories of the domestic like product.

Conclusion

33.3 The Commission has concluded that the domestic industry is likely to suffer injury on account of increase in inventory levels, in case anti-dumping duties are removed.

34. Employment, Salaries & Wages, and Productivity

Facts

34.1 The data submitted by the Applicant on employment in the domestic industry and the wages paid during the POR and original POI is given in following table:

**Table-VI
Employment, Productivity and Wages**

Year*	Number of Employees	Productivity per worker (MT)	Salaries & wages (Rs./MT)
2004-05**	100	100	100
2007-08	133	169	38
2008-09	117	181	43
2009-10	117	174	54

Note: Actual figures have been indexed with reference to the figures of the year 2004-05 by taking it equal to 100

* Year is from 1st October to 30th September

** Year is from 1st January to 31st December

Source: Applicant.

Analysis

34.2 The above table shows the number of employees and salaries & wages increased due to increase in production capacity. Productivity per worker and wages per worker are increased due increased capacity and increased production, which lead to economies of scale. In case the market share of the domestic industry reduced due to non-continuation of anti-dumping duty on dumped imports of PA from India, it would have adverse affect on productivity per worker and wages.

Conclusion

34.3 From the foregoing the Commission concludes that the productivity per worker is likely to suffer in case anti-dumping duties are removed.

35. Likely Effect on Return on Investment

35.1 Return on investment of the domestic industry is determined from the figures of the Applicant's equity and net profit given in its audited accounts. Based on that information investment and return on investment of the domestic industry is given in table below:

**Table-VII
Return on Investment**

Year*	Return on Investment
2007-08	100
2008-09	(128)
2009-10	29

Note: Actual figures have been indexed with reference to the figures of the year 2007-08 by taking it equal to 100

* Year is from 1st October to 30th September

** Year is from 1st January to 31st December

Source: Applicant

Analysis

Report on Conclusion of Sunset Review of Anti-dumping Duty Imposed on Dumped Imports of Phthalic Anhydride Originating in and / or Exported from the Republic of India

35.2 After imposition of anti-dumping duty on dumped imports of PA from India the domestic industry was gaining positive return on investment in 2007-08. In the following year it turned into negative in 2008-09 mainly due to imports from other dumped sources. After the Commission imposed anti-dumping duty on dumped imports of PA from Brazil, China, Indonesia, Korea and Taiwan, domestic industry managed to get positive return on investment.

Conclusion

35.3 In case the antidumping duties are removed, there is likelihood of negative effects on return on investment of the Applicant due to recurrence of dumped imports.

36. **Likely Effects on Cash Flow**

Facts

36.1 Following table shows net cash flow position of the Applicant during the POR:

**Table-VIII
Net Cash Flow**

Year*	Net Cash flow
2007-08	100
2008-09	80
2009-10	64

Note: Actual figures have been indexed with reference to the figure of the year 2007-08 by taking it equal to 100

* Year is from 1st October to 30th September

Source: Applicant.

Analysis

36.2 The Applicant's cash flow position has improved during 2007-08, but due to dumped imports PA from Brazil, China, Indonesia, Korea and Taiwan it turned into negative in 2008-09. After the Commission imposed anti-dumping duty on imports from other dumped sources, the cash flow situation of the domestic industry has improved in 2009-10.

Conclusion

36.3 In case the anti-dumping duties are removed, there is likelihood of negative effects on cash flow of the Applicant due to recurrence of dumped imports.

37. **Likely Effects on Sales & Profits**

Report on Conclusion of Sunset Review of Anti-dumping Duty Imposed on Dumped Imports of Phthalic Anhydride Originating in and / or Exported from the Republic of India

37.1 Total sales by the domestic industry during the original POI and POR are shown in the following table:

Table-IX
Sales Profit of Domestic Like Product

Year	Sales by domestic industry
2004-05**	100
2007-08*	184
2008-09*	180
2009-10 *	169

Note: Actual figures have been indexed with reference to the figures of the year 2004-05 by taking it equal to 100

* Year is from 1st October to 30th September

** Year is from 1st January to 31st December

Source: Applicant.

Analysis

37.2 After imposition of anti-dumping duty, profits of the domestic industry increased. During last three years, Applicant's net profit increased in the year 2007-08 and decreased in the year 2008-09. Applicant increased loss in the year 2008-09, which was due voluminous dumped imports from other countries (Para 3 supra). In the same year, the Applicant reduced its prices to take market share in the domestic market which resulted in loss to the domestic industry.

Conclusion

37.3 In case the anti-dumping duties are removed, there is likelihood of either negative effects on sales of the domestic industry or by reduction in price to retain the market.

38. Likely Effects on Growth

38.1 Growth is defined by the Applicant as growth in assets in PA business. All the figures for growth during POR given in the application were verified by the investigation team from Applicant data and found to be correct. Following table shows the verified figures of growth (in millions) by the industry of the domestic like product during the POR:

Table-X
Growth of the Domestic Industry

Year*	Growth
2007-08	100
2008-09	40
2009-10	91

Note: Actual figures have been indexed with reference to the figures of the year 2004-05 by taking it equal to 100

* Year is from 1st October to 30th September

Source: Applicant.

Analysis

38.2 In 2008-09 growth by the domestic industry reduced mainly due to dumped imports of PA from other sources. After the Commission imposed anti-dumping duty on dumped

imports from Brazil, China, Indonesia, Korea and Taiwan the growth again increased substantially to 32 million.

Conclusion

38.3 In case the anti-dumping duties are removed, there is likelihood that it may affect the growth of the domestic industry.

39. Summing up of Material Injury

39.1 The analysis in the preceding paragraphs shows that:

- i) The Domestic Industry benefited from the imposition of anti-dumping duty imposed on imports of PA from India as the imports stopped completely from said dumped sources.
- ii) If the anti-dumping duty is removed, there is a threat that the domestic industry would suffer on account of:-
 - a. Increased volume of dumped imports
 - b. Decrease in market share
 - c. Decrease in production and capacity utilization
 - d. Decrease in profits and sales
 - e. Decrease in inventories
 - f. Decrease in employment, productivity and wages
 - g. Decrease in return on investment and growth
 - h. Negative effect on cash flows

40. Other Factors

40.1 In accordance with Section 18(2) of the Ordinance, the Commission also examined factors, other than imports of the product under review, which could at the same time cause injury to the domestic industry, in order to ensure that possible likely injury caused by other factors is not attributed to the product under review. The Commission is of the view that its injury during the year 2008-09 was due to following factor: -

- The domestic industry faced dumping from Brazil, China, Indonesia, Korea and Taiwan in POR. The Commission after investigation imposed definitive anti-dumping duties ranging from 5.87% to 27.28% on imports from of PA from Brazil, China, Indonesia, Korea and Taiwan on September 30, 2010 for period of five years due to increase in dumped imports in 2008-09. Domestic industry of domestic like product suffered injury due to the same reason as well.
- In 2008-09 World recession had slow down the whole world market. This also might be having some effects on the domestic industry.

F. CAUSALITY

41. On the basis of the information, analysis and conclusions at Section E supra, the Commission has concluded that there is relationship between likely recurrence of dumping of

the product under review and likely recurrence of material injury to the domestic industry if anti-dumping duty imposed on imports of PA from India is terminated. It transpired from this review that the domestic industry is likely to suffer further material injury in future in case anti-dumping duty imposed on dumped imports of PA from Republic of India is terminated.

G CONCLUSIONS

42. The conclusions, after taking into account all considerations for this sunset review, are as follows:

- i. The application was filed by the domestic industry as the Applicant account for 100 percent of the total production of the domestic like product;
- ii. The product under review and the domestic like product are alike products;
- iii. There were no exports of PA from India to Pakistan from 2006-07 onwards, after imposition of definitive anti-dumping duty by the Commission;
- iv. The exporters have excess capacity to dump in Pakistan
- iv. The domestic industry is likely to suffer material injury due to the recurrence of dumping of the product under review in case anti-dumping duties are removed;
- v. the domestic industry also suffered and is likely to suffer material injury due to factors other than imports of the product under review, however, it is likely that in case the anti-dumping duties on dumped imports of PA from India is terminated, it would suffer material injury. Thus there is causal relationship between likely continuation and recurrence of dumping of the product under review and likely recurrence and continuation of material injury to the domestic industry.

H. CONTINUATION OF DEFINITIVE ANTI-DUMPING DUTY

43. In terms of Section 58(3) of the Ordinance, a definitive anti-dumping duty shall not expire if the Commission determines in a review that the expiry of such anti-dumping duty would be likely to lead continuation or recurrence of dumping and injury.

44. In view of the analysis and conclusions with regard to likely continuation and recurrence of dumping, material injury and causation, it is necessary to continue imposition of definitive anti-dumping duty on imports of the product under review from India. Thus, the Commission hereby continues imposition of definitive anti-dumping duties at the rate of 10.94 % imposed on imports of PA from India for a period of five years w.e.f February 13, 2011.

Report on Conclusion of Sunset Review of Anti-dumping Duty Imposed on Dumped
Imports of Phthalic Anhydride Originating in and / or Exported from the Republic of India

(Zamir Ahmed)
Member
December 8, 2011

(Niamataullah Khan)
Member
December 8, 2011

(Prince Abbas Khan)
Chairman
December 8, 2011