



**Government of Pakistan
National Tariff Commission**

REPORT

ON

**PRELIMINARY DETERMINATION AND LEVY OF PROVISIONAL
ANTIDUMPING DUTY ON IMPORTS OF POLYESTER STAPLE
FIBRE ORIGINATING IN AND/OR EXPORTED FROM THE
PEOPLE'S REPUBLIC OF CHINA**

A.D.C No.13/2008/NTC/PSF

February 04, 2009

**Preliminary Determination and levy of Provisional antidumping duty on import of PSF
into Pakistan Originating in and/or Exported from the Peoples Republic of China**

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

2. The Commission is conducting this investigation under the Ordinance and the Rules on imports of polyester staple fibre, not exceeding 2 denier, (hereinafter referred to as "PSF") originating in and/or exported from the People's Republic of China (hereinafter referred to as "China"). The Commission has made preliminary determination in this investigation under Section 37 of the Ordinance. This report on preliminary determination has been issued in accordance with Article 12.2 of the Agreement on Antidumping.

3. In terms of Section 37 of the Ordinance, 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.

4. The Commission was obliged to make this preliminary determination not later than January 25, 2009, the mandatory period of one hundred and eighty days, after initiation of the investigation, lapsed on the said date. However, All Pakistan Textile Mills Association, an interested party in terms of Section 2(j) of the Ordinance, filed a writ petition (No. WP. 1086) in the Lahore High Court, Lahore and requested that the Commission may "be restrained from conducting the present anti-dumping investigation initiated on 29-7-2008, against imports of PSF from China....." The honourable Lahore High Court passed following injunctive order on September 02, 2008:

"The respondent may proceed with the investigation but shall not pass any final order till the next date of hearing".

5. Last hearing in this case was held on January 12, 2009. Representative of the Commission submitted that the Commission has a statutory obligation under Section 37 of the Ordinance to make preliminary determination not later than 180 days after initiation of an investigation, and the statutory time period for the purposes of preliminary determination shall lapse on January 25, 2009. After hearing of detailed arguments from the parties, the honourable

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Court reserved its judgment and informed the parties to wait for order of the Court. The Commission withheld its preliminary determination till issuance of order of the Court. The Court has issued its Order on February 03, 2009. Consequently, the Commission has made this preliminary determination.

A. PROCEDURE

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

7. Receipt of Application

7.1 On June 26, 2008, the Commission received a written application under Section 20 of the Ordinance from Messers ORR DIGNAM & Co, Advocates, Islamabad on behalf of three domestic producers of Polyester Staple Fibre namely Dewan Salman Fibres Limited, Karachi, Ibrahim Fibres Limited, Faisalabad and ICI Pakistan Limited, Lahore (hereinafter referred to as the "Applicants"). The Applicants have alleged that polyester staple fibre, not exceeding 2 denier, (hereinafter referred to as "PSF") originating in and/or exported from the People's Republic of China (hereinafter referred to as "China") is being dumped into Pakistan, which has caused and is causing material injury to the domestic industry producing PSF.

7.2 The Commission informed the Embassy of China in Islamabad through a note verbale dated July 10, 2008, of the receipt of application in accordance with the requirements of Section 21 of the Ordinance.

8. Evaluation and Examination of the Application

8.1 The examination of the application showed that it met the requirements of Section 20 of the Ordinance as it contained sufficient evidence of dumping of PSF into Pakistan from China 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.

9. The Domestic Industry

9.1 Section 2(d) of the Ordinance 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".

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9.2 As per information obtained by the Commission from different sources, the domestic industry of PSF comprises of the following five units with an installed production capacity of 623,500 MT per annum on three shift basis. All five units are operational.

**Table-I
Installed Capacity of the Domestic Industry**

S.No	Unit Name	Capacity (MT)
i.	Dewan Salman Fibre Ltd, Islamabad	240,900
ii.	Ibrahim Fibre Ltd, Faisalabad	208,600
iii.	ICI Pakistan Ltd, Lahore	122,000
iv.	Pakistan Synthetics Ltd, Karachi	28,000
v.	Rupali Polyester Ltd, Lahore	24,000

9.3 The Commission's investigation also revealed that neither the Applicants were themselves importer of the investigated product nor were related to the exporters involved in alleged dumping of the investigated product into Pakistan.

10. Standing of the Application

10.1 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 either support for or opposition to the application."

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

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

10.2 The application has been filed by the Applicants, who are major producers of PSF in Pakistan. Other two units in the domestic industry namely Rupali Polyester Limited, Lahore and Pakistan Synthetics Limited, Karachi are indifferent.

10.3 As per the information supplied in the application and obtained from other sources, the Applicants produced 89.29 percent of the total domestic production of PSF during the year 2007-08 (April to March, POI for dumping determination). Details of the production of PSF by the domestic industry are as follows:

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**Table-II
Unit-wise Production during the year 2007-08**

Name of the Unit	Status	Share in total production
Dewan Salman Fibre Limited	Applicant	19.51%
Ibrahim Fibre Limited	Applicant	43.26%
ICI Pakistan Limited	Applicant	26.52%
Rupali Polyester Limited	Indifferent	5.44%
Pakistan Synthetics Limited	Indifferent	5.27%
Total		100.00%

10.4 On the basis of the above information and analysis, it is determined that the application has been made on behalf of domestic industry, as it fulfils the requirements of Section 24 of the Ordinance.

11. Applicants' Views

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

- i. PSF imported from China into Pakistan and PSF produced in Pakistan by the domestic industry are like products;
- ii. Exporters/producers from China are exporting PSF to Pakistan at dumped prices; and
- iii. Exports of PSF by the Chinese exporters/producers to Pakistan at dumped prices has caused and is causing material injury to the domestic industry producing PSF mainly through:
 - a. increase in the volume of alleged dumped imports of PSF;
 - b. price undercutting;
 - c. price suppression;
 - d. loss in market share;
 - e. negative effects on capacity utilization;
 - f. negative effects on cash flow;
 - g. decline in employment;
 - h. decrease in return on investment; and
 - i. loss/decline in profits.

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12. Foreign Producers/Exporters of PSF

The Applicants have identified 54 foreign producers and exporters (with complete addresses of 30 producers/exporters) involved in alleged dumping of PSF from China (list of foreign producers/exporters is placed at Annex-I). The Applicants have stated that there may be other producers and exporters but it does not have the names and addresses of those foreign producers/exporters. Therefore, the Applicants have requested for imposition of antidumping duty on all imports of PSF originating in and/or exported from China instead of the identified foreign producers/exporters.

13. Initiation of Investigation

13.1 The Commission upon examining the accuracy and adequacy of the evidence provided in the application established that there is sufficient evidence of alleged dumping of PSF into Pakistan and consequent material injury to the domestic industry to justify initiation of an investigation. Consequently, the Commission issued a Notice of Initiation in terms of Section 27 of the Ordinance, 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 July 29, 2008. Investigation concerning alleged dumped imports of PSF into Pakistan {classified under PCT³ No. 5503.2010 contained in the First Schedule of Customs Act, 1969 (IV of 1969)} originating in and/or exported from China was thus initiated on July 29, 2008.

13.2 The Commission notified the Embassy of China in Pakistan of initiation of investigation (by sending a copy of the notice of initiation) on July 29, 2008 with a request to forward it to all exporters/producers involved in production, sales and export of PSF from China. Copies of the notice of initiation were sent to 30 Chinese exporters/producers of PSF whose complete addresses were available with the Commission. For the exporters/producers whose addresses were not available with the Commission, the Embassy of China in Islamabad, was requested to forward the same to all exporters/producers involved in export of PSF to Pakistan from China. Copies on the notice of initiation were also sent to known Pakistani importers, and the Applicants on July 29, 2008 in accordance with the requirements of Section 27 of the Ordinance.

13.3 In accordance with Section 28 of the Ordinance, on July 30, 2008, the Commission sent copies of full text of the written application (non-confidential version) to all Chinese exporters/producers, whose complete addresses were available with the Commission. On July

¹ The official Gazette of Pakistan (Extraordinary) dated July 29, 2008.

² The 'Daily Khabrain and the 'Dawn' of July 29, 2008 issue.

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

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30, 2008, a copy of the full text of the written application was also sent to the Embassy of China in Pakistan with a request to forward it to all exporters/producers involved in export of PSF from China.

14. Investigated Product, Like Product and Domestic Like Product

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

i. Investigated Product:

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

ii. Domestic Like Product:

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

iii. Like Product:

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

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

14.2.1 Investigated Product:

The investigated product is PSF not exceeding 2 denier, originating in and/or exported from China into Pakistan. It is classified under PCT No. 5503.2010. It is generally used in woven and knit applications to produce textile and apparel products.

14.2.2 Domestic Like Product

The domestic like product is PSF not exceeding 2 denier produced by the domestic industry in Pakistan. The domestic like product is also classified under PCT No. 5503.2010. The domestic like product is used in woven and knit applications to produce textile and apparel products. Major uses of the domestic like product are, therefore, identical to those of the investigated product.

14.2.3 Like Product:

The like product is PSF not exceeding 2 denier produced and sold by the exporters/foreign producers of China in their domestic markets, and PSF not exceeding 2 denier imported into Pakistan from countries other than China. The like product is classified

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under PCT/H.S No. 5503.2010. Major uses of the like product are identical to those of the investigated product and domestic like product.

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

- i. basic raw materials used in the production of the investigated product, the domestic like product, and the like product are the same namely Purified Terephthalic Acid ("PTA") and Mono-Ethylene Glycol ("MEG"). However, some Chinese producers are also producing PSF from re-cycled/waste PET material;
- ii. all the three products (the investigated product, the domestic like product and the like product) are produced with a similar manufacturing process;
- iii. all the three products have similar appearance;
- ii. all the three products are substitutable in use. They are mainly used in woven and knit applications to produce textile and apparel products; and
- iii. all the three products are classified under the same PCT/HS No. 5503.2010.

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

15. Period of Investigation

15.1 In terms of Section 36 of the Ordinance, 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".

15.2 POI selected for dumping and injury are, therefore, as follows:

For determination of dumping: From April 1, 2007 to March 31, 2008

For determination of material injury: From April 1, 2005 to March 31, 2008

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16. Information/Data Gathering

16.1 The Commission sent questionnaire, on July 30, 2008, August 9, 2008 and August 13, 2008 directly to the 32 Chinese exporters/producers (whose complete addresses were available with the Commission) for submission of data and information, and were asked to respond within 37 days of the dispatch of the questionnaire. On July 30, 2008 a copy of the questionnaire was also sent to the Embassy of China in Islamabad with a request to forward it to all Chinese producers/exporters of PSF.

16.2 The following two foreign producers/exporters responded to the Commission's request for supplying information on the exporter questionnaire:

- i. Jiangyin Huahong Chemical Fiber Co., Ltd., Huahong Industrial Park, Zhouzhuang Town, Jiangyin, Jiangsu, China; and
- ii. Zhangjiagang Chengxin Chemical Fiber Co., Ltd., Houcheng Industrial Development Zone, JinGang Town, Zhangjiagang City, Jiangsu Province, China

However, both of the exporters requested for an extension in time period for submission of information for two weeks i.e. by September 20, 2008 and September 30, 2008 respectively. After taking into account the due cause shown by these exporters in their requests, the Commission acceded to the requests and granted extension in time period for submission of information on exporter's questionnaire. Filled-in exporter's questionnaires from the exporters were received at the Commission on September 20, 2008 and September 29, 2008.

16.3 Upon examination of the information received from both the foreign producers/exporters, certain deficiencies were found in the information supplied. These deficiencies were communicated to the foreign producers/exporters and were requested to supply the deficient information. Further details are given at paragraph 17 infra.

16.4 The other foreign producers/exporters who were requested for information directly or through the Embassy of China in Islamabad did not respond to the Commission's request for information.

16.5 On August 18, 2008 questionnaires were sent to 39 Pakistani importers of the investigated product known to the Commission and these importers were asked to respond to the Commission within 37 days of the dispatch of the questionnaires. Only the following two Pakistani importers responded to the Commission's questionnaire:

- i. Mehmood Textile Mills Limited, Multan; and

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- ii. Sarfraz Yaqub Textile Mills (Pvt) Limited, Lahore

16.6 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 Applicants and the foreign producers/ exporters.

16.7 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 caused therefrom in this investigation. In terms of Rule 12 of the Rules, the Commission, during the course of the investigation, satisfied itself as to the accuracy of information supplied by the interested parties to the extent possible for the purposes of this preliminary determination.

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

17.1 Questionnaire Response by the Jiangyin Huahong Chemical Fiber Co., Ltd.

17.1.1 The Commission sent questionnaire to Jiangyin Huahong Chemical Fiber Co., Ltd (hereinafter referred to as "Huahong") on July 30, 2008. Its response was received in the Commission on September 20, 2008. According to the information provided in response to the questionnaire, Huahong is a private limited company incorporated under the Chinese company laws on January 17, 2001. It has been involved in the manufacture, sale and export of PSF to Pakistan as well as to other countries and in its domestic market during POI.

17.1.2 The information submitted by Huahong in response to the questionnaire was analyzed at the Commission and certain deficiencies were identified. Accordingly, those data deficiencies were communicated to it vide Commission's letter dated September 27, 2008.

17.1.3 Huahong was asked to provide the deficient information/ data no later than October 07, 2008, so as to enable the Commission to consider and analyze the same for the purposes of this investigation. Huahong requested for extension in time for one week to respond the deficiencies. Huahong responded to the deficiencies vide its letter dated October 13, 2008. However, the information received was still deficient. The Commission, during on-the-spot investigation conducted at the premises of Huahong from 10-12 November 2008, obtained requisite information, which was necessary for the purposes of this investigation.

17.1.4 The Commission accepted the information supplied by Huahong for the purposes of this investigation and the dumping margin (paragraphs 26.2, 27.2 and 28 infra) for Huahong is determined on the basis of that information.

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17.2 Zhangjiagang Chengxin Chemical Fiber Co. Ltd. ("Chengxin")

17.2.1 The Commission sent questionnaire to Zhangjiagang Chengxin Chemical Fiber Co. Ltd. (hereinafter referred to as "Chengxin") on August 09, 2008. Its response was received at the Commission on September 29, 2008. According to the information provided, Chengxin is a private foreign owned limited company incorporated under the Chinese company laws. It has been involved in the manufacture, sale and export of PSF to Pakistan as well as to other countries and in its domestic market during POI.

17.2.2 The information submitted by Chengxin was analyzed at the Commission and certain deficiencies were identified, which were communicated to Chengxin vide Commission's letter dated September 30, 2008.

17.2.3 Chengxin was asked to provide the deficient information/data no later than October 10, 2008. Chengxin responded to the deficiencies vide its letter dated October 13, 2008. However, this did not contain all the required information. The Commission asked Chengxin vide its letter dated October 24, 2008 to provide the deficient information by October 30, 2008. Its response was received at the Commission on October 31, 2008.

17.2.4 The Commission accepted the information supplied by Chengxin for the purposes of this investigation and the dumping margin (paragraphs 26.3, 27.3 and 28 infra) for Chengxin is determined on the basis of that information.

18 Verification of the Information

18.1 In terms of Sections 23 and 35 of the Ordinance 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 verify/examine the accuracy of the information supplied by the Applicants.

18.2 In order to verify the information/data provided by the Applicants and to obtain further information (if any), on-the-spot investigations were conducted at the offices and plants of the Applicants (three units who submitted information/data in application) from August 5, 2008 to August 12, 2008.

18.3 To verify information/data submitted by the two foreign producers/ exporters in response to the questionnaire (paragraph 17 supra) and to obtain further information (if any), on-the-spot investigations were conducted at the premises of the foreign producers/ exporters in China from 10th to 15th November, 2008.

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19. Public File

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

20. Confidentiality

In terms of Section 31 of the Ordinance, any information, which is marked confidential by the interested parties in their submissions and considered confidential by the Commission, shall, during and after the investigation, be kept confidential. Furthermore, any information, which is by nature confidential in terms of Section 31 of the Ordinance, shall also be kept confidential. However, in accordance with Section 31(5) of the Ordinance, interested parties submitting confidential information are required to submit non-confidential summary(ies) of the confidential information, which shall permit a reasonable understanding of the substance of information submitted in confidence. Non-confidential summaries submitted by different interested parties have been placed in the public file and are available to all interested parties (paragraph 19 supra).

21. Views/Comments of Interested Parties

The Commission received comments on the application and initiation of the investigation only from one party i.e. All Pakistan Textile Mills Association (“APTMA”). Comments received and germane to this investigation under the Ordinance are reproduced in Column A below and the Commission’s views/determination thereto are set out in Column B in the following table:

Column-A (APTMA’s Views/Comments)

Column-B (Commission’s Response)

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Column-A (APTMA's Views/Comments)

“VOLUME Without prejudice to APTMA’s claim of lack of authenticity with respect to import data on the basis of which the Application has been entertained and the investigation is based, it is submitted that the term “increase in dumped imports” means an increase in volume of “dumped” imports after the onset of alleged dumping i.e. it has to be seen whether there has been a significant increase in “dumped” imports within the Period of Investigation of Dumping. The stipulation in section 15(2) of the Ordinance does not imply a comparison of volume of “dumped” imports with imports that took place in the “pre-dumping” period. On this point, the WTO law and the jurisprudence developed are clear that it is the trends within, rather than differences at the beginning of the Period of Investigation of Dumping, that are to be considered. Therefore, Section 15(2) of the Ordinance, concerns itself with the increase in imports after the alleged onset of dumping, and is not concerned with the level at which the alleged dumping began.”

SALES

“The domestic industry claimed in the Application that there was a contraction in sales of the domestic industry following the commencement of dumping of PSF from China. According to the Domestic Industry, during the period of investigation for dumping domestic sales would have been higher by 61,768,985 kgs if dumping had not occurred and would have added Rs. 5,685 million to the industry’s turn over. In claiming lost sales, the Applicants have wrongly equated loss of opportunity with actual loss. The Applicants’ claims of diminution in their market share and sales on this presumptuous logic have no basis whatsoever and the Commission is requested to reject them. An analysis of the domestic producers’ audited financial statements shows that this claim of lost sales is highly unlikely. On the contrary, the financial statements of ICI and Ibrahim show robust growth in sales and production volumes during this period”

Column-B (Commission's Response)

In this preliminary determination, increase in volume of dumped imports is determined with respect to the production of domestic like product for POI in accordance with Section 15(2) of the Ordinance. After investigation the Commission has determined that the dumped imports of the investigated product increased in absolute terms as well as relative to production of the domestic like product during POI (paragraph 33 infra).

The Commission has determined the effect of dumped imports of the investigated product on sales of the domestic like product on the basis of actual volume of sales made by the domestic industry during POI. The Commission’s investigation has revealed that domestic industry suffered material injury on account of sales of the domestic like product due to increase in volume of dumped imports during POI (paragraph 36 infra).

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Column-A (APTMA's Views/Comments)

Column-B (Commission's Response)

PROFITS

"The domestic industry has claimed suffering a loss of 1.127% directly in terms of profits during the POI because of dumping. Without any explicit figures of lost profit, the domestic industry has claimed rather vaguely, "The industry has lost 61,768,985 kgs in sales volume due to dumped imports in the period of investigation, which translates into a loss in sales revenue of Rs. 5,685 million and 9% of total gross margin earned during the POI by the three applicants." the domestic producers' accounts and reports of the Directors, except for Dewan Salman, rest of the Domestic Producers' sales were profitable during the POI. Therefore, APTMA respectfully requests the Commission to disregard the Domestic Industry's huge claim of negative impact on profits."

The effect on profits of the domestic industry is determined on the basis of actual profit earned or loss incurred by the Applicants during POI. After investigation, the Commission has determined that the domestic industry suffered material injury on account of profits (paragraph 39 infra). It is worth mentioning here that the Commission has determined material injury in accordance with Sections 15 and 17 of the Ordinance for entire domestic industry and not separately for each individual industrial unit in the domestic industry.

OUTPUT

"The domestic industry did not make any claim in the Application as to negative impact on its output. Therefore, APTMA hereby submits that there was no negative impact on output as far as the domestic producers are concerned"

As mandated by the Ordinance, the Commission has investigated and analysed all injury factors listed at Sections 15 and 17 of the Ordinance and material injury to the domestic industry is determined in accordance with the provisions of the Ordinance.

MARKET SHARE

"The domestic industry has alleged that it lost market share to imports of PSF from China. The Initiation Memo in para 17.2 shows on the basis of the table therein, that the domestic market of PSF increased by 2.37% during the period 2005-06 to 2007-08. However, contrary to the claim of the Commission, no such increase in the domestic market of PSF is shown by the table. Moreover, based on the data in Appendix 6 of the Application, during 2006, there was increase in the market share of the domestic industry, whereas only a negligible decrease in 2007, which cannot be considered a significant injury in market share, by any margin."

In this preliminary determination, the Commission has determined market share for domestic industry as a whole (including the sales of indifferent units in the domestic industry) in accordance with Section 17 of the Ordinance. For determination of the share of the investigated product and the like product imported from other sources during POI, information is obtained from PRAL. Investigation of the Commission has revealed that the domestic industry suffered on account of loss in market share due to dumped imports of the investigated product during POI (paragraph 35 infra).

"The Commission has altogether ignored the market share of the Applicant domestic industry that has been eaten into by the indifferent local industry and the loss of market share of the domestic industry on account of absence of marketing thrust of one main Applicant, namely, Dewan Salman, that suffered from grave operational impediments.

On taking into account the increase in market share of the indifferent domestic industry, whose capacity utilization was better than that of the Applicants, and the loss of market share on account of Dewan Salman, it will be found that the Applicant domestic industry did not suffer any injury as a result of PSF imports from China."

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Column-A (APTMA's Views/Comments)

Column-B (Commission's Response)

"The domestic producers in Para 10.2 of the Application, have misleadingly used imports made during the period as their lost sales and market share, and have claimed a loss in sales volume of 61,768,985 Kg and a loss of Rs. 5,685 million in sales revenue. The Applicants have based their claim on the basis of data obtained from ex-Pakistan private sources which is not of probative value and wherefrom the DTRE import quantities have not been excluded."

"In claiming lost sales, the Applicants have wrongly equated loss of opportunity with actual loss. The Applicants' claims of diminution in their market share and sales on this erroneous logic have no basis whatsoever and the Commission is requested to reject them."

PRODUCTIVITY

"Since the domestic producers failed to make any reference in the Application as to productivity (i.e. output per person), the domestic producers have not provided any meaningful basis to support the claim of lost productivity. Therefore, the Commission is requested to disregard this particular allegation."

RETURN ON INVESTMENT

"The domestic industry claimed that the Return on Investment was reduced by 7.2 percentage points during the POI. APTMA is unable to ascertain as to how the domestic industry arrived at the so-called "reduction by 7.2 percentage points on Return on Investment", especially in the light of the domestic producers' profits and profitability, as demonstrated earlier. Thus, in APTMA's opinion, this claim of negative effect on return on investment is highly questionable and has not been convincingly substantiated by the domestic industry. On the contrary there are all indications that the Return on Investment actually improved over the POI. The Commission has also concluded in the Initiation Memo that the Return on Investment improved in the year 2007-08. The "Decline in Investment", pointed out by the Commission, which, however, is not a parameter for assessing injury, is entirely on account of Dewan Salman. Accordingly, the Commission is requested to disregard this particular allegation."

UTILIZATION OF CAPACITY

"As demonstrated earlier in this submission, the Annual Reports of both ICI and Ibrahim clearly show an increase in sales volume during the POI, therefore, the claim of injury in terms of non-utilization of capacity by the domestic industry

The Commission is obliged to investigate all injury factors mentioned at Sections 15 and 17 of the Ordinance. After investigation, the Commission has determined that the domestic industry did not suffer material injury on account of productivity during POI (paragraph 41 infra).

The Commission has determined return on investment on the basis of actual information on net equity, loans, interest charges and profits of the Applicants. After investigation, the Commission has concluded that the domestic industry did not suffer material injury on account of return on investment (paragraph 42 infra).

In this preliminary determination, capacity utilization is determined for the entire industry in accordance with provisions of the Ordinance. This shows a decline in

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is ill-founded and of no substance at all.”

CASH FLOW

“Without providing any specific figures, the domestic industry claimed that cash generation potential was affected for ICI and Dewan Salman by dumping, and for Ibrahim Fibers it is not possible to analyze. The domestic producers’ claim of negative cash flow, thus becomes highly questionable, therefore, the Commission is requested to disregard this particular allegation.”

INVENTORIES

“The Domestic Industry with regard to inventories has itself claimed in the Application that it did not suffer any injury on account of inventories during the POI. Moreover, this fact has been confirmed by the Commission in Para 21.2 of the Initiation Memo.”

EMPLOYMENT

“The domestic industry did not explain or provide evidence to support claims of injurious effect on employment in the Summary of the Application. The decline in employment in the domestic industry is to be considered excluding the decrease in employment that took place in Dewan Salman because of its plight during the POI. With respect to the two well-performing domestic entities, it is preposterous to claim injury by considering employment as a performance indicator, in a labour surplus country like Pakistan. By its own admission, the Applicants stated in the Application that “staff costs have increased in line with market conditions and inflation”. In view of this, the Commission is requested to disregard the domestic industry’s claim of injurious effect on employment.”

WAGES

“The domestic industry has admitted in the Application that there was no effect on wages during the POI and the period of injury since “the Applicants have do not have any hourly workers”. In view of this, the Commission is requested to disregard the domestic industry’s claim of injurious effect on wages.”

Column-B (Commission's Response)

production and capacity utilization during POI (paragraph 37 infra).

The Applicants have provided information on its cash flows and effect on cash flows is determined on the basis of that information. After analysis, the Commission has concluded that the domestic industry suffered on account of net cash inflows during POI due to dumped imports (paragraph 40 infra).

After investigation, the Commission has determined that the domestic industry did not suffer material injury during POI on account of inventories of the domestic like product (paragraph 38 infra).

Effect on employment, productivity and wages for the domestic industry is determined on the basis of the information of the Applicants. Investigation of the Commission revealed that the domestic industry suffered material injury on account of employment and wages during POI (paragraph 41 infra).

Effect on salaries and wages is determined on the basis of salaries and wages paid by the Applicants during POI. The Commission has concluded that the domestic industry suffered material injury on account of payment of wages during POI (paragraph 41 infra).

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Column-A (APTMA's Views/Comments)

GROWTH, INVESTMENT & ABILITY TO RAISE CAPITAL
"There is no evidence of any injurious effect on the domestic industry's investment or ability to raise capital. Such allegation without actual data to substantiate it is purely speculative, and should not be taken seriously by the Commission."

CAUSAL LINK - OTHER FACTORS

"Based on the analysis of the available information, it is submitted that the domestic producers failed to show conclusive evidence of a causal relationship between the alleged dumped imports and injury to the domestic industry. Accordingly, the domestic industry has not satisfied the basic legal requirements for causation under the Ordinance."

"Dewan Salman, is the only domestic producer with weak financial and operating results. In view of this, the Commission is requested to take the following factors, amongst other things, into consideration, when determining the existence of causation:

- The data shows that ICI and Ibrahim did not suffer from negative financial operating results during the POI. Given that Dewan is the only one from the three domestic producers, the claim of material injury is weak and untenable.
- It cannot be disputed that the business environment was challenging in 2007 and remains a challenge for all producers of PSF on a worldwide basis, not only for PSF producers in Pakistan."

"The Commission is urged to examine under Section 18 of the Ordinance each of the "other" injury factors and apportion their effect on any injury suffered by the Applicants so that injuries caused by such other factors are as per the requirement of Section 18(2) of the Ordinance are not attributed to alleged dumped imports"

PRICE EFFECTS

"Any claim of injury as a result of price effects is flawed in the presence of price fixing and anti-competitive behaviour of the PSF domestic industry. The whole domestic industry of Pakistan, comprising five PSF manufacturers, holds unreasonable monopoly power. There is no competition between the different members of the domestic industry, who have been colluding with each other for profiteering ...
"Maintenance of the same price level by all five

Column-B (Commission's Response)

Effect on domestic industry's growth, investment and ability to raise capital is determined on the basis of the information submitted by the Applicants. After investigation, the Commission has determined that the domestic industry did not suffer material injury on account of growth, investment and ability to raise capital (paragraphs 43 and 44 infra).

The Commission has investigated and analysed the causes of material injury to the domestic industry during POI. After investigation, the Commission has determined a causal link between dumped imports of the investigated product and the material injury suffered by the domestic industry during POI (paragraph 46 infra).

The Commission has also examined and analysed "other factors" in accordance with Section 18(2) of the Ordinance, which could at the same time cause injury to the domestic industry and found that "other factors" were not the major reason for material injury to the domestic industry during POI (paragraph 47 infra).

The application was filed on behalf of three units and those units form domestic industry in terms of Section 2(j) of the Ordinance (paragraph 32 infra). All the three units, who are the Applicants have submitted information on all injury factors given at Sections 15 and 17 of the Ordinance. The Commission has determined material injury to the domestic industry on the basis of information of the Applicants and available information for indifferent units (paragraphs 31 to 45 infra).

The domestic PSF manufacturing industry comprises of five units (paragraph 32 infra). The Applicants have submitted information on their sales and cost of sales separately. On the basis of the information submitted by the Applicants, the Commission has determined weighted average price and weighted average cost to make and sell of the domestic

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manufacturers having different operating costs, sales and outputs is evidence of collusive price-fixing. This pattern of price fixing as well as the other trade distorting practices of the domestic industry would make it difficult for the Commission to correctly take into account factors mentioned in section 15 (b) and (c) of the Anti-Dumping Duties Ordinance, 2000 (the Ordinance) for determination of injury."

PRICE UNDERCUTTING

"on the basis of the price information provided by the domestic industry in Appendix 8 which is further reflected by the Commission in the Initiation Memo (Para 18.2), there is nothing significant about the evidence, either by magnitude of the undercutting margin or the duration of the alleged price undercutting. By the data provided there is only 2% to 1% undercutting during the POI. Based on the plain meaning of the term "significant", this margin can hardly be described as "significant price undercutting" within the meaning of Section 15(3)(b) of the Ordinance. Therefore, the Commission is requested to disregard the domestic industry's price undercutting claim."

PRICE SUPPRESSION

"The domestic industry claimed that the PSF price in the domestic market has been suppressed by imports. However, if one closely looks at the data provided by the Applicants in Table 10 as taken from Appendix 8 of the Application, it is revealed that in 2006 the increase in average cost to make and sell was -2% and the increase in the average domestic price was 0%, and the increase of 11% in the average cost to make and sell has been inflated to show an increase in average domestic price by 4%. Further, no price movement was brought about as a result of market forces operating freely and any price suppression if visible was brought about because of deliberate and conscious fixing of prices. The Commission is therefore requested to disregard the claim of price suppression."

PRICE DEPRESSION

"From the data provided by the Applicants, the Commission in its Initiation Memo has already confirmed that the domestic industry did not face any price depression during the POI."

THREAT OF INJURY

"The domestic industry alleged that it faces a grave and imminent threat of material injury as a result of increased imports from China in the near future. To substantiate its claim, the domestic industry has asserted that China has

Column-B (Commission's Response)

like product to determine price effects (price under-cutting, price depression and price suppression) (paragraph 34 infra). Investigation of the Commission has revealed that there is a price competition amongst the Applicants.

The Commission has determined price undercutting on the basis of the information supplied by the Applicants, the cooperating exporters and data obtained from PRAL. Commission's investigation has revealed that the domestic industry did not suffer material injury on account of price undercutting due to dumped imports of the investigated product during POI (paragraph 34.2 infra)

The Commission has determined price suppression on the basis of the information submitted by the Applicants on the quantity sold, value of sales and cost of sales. The investigation has revealed that the domestic industry suffered material injury on account of price suppression during POI, as it was not able to recover its increased cost to make and sell by way of corresponding increase in price of the domestic like product (paragraph 34.4 infra).

Commission's investigation has revealed that the domestic industry did not suffer material injury on account of price depression during POI (paragraph 34.3 infra).

Although the domestic industry has also alleged threat of material injury, but the Commission has concluded after investigation that the domestic industry has

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excess capacity and limited local demand for PSF.”

“According to APTMA there is no imminent and substantial increase in capacity of Chinese producers, within the meaning of Section 19(1)(b) of the Ordinance.”

“There is no imminent and substantial increase in capacity, but there is actually a substantial reduction in China’s PSF capacity. Therefore, China does not pose any threat to the Pakistan’s domestic industry within the meaning of Section 19 of the Ordinance. Accordingly, the Commission is requested to disregard the domestic industry’s unsubstantiated claim of material injury.”

INJURY TO DEWAN SALMAN DUE TO “OTHER FACTORS”

“Throughout the Period of Investigation, Dewan Salman, one of the main Applicants and the largest manufacturer of PSF, holding about 50% of the entire domestic PSF capacity was severely crippled due to:

manufacturing constraints,
working capital limitations,
short supply of raw materials to the plant,
current liability exceeding current assets,
capacity utilization going down to an ailing 18% and
an ultimately “gross loss situation”

“The “gross loss” kind of injury suffered by Dewan Salman as a result of some other causes has been misleadingly portrayed by the domestic industry, as if it is collectively suffered by all the domestic producers. The domestic industry has attempted to wrongfully attribute Dewan Salman’s performance losses in different areas to imports of PSF from China. This is the very reason that the presentation of data in the Application has been done on a collective basis for the industry as a whole and that too in an indexed format.”

“Therefore, the injury data provided in the Application is heavily contaminated and is indicative and reflective of the injury suffered only by Dewan Salman, due to other causes, rather than injury sustained by the domestic industry as a result of PSF imports from China.”

“Notwithstanding PSF imports from China, Ibrahim Fibres and ICI performed to the maximum and were overstretched, and as indicated by company reports they were operating at times at full capacity during the Period of Investigation and therefore there was very little or no room for them to further improve upon their different performance indicators such as sales, production, profits, market share etc. In a situation where the performance of both these entities in the field was touching the ceiling, a claim of injury on account of PSF imports from China is a frivolous claim and an attempt by the three-entity domestic industry to obtain a discriminatory determination from the Commission to consolidate its

Column-B (Commission’s Response)

suffered material injury due to dumped imports of the investigated product during POI (paragraphs 31 to 47 infra). Thus, this is not a case of threat of material injury and the Commission is not conducting an investigation on that basis.

The Commission has obtained separate information of the Applicants on all injury factors listed at Sections 15 and 17 of the Ordinance. Material injury to the domestic industry is determined on the basis of that information in accordance with part VI of the Ordinance.

The Commission has also examined and analysed “other factors” in accordance with Section 18(2) of the Ordinance, which could at the same time cause injury to the domestic industry and found that “other factors” were not the major reason for material injury to the domestic industry during POI (paragraph 47 infra).

As stated above, information from the Applicants has been obtained. The Commission’s investigation has revealed that the Applicants suffered material injury during POI due to dumped imports of the investigated product

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monopoly and perpetuate its trade restrictive practices.”

“The non-attribution requirement of section 18 of the Anti-Dumping Duties Ordinance, 2000, for determination of injury as a result of alleged dumped imports can only be complied with when a producer-wise performance evaluation is undertaken, rather than by first adding up the performance figures of the three Applicants to achieve a cumulative domestic industry figure and then segregating therefrom injury brought about by Dewan Salman's ailing performance from working capital constraints and other “other” causes.”

A PRODUCER-WISE DETERMINATION OF INJURY

“A producer-wise determination of injury is stipulated by the Anti-Dumping Duties Ordinance, 2000 as well as the WTO Anti-Dumping Agreement. Sections 15(1) (c) and 17 (2) Anti-Dumping Duties Ordinance, 2000 and Articles 3.1 and 3.6 of the WTO Anti-Dumping Agreement require the determination of injury to be based on positive evidence and an objective examination of the impact of alleged dumped imports on domestic producers.”

“WTO Jurisprudence

“The Commission's injury analysis on the basis of amalgamated data and not on the basis of separate producer-wise evaluation, would derogate from the Article 3 requirements of *positive evidence* and *objective examination*, in the particular circumstances of the present case where the depressed results for performance indicators of the domestic industry that come about on the amalgamation of data of Dewan Salman, that is ailing from “other” causes, with that of other Applicants, have been deceitfully ascribed to alleged dumped PSF imports from China as injury resulting therefrom to the domestic industry. WTO jurisprudence has stressed the element of *fundamental fairness* and *good faith* in the conduct of *objective assessment*.”

For the purposes of this investigation, the Commission has obtained information on all injury factors listed at Sections 15 and 17 of the Ordinance separately from the Applicants. The Commission has conducted an un-biased and objective examination/analysis of the information obtained from the Applicants for the purposes of determination of material injury to the domestic industry.

The Commission has also examined and analysed “other factors” in accordance with Section 18(2) of the Ordinance, which could at the same time cause injury to the domestic industry (paragraph 47 infra).

However, the Commission is of the view that in terms of part VI of the Ordinance, material injury would be determined for the “domestic industry” (defined under Section 2(d) of the Ordinance) and not for individual industrial units of the domestic industry.

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Column-A (APTMA's Views/Comments)

"The [Appellate Body Report on Thailand - H-Beams](#), in para. 106 has held that the focus of Article 3 is on *substantive* obligations that are incumbent on a Member to fulfill in making an injury determination."

"In *US - Hot-Rolled Steel*, the Appellate Body ruled (para 192) that "the thrust of the investigating authorities' obligation, in Article 3.1, lies in the requirement that they base their determination on 'positive evidence' and conduct an 'objective examination'."

"With respect to the aforesaid positive qualification, it has been held (para 192) that "the evidence must be of an affirmative, objective and verifiable character, and that it must be credible."

"In short, an "objective examination" requires that the domestic industry, and the effects of dumped imports, be investigated in an unbiased manner ..."

IMPORT DATA

"Import data has been indexed in the non-confidential version of the Application as if it is confidential. It needs to be pointed out that import data is not included in the classes of data that may be withheld for reasons of confidentiality. Import data provided by the Applicants under Para. 7.1 and Appendix 1 of the Application is highly vague, and is no way a substitute for what is required to be placed in the non-confidential version.....APTMA would like to bring it to the notice of the Commission that injury considerations have to be based on imports on a factual basis as indicated in official import record. Only goods that have actually entered Pakistan through any port of entry fall within the definition of "imports" as provided under the law. All imports thus made are duly recorded. Only this recorded quantity as per the record of the Pakistan Customs/Pakistan Revenue Automation Limited (PRAL), the data processing arm of the Central Board of Revenue, Government of Pakistan is admissible for being considered in the Anti-Dumping Investigation as the imported quantity."

DTRE IMPORTS OF PSF FROM CHINA

"In order to promote the export of products manufactured from imported PSF, the Government of Pakistan facilitates the imports of PSF under the Duty and Tax Remission for Exports (DTRE) scheme. The DTRE scheme is administered by the Revenue Division of the Federal Government and allows for the import of PSF into Pakistan without payment of duties and taxes. This facility is available only for the use of imported PSF as an input in the manufacture of goods meant for re-export. The imports under the DTRE scheme are thus confined as inputs for value addition for the

Column-B (Commission's Response)

For the purposes of determination of material injury to the domestic industry, the Commission has used import data obtained from PRAL (paragraphs 16.6 supra, 29.2, 33.2, 34.2, 35, 46.2 and 47.2 infra)

The Ordinance makes no distinction in imports under different schemes. Section 15(1) of the Ordinance identifies only "dumped imports". The imports of PSF under DTRE scheme entered into the commerce of Pakistan during POI, which were used in production of textile products for exports. Similarly, a major part of sales of the domestic like product by the domestic industry, during POI, was also used in

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purposes of re-export rather than free circulation in the domestic market of Pakistan.”

“During the POI, a very significant volume of PSF has been imported into Pakistan from China under the DTRE scheme. The domestic industry in the Application, however, has deliberately concealed the fact that a large quantity of PSF was imported from China during the POI under the DTRE scheme. The reason for the concealment is that the domestic industry is well aware that imports of PSF under the DTRE scheme can neither be subjected to an anti-dumping investigation under the Ordinance nor can any anti-dumping duty imposed against them. Hence, the Applicants have maliciously attempted to mix up the figures of the regular imports of PSF with that of DTRE imports, without differentiating them in the Application, so that they may be able to cook up a claim of dumping and injury due to PSF imports from China.”

“The Commission, in its Initiation Memo, has also failed to consider such a great flaw in the Application, pertaining to the non-disclosure of DTRE imports from China. In principle, these DTRE imports of PSF from China are to be excluded from the total imports of PSF from China during the POI, in order to determine the volume of PSF against which the dumping and injury under the Ordinance has to be determined.”

IMPOSITION ON ANTI-DUMPING DUTIES ON PSF IMPORTS FROM KOREA, INDONESIA AND THAILAND

“It has been times and again alleged in the Application that the dumping of PSF from Indonesia, Korea and Thailand, was taken over by China, once the Commission imposed anti-dumping duties against imports of PSF from Korea, Indonesia and Thailand. The allegation of substitution of dumping from Korea, Indonesia and Thailand, by China, is completely ill-founded. The Applicants cannot expect all the importers/users of PSF to divert to domestic producers, even if anti-dumping duties are imposed against imports of PSF from certain countries. The discretion always lies with importers/buyers, which in the present case preferred importing PSF from China after imposition of anti-dumping duties against PSF imports from Indonesia, Korea and Thailand, rather than buying it from the domestic producers.”

“Moreover, it does not necessarily mean that if the share of the PSF imported from China, has increased in the domestic market, soon after the imposition of anti-dumping duties against PSF imports from Korea, Indonesia and Thailand, it is because of dumping. China is a large market and in a competitive international trade environment it offers fair and better price to the importers (without any element of

Column-B (Commission's Response)

production of textile products meant for exports. Thus imports under DTRE scheme and sales of the domestic like product are the like products and are competing with each other in the same market.

Commission's investigation has revealed that imports of the investigated product has not only replaced imports of PSF from Indonesia, Korea and Thailand, rather, it also replaced imports of PSF from other sources and sales of the domestic industry during POI (paragraph 46.2 infra). Furthermore, After imposition of antidumping duties by the European Union, and United States on Chinese exports of PSF, imports of the investigated product has increased into Pakistan during POI (paragraph 47.3 infra).

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dumping) as compared to the domestic producers of PSF.”

B. DETERMINATION OF DUMPING

22. 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”.

23. Normal Value

23.1 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”.

23.2 Further, 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.”.

23.3 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 -

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- “(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.”

24. 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”.

25. Dumping Determination

25.1 As stated earlier (paragraph 12 supra) the Applicants identified 54 exporters/foreign producers from China involved in alleged dumping of the investigated product. The Commission sent questionnaires to gather information from those exporters/foreign producers whose complete addresses were available with the Commission (paragraph 16.1 supra). Questionnaire was also provided to the Embassy of China in Islamabad with a request to forward it to all exporters/foreign producers of the investigated product based in China to submit information to the Commission.

25.2 Only two exporters/foreign producers, Jiangyin Huahong Chemical Fiber Co., Ltd and Zhangjiagang Chengxin Chemical Fiber Co., Ltd, provided information in response to the questionnaires, (paragraph 16.2 supra). Individual dumping margins in this preliminary determination are determined for the above-mentioned two exporters/foreign producers on the basis of the information provided by them. However, a residual dumping margin/duty rate has been determined for all other exporters/foreign producers who did not cooperate with the Commission in this investigation.

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26. Determination of Normal Value

26.1 The Commission received information on domestic sales and cost of production etc. of the like product from the two exporters/foreign producers (paragraph 17 supra) in response to the questionnaire. Normal value in this preliminary determination has been determined on the basis of that information.

26.2 Determination of Normal Value for Huahong

26.2.1 Normal value for Huahong has been determined on the basis of the information provided by it on its domestic sales and cost to make and sell during POI.

26.2.2 According to the information, during POI, Huahong sold two types, semi dull 1.2 denier 38mm cut length and semi dull 1.4 denier 38mm cut length of the like product (PSF) in its domestic market during POI. However, it exported seven types (semi dull 1.2 denier 32mm cut length, semi dull 1.2 denier 38mm cut length, semi dull 1.2 denier 44mm cut length, semi dull 1.2 denier 51mm cut length, semi dull 1.3 denier 38mm cut length, semi dull 1.4 denier 38mm cut length, and coloured 1.4 denier 38mm cut length) of the investigated product. For the purposes of like to like comparison, normal value is determined separately for each type, denier and cut length to compare with the export price of respective type of the investigated product.

26.2.3 During POI, Huahong produced and sold grade A, grade B and grade C types of the like product in its domestic. However, it exported only grade A type of the investigated product to Pakistan during POI. For purposes of fair comparison of like product and investigated product, normal value is determined for grade A type only. All its sales of the like product in domestic market were made to un-related parties.

26.2.4 Huahong sold ***** MT of semi dull 1.2 denier 38mm cut length and semi dull 1.4 denier 38mm cut length types of the like product in its domestic market during POI. These sales are in sufficient quantities to determine normal value in terms of Section 6(2) of the Ordinance, as these are more than 5 percent of the export sales of the investigated product exported by it to Pakistan during POI.

26.2.5 Section 7 of the Ordinance requires the Commission to determine ordinary course of trade for domestic sales to determine normal value. In determination of normal value for the above-mentioned types, the Commission has disregarded sales, which were not in the ordinary

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course of trade as these sales were in accordance with provisions of Section 7 of the Ordinance (paragraph 23.3 supra).

26.2.6 To arrive at the ex-factory price of domestic sales, Huahong claimed adjustments on account of customs duty on import of raw material, credit cost, and inland freight. The Commission has not accepted the adjustment relating to inland freight as the Huahong was not able to substantiate its claim with any documentary evidence during on-the-spot investigation conducted at its premises. Adjustments on account of customs duty on import of raw materials and credit cost have been accepted and the normal value at ex-factory level for 1.2-38 semi dull and 1.4-38 semi dull types of the like product is worked out by deducting values of these adjustments. Summary calculation of normal value for these types is placed at Annexure-II.

26.3 Determination of Normal Value for Chengxin

26.3.1 Normal value for Chengxin is determined on the basis of the information provided by it on its domestic sales made during POI.

26.3.2 According to the information, during POI, Chengxin sold 1.2 denier and 1.4 denier of various cut lengths of PSF in its domestic market including the deniers and cut lengths, which were alike to the types of the investigated product. For the purposes of like to like comparison, normal value is determined separately for each type, denier and cut length to compare with the respective type, denier and cut length of the investigated product.

26.3.3 During POI, Chengxin produced and sold semi-dull type of different deniers and cut lengths of PSF in its domestic as well as in international market. All its sales of PSF in the domestic market were made to un-related parties during POI.

26.3.4 Chengxin sold ***** MT of the like product in its domestic market during POI. These sales are in sufficient quantities to determine normal value in terms of Section 6(2) of the Ordinance, as those are more than 5 percent of the export sales of the investigated product exported by it to Pakistan during POI.

26.3.5 Section 7 of the Ordinance requires the Commission to determine ordinary course of trade for domestic sales (paragraph 23.3 supra). Examination of the information revealed that Chengxin's entire domestic sales of the like product were in ordinary course of trade in terms of Section 7 of the Ordinance.

26.3.6 To arrive at the ex-factory price of domestic sales, Chengixn has reported adjustments on account of customs duty on import of raw materials, credit cost and inland freight. The Commission has accepted these adjustments and the normal value at ex-factory level is worked

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out by deducting values of these adjustments. Summary calculations of normal value are placed at Annexure-IV.

26.4 Determination of Normal Value for Other Exporters/Foreign Producers

26.4.1 Normal value for exporters/foreign producers other than Huahong and Chengxin, who did not cooperate with the Commission in providing information is determined on the basis of best information available in accordance with Section 32 of the Ordinance

26.4.2 For the purposes of determination of normal value for other exporters/foreign producers, the information provided by Huahong on cost of production plus admin, selling and general costs, financial expenses and profits, in response to the questionnaire is used. The Commission is of the view that it is the best available information for this purpose on the following grounds:

- i. Huahong is a major producer of PSF in China;
- ii. Huahong produces PSF from basic raw materials i.e. PTA and MEG; and
- iii. Huahong is the largest exporter of the investigated product to Pakistan during POI.

26.4.3 Construction of normal value for other exporters/foreign producers is placed at Annexure-III

27. Determination of Export Price

27.1 The Commission received information on export sales of the investigated product from two exporters/foreign producers (Huahong and Chengxin) in response to the questionnaires sent to various exporters/foreign producers (paragraph 16.2 supra). Export price of investigated product for these two exporters/foreign producers in this preliminary determination has been determined on the basis of the information provided by them. Export price for other exporters/foreign producers who did not cooperate with the Commission is determined on the basis of the information obtained from PRAL.

27.2 Determination of Export Price for Huahong

27.2.1 Export price for Huahong is determined on the basis of the information provided on its export sales of the investigated product to Pakistan made during POI.

27.2.2 According to the information, Huahong exported grade A semi dull 1.2 denier 32 mm cut length, semi dull 1.2 denier 38 mm cut length, semi dull 1.2 denier 44 mm cut length, semi

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dull 1.2 denier 51 mm cut length, semi dull 1.3 denier 38 mm cut length, semi dull 1.4 denier 38mm cut length and coloured 1.4 denier 38mm cut length types of the investigated product to Pakistan during POI. Its total exports of the investigated product to Pakistan during POI were ***** MT. All export sales to Pakistan, during POI, were made to un-related parties. Export price is determined separately for each type mentioned above.

27.2.3 During POI, Huahong exported investigated product on C&F basis. To arrive at the ex-factory level, it has reported adjustments on account of credit cost, bank charges, commission, ocean freight, inland freight and handling cost. The Commission has accepted these adjustments and the export price at ex-factory level is worked out by deducting values reported for these adjustments from the gross value of sales transactions. Summary calculations of export price are placed at Annexure-V.

27.3 Determination of Export Price for Chengxin

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

27.3.2 According to the information, Chengxin exported semi dull 1.2 denier 32mm cut length, semi dull 1.2 denier 38 mm cut length, semi dull 1.2 denier 44mm cut length and semi dull 1.2 denier 51mm cut length of the investigated product to Pakistan during POI. Its total exports of the investigated product to Pakistan during POI were ***** MT. All export sales to Pakistan, during POI, were made to un-related parties. Export price is determined separately for each type mentioned above.

27.3.3 During POI, Chengxin exported investigated product on C&F basis. To arrive at the ex-factory level, Chengxin has reported adjustments on account of credit cost, bank charges, customs duty on raw materials (for some transactions), inland freight in China and ocean freight. The Commission has accepted these adjustments and the export price at ex-factory level is worked out by deducting values reported for these adjustments from the gross value.

27.3.4 During on-the-spot investigation, it was found that value added tax (“VAT”) refund rate was 11 percent on export sales of the investigated product during POI. VAT at the rate of 17 percent on sales of the like product was levied in the Chinese domestic market. The export price has, therefore, been adjusted at the rate of 6 percent on account of VAT to reach at ex-factory level. Summary calculation of export price for the investigated product is placed at Annexure-VI.

27.4 Determination of Export Price for Other Exporters/Foreign Producers

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27.4.1 Export price for Chinese exporters/foreign producers other than Huahong and Chengixn, who did not cooperate with the Commission in providing information, has been determined on the basis of best information available in accordance with Section 32 of the Ordinance. Information obtained from PRAL is used for the purposes of determination of export price for non-cooperating exporters from China. This is the only information available with the Commission on export sales of the investigated product by the non-cooperating exporters.

27.4.2 Values in PRAL's information are reported at C&F level. The C&F export price has been adjusted to the ex-factory level. For this purpose same adjustments (freight/handling charges, bank charges and credit cost) have been allowed which were allowed to Huahong for its exports of the investigated product. Calculations of export price are placed at Annexure-VII.

28. Dumping Margin

28.1 The Ordinance defines "dumping margin" in relation to a product to mean "the amount by which its normal value exceeds its export price". In terms of Section 14(1) of the Ordinance the Commission shall determine an individual dumping margin for each known exporter or producer of an investigated product. In this preliminary determination, the Commission has determined individual dumping margin for the two exporters who cooperated with the Commission and supplied necessary information and the provisional antidumping duty rate for these exporters is established on the basis of individual dumping margin determined for each exporter. However, a single residual dumping margin/antidumping duty rate is determined for all those Chinese exporters/foreign producers of the investigated product who did not cooperate in this investigation.

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

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

28.4 Taking into account all requirements set out above, the dumping margins have been determined as follows. Calculations of dumping margin are placed at Annexure-VIII:

Table-III

Preliminary Determination and levy of Provisional antidumping duty on import of PSF into Pakistan Originating in and/or Exported from the Peoples Republic of China**Dumping Margin**

S. No	Exporter Name	Dumping margin as % of	
		Export price	C&F price
1	Huahong	1.56%	1.42%
2	Chengxin	-0.17%	-0.14%
3	All others	11.47%	10.44%

29. Negligible Volume of Dumped Imports

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

29.2 In this regard, data and information available with the Commission on volume of dumped imports of the investigated product during the POI (from April 01 2007 to March 31, 2008) is given in the table below:

**Table-IV
Volume of Imports During POI**

Imports from:	% of total imports
China	
Dumped	70.02%
Non-dumped	18.72%
China Total	88.74%
Other sources	11.26%
Grand Total	100.00%

Source: PRAL

29.3 The above table shows that the volume of dumped imports of the investigated product from China was well above the negligible threshold (less than three percent) for volume of imports of the like product during POI.

30 Other Antidumping Investigation on PSF

Earlier, upon request of the Applicants, the Commission conducted an antidumping investigation on dumped imports of PSF from the Republic of Indonesia ("Indonesia"), the Republic of Korea ("Korea"), and the Kingdom of Thailand ("Thailand"). The Commission concluded that investigation on June 05, 2007 and imposed definitive antidumping duties on dumped imports of PSF from the above-mentioned countries ranging from zero to 10.26 percent.

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C. INJURY TO DOMESTIC INDUSTRY

31. Determination of Injury

31.1 Section 15 of the Ordinance 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...”

31.2 Section 15 of the Ordinance further provides that:

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

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

32. Domestic Industry

32.1 As stated earlier (paragraph 9 supra), the domestic industry manufacturing domestic like product consists of the following five units with an installed production capacity of 623500 MT per annum:

**Table-V
Installed Capacity of the Domestic Industry**

S.No	Unit Name	Capacity (MT)
i.	Dewan Salman Fibre Ltd, Islamabad	240,900
ii.	Ibrahim Fibre Ltd, Faisalabad	208,600
iii.	ICI Pakistan Ltd, Lahore	122,000
iv.	Pakistan Synthetics Ltd, Karachi	28,000
v.	Rupali Polyester Ltd, Lahore	24,000
vi.	Total	623, 500

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32.3 Three of these five (mentioned at S. Nos. i., ii., and iii., above) constitute the “Applicants”. The two other units that make up the entire domestic industry in Pakistan namely Rupali Polyester Limited, Lahore and Pakistan Synthetics Limited, Karachi are indifferent in this investigation, in that these two units have not responded in any manner including the notice of initiation or to the questionnaires sent subsequently. The information in case of these two units has been submitted by the Applicants and obtained from their published annual reports and accounts. Details of production during last three years are as follows:

**Table-VI
Production of Domestic Like Product During POI**

Unit Name	Status	2007-08*	2006-07*	2005-06*
Dewan Salman Fibre Ltd	Applicant	19.51%	32.50%	36.48%
Ibrahim Fibre Ltd	Applicant	43.26%	36.37%	33.90%
ICI Pakistan Ltd	Applicant	26.52%	22.06%	19.92%
Rupali Polyester Ltd	Indifferent	5.44%	5.37%	4.86%
Pakistan Synthetics Ltd	Indifferent	5.27%	3.70%	4.84%
Total		100.00%	100.00%	100.00%

* Year/period is from 1st April to 31st March

32.4 According to the above information, the Applicants produced 90.30 percent, 90.93 percent and 89.29 percent of total domestic production of the domestic like product during the years 2005-06, 2006-07 and 2007-08 respectively. The Commission’s investigation also revealed that neither the Applicants were themselves importers of the investigated product nor were related to the exporters involved in dumping of the investigated product into Pakistan.

32.5 On the basis of the above information and analysis, for the purposes of this investigation, the Applicants are considered as the “domestic industry” in terms of Section 2(d) of the Ordinance as they constitute a major proportion of the total domestic production of the domestic like product.

32.6 The other two indifferent units in the domestic industry (Rupali Polyester Limited and Pakistan Synthetics Limited) representing about 11 percent of the total domestic production of the domestic like product, were asked to provide information on injury factors for POI, but neither of them provided the requisite information despite reminders. The Applicants have furnished some information (production capacity, quantity produced and sold) of these two units. The Commission also obtained published annual reports and accounts of these units to get necessary information on other injury factors for these units but was unable to do so due to the following reasons:

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- i. Both the units are multi product units¹ and published annual reports and accounts are consolidated for all products; and
- ii. Both the units have different accounting period (from July to June) than the POI for injury (from April to March).

32.7 The analysis of injury factors other than production and sales carried out in this preliminary determination in the following paragraphs is, therefore, based on the Applicants information. Any inference derived in this regard from the data of the Applicants would apply to the entire domestic industry.

33. Volume of Dumped Imports

Facts

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

33.2 In order to ascertain the volume of dumped imports of the investigated product and production of the domestic like product, information submitted by the Applicants, exporters/foreign producers and obtained from PRAL has been used. The following table shows imports of the like product during the years 2005-06, 2006-07, and 2007-08 (POI for injury) and production of the domestic like product by the Applicants for the aforementioned years:

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

Description	2005-06*		2006-07*		2007-08*	
	Dumped	Non-dumped	Dumped	Non-dumped	Dumped	Non-dumped
Imports from:						
China	N.A	170.96	N.A	11804.04	39200.16	10479.06
Indonesia	3593.38	2786.86	6105.99	5490.94	24.07	2494.80
Korea	2373.44	10735.23	1920.85	2945.17	1482.25	1155.88
Thailand	20559.97	N.A	12931.84	N.A	180.80	N.A
Other Sources	N.A	1142.47	N.A	1575.06	N.A	965.75
Total Imports	26526.79	14835.52	20958.68	21815.21	40887.28	15095.49
Domestic Production	445314.00		450403.00		462207.00	

* Year/period is from 1st April to 31st March

Analysis

¹ Rupali produces PSF and polyester filament yarn and Pakistan Synthetics produces PSF and polyester chips (an intermediate product)

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33.3 The Commission has imposed definitive antidumping duties with effect from February 09, 2007 on dumped imports of PSF exported into Pakistan by exporters based in Indonesia, Korea and Thailand (paragraph 30 supra). It appears from the above table that after imposition of definitive antidumping duties on dumped imports from Indonesia, Korea and Thailand, pattern of imports has changed. Imports of the like product from these countries have been shifted to China. Combined imports from Indonesia, Korea and Thailand, which were 40048.88 MT in the year 2005-06 have been declined to the level of 5337.80 MT in the year 2007-08. Whereas, imports of PSF from China, which were 170.96 MT in the year 2005-06 have been increased to 49679.22 MT in the year 2007-08. Out of 49679.22 MT imported PSF from China during the year 2007-08, 39200.16 MT (78.91 percent) were dumped imports.

33.4 Dumped imports of the investigated product from China increased by 332.09 percent in the year 2007-08 (the POI for dumping) over the imports of PSF during the year 2006-07.

33.5 Production of the domestic like product by the domestic industry increased by 1.14 percent in the year 2006-07 and 2.62 percent in the year 2007-08 over production in the years 2005-06 and 2006-07 respectively. Following table shows a comparison of increase in imports of the investigated product and production of the domestic like product:

Table-VIII
Increase in Dumped Imports and Domestic Production

Year/ Period*	Increase in:		
	Dumped imports from China	Total imports from China	Domestic production
2005-06	--	--	--
2006-07	N.A	11633.08 (6804.56%)	5089.00 (1.14%)
2007-08	27396.12 (232.09%)	37875.18 (320.87%)	11804.00 (2.62%)

* Year/period is from 1st April to 31st March

33.6 The above table shows that dumped imports increased by 27396.12 MT (232.09 percent), whereas, production of the domestic like product increased by 11804 MT (2.62 percent) in the year 2007-08 (POI for dumping).

Conclusion

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

34. Price Effects

34.1 The effect of dumped imports on the 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

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like product), price depression (the extent to which the domestic industry experienced a decrease in its selling prices of domestic like product over time), and price suppression (the extent to which increased cost of production could not be recovered by way of increase in selling price of the domestic like product).

34.2 Price undercutting**Facts**

34.2.1 Weighted average ex-factory price of the domestic like product has been calculated from the information submitted by the Applicants on quantity and value of sales during POI. Landed cost of the investigated/dumped product has been calculated from the information obtained from PRAL. Calculations of domestic sales price of the domestic like product and landed cost of the investigated product are placed at Annexure IX and X respectively. Comparison of weighted average ex-factory price of the domestic like product with the weighted average landed cost of the investigated product during POI is given in following table:

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

Year/ Period*	Domestic Price	Landed Cost	Price under-cutting	
			Absolute	Percentage
2005-06	100.00	88.21	11.79	13.36%
2006-07	103.68	101.28	2.40	2.37%
2007-08	110.38	110.41	--	--

* Year/period is from 1st April to 31st March

Note: To keep confidentiality, actual figures have been indexed with respect to the domestic price in the year 2005-06 by taking it equal to 100.00

Analysis

34.2.2 The above table shows that the prices of the investigated product and prices of the domestic like product registered an increase during the last three years. However, the investigated product undercut prices of the domestic like product by 13.36% percent in year 2005-06, and by 2.37% in year 2006-07. However, in the year 2007-08 dumped imports of the investigated product did not undercut price of the domestic like product.

Conclusion

34.2.3 On the basis of the above, the Commission has concluded that the domestic industry did not suffer material injury on account of price undercutting as dumped imports of the investigated product did not undercut prices of the domestic like product during POI for dumping.

34.3 Price Depression

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

**Table-X
Calculation of Price Depression**

Year/Period*	Domestic price	Price depression
2005-06	100.00	-
2006-07	103.68	-
2007-08	110.38	-

* Year/period is from 1st April to 31st March

Note: To keep confidentiality, actual figures have been indexed with respect to the domestic price in the year 2005-06 by taking it equal to 100.00

Analysis

34.3.2 Analysis of the above facts shows that domestic industry has increased weighted average ex-factory price of domestic like product throughout POI.

Conclusion

34.3.3 The Commission has concluded on the basis of the above information and analysis that the domestic industry did not suffer material injury on account of price depression during POI.

34.4 **Price Suppression****Facts**

34.4.1 Weighted average cost to make and sell of the domestic like product has been calculated from the information submitted by the Applicants on cost to make and sell during POI. The following table shows the weighted average cost to make and sell and the weighted average ex-factory sales price of the domestic like product during POI:

**Table-XI
Calculations of Price Suppression**

Year/ Period*	Cost to make & sell	Ex-factory price	Increase/(decrease) in:	
			Cost to make & sell	Price
2005-06	98.89	100.00	-	-
2006-07	104.64	103.68	5.75	3.68
2007-08	118.33	110.38	13.69	6.70

* Year/period is from 1st April to 31st March

Note: To keep confidentiality, actual figures have been indexed with respect to the domestic price in the year 2005-06 by taking it equal to 100.00

Analysis

34.4.2 The above table reveals that the weighted average cost to make and sell of the domestic like product increased by 5.81 percent and 13.08 percent during the years 2006-07 and 2007-08 respectively. Weighted average ex-factory price of the domestic like product increased by 3.68 percent and 6.46 percent in the years 2006-07 and 2007-08, respectively. Thus the domestic

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industry experienced significant price suppression in the years 2006-07 and 2007-08 as it was not able to recover increased cost to make and sell by way of an increase in its selling price.

Conclusion

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

35. Effects on Market Share

Facts

35.1 During POI, domestic demand for PSF in Pakistan was met through sales by the domestic industry and by imports. The domestic consumption of PSF is ascertained by combining the domestic industry's sales and total imports, and this is referred to here as the total domestic market. The Applicants supplied information on total sales of the domestic like product in domestic market. Information on imports of PSF is obtained from PRAL. The total domestic market for PSF during POI is given in following table:

**Table -XII
Market Share (MT)**

Year/ Period*	Sales by domestic industry	Imports from:		Total domestic market
		China	Other sources	
2005-06	91.57%	0.03%	8.40%	100.00%
2006-07	91.37%	2.38%	6.25%	100.00%
2007-08	88.86%	9.89%	1.25%	100.00%

* Year/period is from 1st April to 31st March

Analysis

35.2 The above table shows that the domestic industry lost its market share from 91.57 percent and 91.37 percent in the years 2005-06 and 2006-07 respectively to 88.86 percent in the year 2007-08. Market share of the imports of PSF from the China increased from 0.03 percent in the year 2005-06 to 2.38 percent in the year 2006-07 and 9.89 percent in the year 2007-08. Market share of the imports from other sources decreased from 8.40 percent in the year 2005-06 to 1.25 percent in the year 2007-08.

Conclusion

35.3 On the basis of above information and analysis, the Commission has concluded that the domestic industry lost significant share in domestic market due to increased imports of the investigated product during POI, and suffered material injury on this account.

Preliminary Determination and levy of Provisional antidumping duty on import of PSF into Pakistan Originating in and/or Exported from the Peoples Republic of China**36. Effects on Sales****Facts**

36.1 As per information obtained from the Applicants, total sales of the domestic like product by the domestic industry in domestic market during POI was as follows:

**Table -XIII
Sales of the Domestic Like Product**

Year/ Period*	Sales by domestic industry	Increase/(decrease) in sales
2005-06	100.00	-
2006-07	100.83	0.83
2007-08	99.35	(1.48)

* Year/period is from 1st April to 31st March

Note: To keep confidentiality, actual figures have been indexed with respect to the sales in the year 2005-06 by taking it equal to 100.00

Analysis

36.2 The above table shows that the sales of the domestic like product by the domestic industry increased by 0.83 percent in the year 2006-07 over the sales during the year 2005-06. However, sales of the domestic like product decreased by 1.47 percent in year 2007-08 (the POI for dumping). Imports of the investigated product significantly increased during the years 2006-07 and 2007-08 (paragraph 35 supra).

Conclusion

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

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

37.1 The installed production capacity of the entire domestic industry to produce domestic like product is 623500 MT per annum on three shift basis. Quantity produced and the capacity utilized by the domestic industry during POI were as follows:

**Table-XIV
Production and Capacity Utilization (MT)**

Year/ Period*	Installed Capacity	Quantity Produced	Capacity Utilization
2005-06	623500	462207.00	74.13%
2006-07	623500	450403.00	72.24%

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2007-08	623500	445314.00	71.42%
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* Year/period is from 1st April to 31st March

Analysis

37.2 It may be noted from the table above that the production of domestic like product decreased by 11804 MT and 5089 MT in the years 2006-07 and 2007-08. Resultantly, the capacity utilization decreased from 74.13 percent in the year 2005-06 to 72.24 percent in the year 2006-07 and 71.42 percent in the year 2007-08.

Conclusion

37.3 On the basis of the above information and analysis, the Commission has concluded that the domestic industry suffered material injury on account of production and capacity utilization during POI.

38. Effects on Inventories

Facts

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

**Table-XV
Inventories of Domestic Like Product**

Year/ Period*	Opening Inventory	Closing Inventory
2005-06	100.00	97.99
2006-07	97.99	84.16
2007-08	84.16	69.91

* Year/period is from 1st April to 31st March

Note: To keep confidentiality, actual figures have been indexed with respect to the opening inventory in the year 2005-06 by taking it equal to 100.00

Analysis

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

Conclusion

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

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39. Effects on Profits/Loss

Facts

39.1 Profit and loss position for the domestic industry was determined on the basis of the information supplied by the Applicants in their Profit and Loss Account Statements on sales of the domestic like product. Applicants do not maintain separate profit and loss account for sales of the domestic like product for domestic sales, for export sales and for chips sales. Thus effect on profits is determined on the basis of domestic sales, export sales of PSF and chips sales of the Applicants during POI. However, export sales of PSF and chips sales by the Applicants were not in substantial quantities. Export sales were 5.63%, 4.15% and 2.74% and chips sales were 3.04%, 2.73% and 0.80% during the years 2005-06, 2006-07 and 2007-08 respectively. The table below shows the profit and loss position of the Applicants during POI:

**Table -XVI
Profit/(Loss) of Domestic Industry**

Year/ Period*	Profit/(Loss) in:		
	Total	Per MT	% of sales value
2005-06	100.00	100.00	1.58%
2006-07	(13.27)	(13.33)	(0.2%)
2007-08	(448.42)	(463.49)	(6.63%)

* Year/period is from 1st April to 31st March

Note: To keep confidentiality, actual figures have been indexed with respect to the profits in the year 2005-06 by taking it equal to 100.00

Analysis

39.2 The above table shows that the domestic industry earned profits on sales during the year 2005-06. In the year 2006-07 and in year 2007-08 the domestic industry incurred losses. Losses increased during the year 2007-08

Conclusion:

39.3 On the basis of the above facts, the Commission has concluded that the domestic industry incurred heavy losses and has suffered material injury on account of profits during POI.

40. Effects on Cash Flow

Facts

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40.1 The cash flow position through operating activities of the domestic industry was determined on the basis of the information provided by the Applicants. Net cash flow position of the domestic industry during POI is given in the following table:

**Table -XVII
Cash Flow Position**

Year/Period*	Net cash inflow/ (outflow)
2005-06	100.00
2006-07	77.17
2007-08	(42.25)

* Year/period is from 1st April to 31st March

Note: To keep confidentiality, actual figures have been indexed with respect to the profits in the year 2005-06 by taking it equal to 100.00

Analysis

40.2 The above table shows that the net cash inflow of the domestic industry decreased in the year 2006-07. In year 2007-08 cash inflow has become negative.

Conclusion

40.3 On the basis of the above, the Commission has concluded that the domestic industry has suffered material injury on account of cash flow.

41. Effects on Employment, Productivity and Salaries & Wages

Facts

41.1 Employment in domestic industry declined during POI. The employment, productivity, salaries and wages of the domestic industry are determined on the basis of Applicant's information, which were as follows during POI:

**Table -XVIII
Employment, Productivity and Salaries & Wages**

Year/ Period*	Number of Employees	Productivity per worker	Salaries & wages per MT
2005-06	100	97.42	100.00
2006-07	95	100.21	113.90
2007-08	87	107.06	120.98

* Year/period is from 1st April to 31st March

Note: To keep confidentiality, actual figures have been indexed with respect to the employees and salaries & wages in the year 2005-06 by taking it equal to 100.00

Analysis

41.2 The above table shows that the employment in the domestic industry decreased by 5 percent and 8.42 percent in the years 2006-07 and 2007-08 respectively. However, productivity

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per worker increased from 97.42 MT in the year 2005-06 to 100.21 MT per worker in year 2006-07 and 107.06 MT per worker in the year 2007-08 due to decrease in number of employees.

41.3 Salaries and wages per MT for production of the domestic like product increased by 13.90 percent and 6.22 percent in the years 2006-07 and 2007-08 respectively.

Conclusion

41.4 Based on the above information and analysis, the Commission has concluded that the domestic industry did not suffer on account of productivity, but suffered material injury on account of employment and salaries & wages.

42. Effects on Return on Investment

Facts

42.1 Return on investment realized by the domestic industry during POI is determined on Applicants' information. Following table shows the investment and return on investment of the Applicants during POI:

**Table -XIX
Investment and Return on Investment**

Year*	Total Investment	Return on Investment
2005-06	100.00	4.57%
2006-07	215.20	4.00%
2007-08	201.58	4.23%

* Year/period is from 1st April to 31st March

Note: To keep confidentiality, actual figures of total investment have been indexed with respect to the investment in the year 2005-06 by taking it equal to 100.00

Analysis

42.2 The above table shows that the investment in domestic industry increased and return on investment decreased during the year 2006-07. However, in the year 2007-08, investment decreased and return on investment increased.

Conclusion

42.3 On the basis of the above, the Commission has concluded that the domestic industry did not suffer material injury on account of return on investment.

43. Effects on Growth and Investment

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Facts/analysis

43.1 According to the Applicants, one of the Applicants unit (Ibrahim Fibres Ltd.) had plans to enhance its capacities but due to dumping of the investigated product it has postponed its plans of expansion. However, the Applicants have not submitted any evidence in support of this claim.

43.2 During POI total installed production capacities of the domestic industry for production of the domestic like product were more than the domestic demand (paragraphs 32.1 and 35.1 supra). In this situation no further investment in the industry can be expected.

Conclusion

43.2 On the basis of the above, the Commission has concluded that the domestic industry did not suffer material injury on account of growth and investment due to imports of the investigated product.

44. Ability to Raise Capital

Facts/analysis

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

Conclusion

44.2 The Commission has concluded that the domestic industry did not suffer material injury in respect of its ability to raise capital due to imports of the investigated product.

45. Summing up of Material Injury

45.1 The facts and analysis in the preceding paragraphs (paragraphs 31 to 44 supra) shows that the domestic industry has suffered material injury during POI on account of:

- i. significant increase in volume of dumped imports of the investigated product;
- ii. significant price suppression;
- iii. loss in market share;
- iv. significant decrease in sales;
- v. decline in profits;
- vi. negative effect on cash flow;
- vii. negative effect on production and capacity utilization; and
- viii. negative effect on employment and salaries & wages.

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45.2 During POI, dumped imports of the investigated product increased sharply while production of the domestic like product decreased (paragraph 33.4 supra).

45.3 The Applicants were not able to increase their prices of the domestic like product to a level where it could accommodate the rising cost to make and sell during POI, therefore, the Applicants' profitability suffered.

45.4 The domestic industry lost its sales and market share during POI. Although there was an expansion in demand and market size of PSF during POI but the domestic industry was not able to increase its sales and maintain its market share. Imports of the investigated product increased sharply while sales by the domestic industry declined (paragraph 35.1 supra).

45.5 Production of the domestic like product decreased during POI, consequently, employment in the domestic industry also declined.

45.6 It may, therefore, be concluded that the domestic industry suffered material injury due to dumped imports as evident, *inter alia*, in the reduced market share and sales, price suppression, decline in capacity utilization, falling employment, and increased losses/reduced profits etc.

D. CAUSATION

46. Effect of Dumped Imports

46.1 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. The investigation revealed that the following happened simultaneously during POI:

- i. volume of dumped imports of the investigated product increased significantly while production and sales of the domestic like product decreased;
- ii. The domestic industry experienced price suppression as it was not able to recover its increased costs by increasing prices because of lower landed cost of the investigated product;
- iii. domestic industry lost significant market share while market share of dumped imports increased significantly;

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- iv. profits of the domestic industry declined during POI; and
- v. domestic industry faced decrease in employment during POI.

46.2 The imposition of definitive antidumping duty with effect from February 09, 2007 on dumped imports of PSF into Pakistan from Indonesia, Korea and Thailand (paragraph 30 supra) resulted in shift of imports from these countries to China. Following table shows the import of PSF and sales by the domestic industry during POI:

Table-XX
Imports and Domestic Sales of PSF

Description	2005-06*	2006-07*	2007-08*
Imports from:			
China	0.04	2.63	11.06
Indonesia	1.42	2.58	0.56
Korea	2.92	1.08	0.59
Thailand	4.58	2.88	0.04
Other Sources	0.25	0.35	0.21
Total other than China	9.17	6.89	1.40
Sales by domestic industry	100.00	100.82	99.35

* Year/period is from 1st April to 31st March. Source: PRAL

Note: To keep confidentiality, actual figures have been indexed with respect to the sales by the domestic industry in the year 2005-06 by taking it equal to 100.00

46.3 The above table shows, after imposition of definitive antidumping duties on dumped imports of PSF from Indonesia, Korea and Thailand, imports from these sources sharply declined (by 26.68 percent and 81.80 percent) in the years 2006-07 and 2007-08 respectively. On the other hand, imports of PSF from China, which were almost nil in the year 2005-06 increased sharply by 6475.00 percent and 320.53 percent in the years 2006-07 and 2007-08 respectively. This shows that the domestic industry did not benefit from imposition of antidumping duties on dumped imports of PSF imported from Indonesia, Korea and Thailand. The real beneficiaries of imposition of antidumping duty are exporters of the investigated product.

46.4 European Commission ("EC"), and United States ("US") have imposed antidumping duties on dumped imports of PSF exported to European Union, and the US from China in second quarter of the year 2005, and December 2006 respectively. According to Emerging Textiles, a company based in France, which publishes statistical reports about the international fiber, textile and clothing markets, that after imposition of antidumping duties by EC and US, Chinese exports of PSF have increased to Pakistan, India and Bangladesh. Thus targeting Pakistani market, which has injured and/are causing injury to the domestic industry.

47. Other Factors

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

47.2 The investigation has revealed that the domestic industry also suffered some injury due to non-dumped imports of the investigated product and the like product from sources other than China during POI. However, injury caused by these imports cannot be considered significant as its volume was less than the volume of dumped imports. Furthermore, weighted average C&F price of the imports of PSF from other sources was above the weighted average C&F price of the dumped imports of the investigated product. Following table shows the volume and weighted average C&F prices of dumped, non-dumped and other imports during POI (from 1st April 2007 to 31st March 2008):

Table -XXI
Volume and C&F Prices of Imported PSF

	Quantity (MT)	C&F Price
Dumped Imports from China	39200.16	100.00
Non-dumped Imports China	10479.06	95.14
Imports from other sources	6303.55	126.31

Source: PRAL

Note: To keep confidentiality, actual figures have been indexed with respect to the C&F price in the year 2005-06 by taking it equal to 100.00

47.3 The Commission has also analysed export performance of the Applicants to determine whether decline in exports of the domestic like product was a cause of material injury to the domestic industry. Exports of PSF by the Applicants declined during POI. Domestic sales and export sales of the domestic like product by the Applicants during POI are given in the following table:

Table -XXII
Sales by the Applicants (MT)

Year/Period*	Domestic sales	Export sales	Total Sales
2005-06	97.37%	2.63%	100.00%
2006-07	98.41%	1.59%	100.00%
2007-08	98.81%	1.19%	100.00%

* Year/period is from 1st April to 31st March

47.4 The above table shows that the export sales of the domestic like product declined by 66.48 percent and 37.75 percent in the years 2006-07 and 2007-08 respectively. However, volume of export sales was insignificant during POI (2.63 percent, 1.59 percent and 1.19 percent of the

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total sales in the years 2005-06, 2006-07 and 2007-08 respectively). Thus decline in exports of the domestic like product has no significant impact on total sales by the domestic industry.

47.5 On the basis of the above analysis, the Commission has determined that decline in export sales of the domestic like product during POI was not a cause of material injury to the domestic industry.

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

- i. There was no change in competition between foreign producers/exporters of China, producers/exporters from other sources and domestic producers; and
- ii. There was no considerable change in technology to produce PSF.

E. CONCLUSIONS

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

- i. the application was filed on behalf of domestic industry as the Applicants represent major proportion of the production of domestic like product;
- ii. the investigated product and the domestic like product are alike products;
- iii. during POI, the investigated product was exported to Pakistan by the exporters/foreign producers from China at prices below their normal value, except one exporter/producer that is Chingxin (paragraphs 28.4 supra);
- iv. the volume of dumped imports of the investigated product and the dumping margins established for the Chinese exporters/producers of the investigated product (except the two mentioned at paragraph 53 infra) are above the negligible and *de minimis* levels respectively;
- v. the dumping margins expressed as a percentage of weighted average adjusted export price at ex-factory level is ranging between -0.17 percent to 11.47 percent for exporters/foreign producers from China;

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- vi. the domestic industry suffered material injury during POI on account of, volume of dumped imports, price suppression, loss in market share, decrease in sales, decline in profits, decline in production and capacity utilization, decline in employment, negative effect on wages and negative effect on cash flow (in terms of Section 15 and 17 of the Ordinance); and
- vii. there is a causal relationship between dumped imports of the investigated product and the material injury suffered by the domestic industry.

F. IMPOSITION OF PROVISIONAL ANTIDUMPING DUTY

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

50. Individual dumping margins have been determined for the two Chinese exporters/foreign of PSF who supplied the information necessary for this investigation and the provisional rate for antidumping duty for these exporters is determined on the basis of individual dumping margins (paragraphs 25 to 28 supra).

51. A residual dumping margin and antidumping duty rate for all other exporters from China, who did not cooperate, is determined on the basis of best available information in terms of Section 32 of the Ordinance (paragraphs 25 to 28 supra).

52. In terms of Section 43 of the Ordinance, provisional antidumping duty at the rate of 10.44 percent is hereby imposed on all imports of the investigated product importable from China, except for the exporters/foreign producers mentioned at paragraph 51 infra, for a period of four months effective from February 06, 2009. The provisional antidumping duty rate is determined on C&F value in *ad val.* terms. The provisional antidumping duty at C&F value is equivalent to the preliminary dumping margins determined at ex-factory price level. The dumped investigated product is classified under PCT heading No. 5503.2010:

53. Provisional anti-dumping duty has not been imposed on exports of the investigated product if it is produced and exported by the following exporters/foreign producers as these exporters/foreign producers were found either not to be dumping or the dumping margin was found to be *de minimis* (less than 2%) in terms of Section 41 of the Ordinance during POI:

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- i. Jiangyin Huahong Chemical Fiber Co., Ltd., Huahong Industrial Park, Zhouzhuang Town, Jiangyin, Jiangsu, China
 - ii. Zhangjiagang Chengxin Chemical Fiber Co., Ltd., Houcheng Industrial Development Zone, JinGang Town, Zhangjiagang City, Jiangsu Province, China
54. PSF imported from sources, other than China shall not be subject to this provisional antidumping duties.
55. In accordance with Section 51 of the Ordinance, the provisional antidumping 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 antidumping duty.
56. Provisional antidumping duties levied would be in addition to other taxes and duties leviable on import of the investigated product under any other law.
57. The provisional antidumping duties would be collected in the same manner as customs duty is collected under the Customs Act, 1969 (IV of 1969) and would be deposited in Commission's Non-lapsable PLD account No. 187 with Federal Treasury Office, Islamabad.

(Ms. Batool Iqbal Qureshi)
Member
February 04, 2009

(Muhammad Ikram Arif)
Chairman
February 04, 2009

List of Foreign Producers/Exporters

1. Yizheng
2. Zhejiang Yuandong Chemical Fiber Group CO.
3. Hongshan Farm Xiaoshan Zhejiang Province China
4. Zhejiang Tianyuan Fabric Co., Limited.
5. Huaxin Chemical Fiber Co., Ltd.
6. Chongqing New Century Chemical Fiber Co., Ltd.
7. Jiangsu Jiangnan High Polymer Fiber Co., Ltd.
8. Beijing Detong Chemical Fiber Industry Co., Ltd.
9. Jiangsu Jinxue Group CO., Ltd.
10. Foshan Tianma Chemical Fiber Co., Ltd.
11. Jiangyin Jinyan Chemical Fiber Co., Ltd.
12. Shanghai Lianji Heqian Stocks Ltd.
13. Shanghai Lianji Heqian Stocks Ltd.
14. Shanghai Alison Group Co., Ltd.
15. Jiangyin Wanxiang Group Co., Ltd.
16. Sichuan Huvis Chem. Fiber Co., Ltd.
17. Jiangyin Huahong Chemical Fiber Co., Ltd.
18. Zhangjiagang Hitai Chemical Fibre Co., Ltd.
19. Zhejiang Shangyu, Zhejiang 312361
20. Haiyan Jingcheng Chemical Fiber Co., Ltd.
21. Chuzhou Prosperity Environmental Protection Color Fibre Co., Ltd.
22. Zhejiang Kangxin Chemical Fiber Co., Ltd.
23. Jiangyin Changsheng Chemical Fiber Co., Ltd.
24. Jiangsu Jinxue Group Co., Ltd.
25. Nantong Teijin Co., Ltd.
26. Hangzhou Chemical Fibre (Group) Company
27. Far Eastern Industries (Shanghai) Ltd.
28. Jinan Zhenghao Advanced Fiber Co., Ltd.
29. Sichuan Polyester Co., Ltd.
30. Shandong Wanjie Fiber
31. Tj Sinopec, Dagang
32. CNPC Liaoyang Branch
33. CNPC Liaoyang MMF
34. FE Polychem (Yuanfang)
35. SPC, Jinshan
36. Jiangsu Huaxi Special Fibres
37. Jiangsu Sanfangxiang
38. Jiangyin Changsheng
39. Jiangsu Xinsu
40. Wujiang Differential
41. Zhangjiagang Bangcheng/Zashang
42. Jiangsu Huaxi Baochang Chem Fib
43. Cixi Kanxin
44. Shaoxing Yuandong
45. Zh. (Shoaxing) Cifu
46. Zh. Wanxiang
47. Fj. Jinlun Petrochem

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48. Jingxing (FJ) CF Tex
49. Xiang Lu
50. Qingdao Gaohe
51. Sinopec Luoyang Hongda MMF
52. Sc. Pes, Zigong
53. Suzhou Goixin Group Taicang Hengxiang Imp & Exp. Co., Ltd.
54. Itochu Asia

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Annex-II

(Omitted as it contained confidential information)

Annex-III

(Omitted as it contained confidential information)

Annex-IV

(Omitted as it contained confidential information)

Annex-V

(Omitted as it contained confidential information)

Annex-VI

(Omitted as it contained confidential information)

Annex-VII

(Omitted as it contained confidential information)

Annex-VIII

(Omitted as it contained confidential information)

Annex-IX

(Omitted as it contained confidential information)

Annex-X

(Omitted as it contained confidential information)