



**Government of Pakistan  
National Tariff Commission**

**Report**

**of**

**Preliminary Determination in Anti-dumping Investigation against Dumped Imports of Phthalic Anhydride into Pakistan Originating In and / Or Exported from China. Chinese Taipei, Korea and Russia**

**A.D.C No. 56/2019/NTC/PA**

**June 03, 2020**

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The National Tariff Commission (hereinafter referred to as the "Commission") having regard to the Anti-Dumping Duties Act, 2015 (hereinafter referred to as the Act) and the Anti-Dumping Duties Rules, 2001 (hereinafter referred to as the "Rules") relating to investigation and determination of dumping of goods into the Islamic Republic of Pakistan (hereinafter referred to as Pakistan), material injury, threat of material injury or material retardation to the domestic industry caused by such imports, and imposition of anti-dumping duties to offset the impact of such injurious dumping, and to ensure fair competition thereof and to the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (hereinafter referred to as the Agreement on Anti-dumping).

2. The Commission is conducting this investigation, against dumped imports of Phthalic Anhydride ("PA") into Pakistan originating in and/or exported from China, Chinese Taipei, Korea and Russia (the "Exporting Countries"), under the Act and the Rules. The Commission has made preliminary determination in this investigation under Section 37 of the Act. This report on preliminary determination has been issued in accordance with the Rule 10 of the Rules.

3. In terms of Section 37 of the Act, the Commission shall make a preliminary determination of dumping and injury, if any, not earlier than sixty days and not later than one hundred and eighty days, after initiation of an investigation. Such preliminary determination shall be based on the information available to the Commission at that time. The report has been prepared on the basis of information gathered / obtained from the Applicant and exporters / producers, which could not be verified due to lockdown in the wake of Covid-19 pandemic.

#### **A. PROCEDURE**

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

##### **5. Receipt of Application**

5.1 On October 08, 2019 (formal acceptance date), the Commission received a written application under Section 20 of the Act from Nimir Chemicals Pakistan Limited, Lahore (the "Applicant") on behalf of the domestic industry. The application has been filed by the Applicant, who is the sole producer of PA.

5.2 The Applicant alleged that dumped imports of PA from the Exporting Countries has caused and is causing material injury and an imminent threat of injury in future to Pakistan's domestic industry producing PA.

5.3 The Commission informed the Embassies of the Exporting Countries in Islamabad through note verbale dated October 17, 2019 of the receipt of application in accordance with the requirements of Section 21 of the Act.

## **6. Evaluation and Examination of the Application**

The examination of the application showed that it met the requirements of Section 20 of the Act as it contained sufficient evidence of dumping of PA into Pakistan from the Exporting Countries and causing material injury and an imminent threat of injury in future to Pakistan's domestic industry producing PA. Requirements of Rule 3 of the Rules, which relates to the submission of information prescribed therein, were also found to have been met.

## **7. The Domestic Industry**

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

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

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

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

7.2 The domestic industry manufacturing PA comprises of one unit i.e. Nimir Chemicals Pakistan Limited, Lahore (the Applicant). The Applicant is a multi-product company producing besides Phthalic Anhydride, Maleic Anhydride, Unsaturated Polyester Resins, Alkyd Resin, and Plasticizers.

7.3 The Applicant is, neither related to any importer or exporter, nor did it import PA during the past three years. Therefore, the Applicant is eligible to apply for the anti-dumping investigation.

## **8. Standing of the Application**

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

8.2 In terms of Section 24(1) of the Act, an application shall be considered to have been made by or on behalf of the domestic industry only if it is supported by those domestic producers whose collective output constitutes more than fifty percent of the total production of a domestic like product produced by that portion of the domestic industry expressing either support for or opposition to the application. Furthermore, Section 24(2) of the Act provides that no investigation shall be initiated when domestic producers expressly supporting an application account for less than twenty five percent of the total production of domestic like product produced by the domestic industry.

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

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

## 9. Applicants' Views

The Applicant, *inter alia*, raised the following issues in application regarding alleged dumping of PA causing material injury and an imminent threat of injury in future to Pakistan's domestic industry producing PA. The Applicant has made following requests to the Commission:

- i. Initiate an investigation against alleged dumping of PA from the Exporting Countries under Section 23 of the Act;
- ii. Impose provisional measures under Section 43 of the Act to prevent injury being caused during the investigation; and
- iii. Impose appropriate antidumping duties on alleged dumped imports of PA in accordance with Section 50 of the Act.
- iv. Exports of PA by the exporters/producers from the Exporting Countries to Pakistan at dumped prices has caused material injury and an imminent threat of injury in future to Pakistan's domestic industry producing PA mainly through:-
  - a) volume of alleged dumped imports;
  - b) price undercutting;
  - c) price suppression;
  - d) production;
  - e) capacity utilization;
  - f) market share;
  - g) sales;

- h) profits/profitability;
- i) productivity per worker and salaries & wages/MT;
- j) return on investment; and
- k) magnitude of dumping margin.

## 10. Exporters / Producers of PA

As per information available with the Commission provided by the Applicant, there are 18 exporters/producers involved in alleged dumping of the investigated product from the Exporting Countries. The Applicant has requested for imposition of anti-dumping duty on all imports of the investigated product originating in and/or exported from the Exporting Countries.

## 11. Initiation of Investigation

11.1 The Commission, in accordance with Section 23 of the Act examined the accuracy and adequacy of the evidence provided in application, and established that there was sufficient evidence of alleged dumping of PA into Pakistan from the Exporting Countries and such imports are causing material injury to the domestic industry. Accordingly, the Commission issued a notice of initiation in accordance with Section 27 of the Act, which was published in the Official Gazette<sup>1</sup> of Pakistan and in two widely circulated national newspapers<sup>2</sup> (one in English language and one in Urdu Language) on December 07, 2019. Investigation concerning alleged dumped imports of PA into Pakistan classified under PCT No<sup>3</sup>. 2917.3500 originating in and/or exported from the Exporting Countries was thus initiated **on December 07, 2019**.

11.2 In pursuance of Section 27 of the Act, the Commission notified Embassies of the Exporting Countries in Islamabad of the initiation of investigation (by sending a copy of the notice of initiation) on December 13, 2019 with a request to forward it to all exporters/producers involved in production, sales and export of PA. Copy of the notice of initiation was also sent on December 13, 2019 to known exporters/producers of PA from the Exporting Countries whose addresses were available with the Commission with a request to be registered as an interested party in the investigation with-in 15 days of publication of the notice. Copy of the notice of initiation was also sent to known Pakistani importers on December 13, 2019.

11.3 In accordance with Section 28 of the Act, on December 26, 2019, the Commission sent copy of full text of the written application (non-confidential version) and Exporter's Questionnaire to the known exporters /producers of the Exporting Countries. On December 26, 2019, copy of the full text of the written application (non-confidential version) along with Exporter's Questionnaire

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<sup>1</sup>The official Gazette of Pakistan (Extraordinary) dated December 07, 2019.

<sup>2</sup>"Daily Jang" and "Daily Nawa-i-Waqt" of December 07, 2019.

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

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was also sent to the Embassies of the Exporting Countries in Pakistan with a request to forward it to all exporters/producers involved in production and/or sale/export of PA.

## **12. Investigated Product, Domestic Like Product and Like Product**

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

### **Investigated Product**

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

### **ii. Domestic Like Product**

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

### **iii. Like Product**

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

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

## **12.3 Investigated Product:**

12.3.1 Section 2(k) of the Act defines the “Investigated Product” (IP) as a product, which is subject to an investigation under the Act.

12.3.2 The investigated product is PA imported from the Exporting Countries. It is classified under Pakistan Customs Tariff (“PCT”) Heading No. 2917.3500. Phthalic Anhydride (the investigated product) is an organic compound in white crystalline form, available in solid state, white flakes, with mild odour, slightly soluble in ether and hot water. It is obtained by catalytic oxidation process from Ortho xylene. The Maleic Anhydride is its by-product in processing the PA.

### Specification:

PA Contents	99.8 % (minimum 98%)
Colour index to hazen	20 APHA
Heat Stability	50 APHA
Boiling point	2850
Solidification point	1310



12.3.3 It is an important industrial input, used in the manufacturing of Polyester Resins, Alkyd Resin, Plasticizers, certain dyes, and insecticides etc. It is also utilized as a rubber scorch inhibitor and retarder. The primary use of the investigated product is in the production of plasticizer used for production of plastics from vinyl chloride. PA is used in polyester resins, Di-octyl- Phthalate (DOP), dyestuffs, tyres and technical rubber products, a range of pharmaceuticals and other products. It is also used in Alkyd Resins (Glyptal) and to modify physical properties of Synthetic Resins.

12.3.4 During the course of investigation, importers of investigated product claimed that few Chinese exporters/producers are manufacturing PA from Naphthalene, which is not at par with PA produced by the domestic industry from Orthoxylene. Upon query, it was informed by the importers that there was no difference between PA produced from Naphthalene and Orthoxylene in terms of end use applications. The Applicant was of the view that there is no difference between the PA produced from Naphthalene and the PA produced from Orthoxylene.

#### 12.4 **Domestic Like Product**

12.4.1 Under Section 2(e) of the Act, “Domestic Like Product” means a like product that is produced by the domestic industry.

12.4.2 The domestic like product is PA, which is classified under Pakistan Customs Tariff (“PCT”) Heading No. 2917.3500. The domestic like product is an organic compound in white crystalline form, available in solid state, white flakes, with mild odour, slightly soluble in ether and hot water. It is obtained by catalytic oxidation process from Ortho xylene. The Maleic Anhydride is its by-product in processing the PA.

12.4.3 It is used in the manufacturing of Polyester resins, Alkyd resin, Plasticizers, certain dyes and insecticides etc. It is also utilized as a rubber scorch inhibitor and retarder. The primary use of the investigated product is in the production of plasticizer used for production of plastics from vinyl chloride. PA is used in Polyester resins, Di-octyl- Phthalate (DOP), dyestuffs, tyres and technical rubber products, a range of pharmaceuticals and other products. It is also used in Alkyd Resins (Glyptal) and to modify physical properties of Synthetic Resins.

#### 12.5 **Like Product:**

12.5.1 In terms of Section 2(m) of the Act, like product means a product, which is alike to an investigated product in all respects or, in the absence of such a product, another product which, although is not alike in all respects, has characteristics closely resembling those of the investigated product.

12.5.2 The like product is PA, produced and sold by the foreign producers/exporters of the Exporting Countries in their domestic markets, and export market to countries other than

Pakistan and PA imported into Pakistan from countries other than the Exporting Countries. The like product is classified under PCT/H.S heading No. 2917.3500. Major uses of the like product are identical to those of the investigated product and domestic like product.

12.5.3 In order to establish whether the investigated product, domestic like product are alike products, as contended by the Applicant, the Commission reviewed all the relevant information received/obtained from various sources including the Applicant, and the importers (i.e. Nimir Resins Limited, Lahore) in the following terms:

- i. The Applicant uses Orthoxylene as basic raw materials for the manufacture of the domestic like product (i.e. PA), while few Chinese exporters use Naphthalene for the manufacture of investigated product (i.e. PA). Although different raw materials are used, the finished product manufactured is the same i.e. PA.
- ii. The PA produced from Naphthalene and Orthoxylene is manufactured by oxidation reaction process. Furthermore, manufacturing of investigated product from Orthoxylene is also common practice in China. The product manufactured from these manufacturing processes is the same i.e. PA.
- iii. Both the products have same uses. These are mainly used in polyester resins, dyestuffs, tyres and technical rubber products, a range of pharmaceuticals and other products it is also used in Alkyd Resins (Glyptal) and to modify physical properties of Synthetic Resins. Major uses of the like product are identical to those of the investigated product and domestic like product.
- iv. Both the products are classified under the same PCT/HS sub-heading 2917.3500.

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

## 12.6 Tariff Structure Applicable to PA industry:

The tariff structure applicable to the domestic PA industry is given in the Table-I below:

**Table-I**  
**Customs Tariff Structure**

Description	PCT Heading	Customs Duty	2019-20		
			ACD	RD	FTA Duty Rates
Output					
Phthalic Anhydride	2917.3500	11%	2%	--	MY=20; LK=zero
Raw Material of PA					
Ortho-xylene	2902.4100	0%	2%	--	CN=0; MY=0; SAFTA=5; LK = zero

**13. Period of Investigation**

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

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

ii. *"for the purposes of an investigation of injury, the investigation period shall normally cover thirty-six months:*

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

13.2 The Commission received the application on October 08, 2019 and initiated the investigation on December 07, 2019. The Applicant has provided the information/ data up to June 30, 2019 in the application. Therefore, to fulfill the requirement of Section 36 of the Act, the POI is as follows:

For determination of dumping: From July 01, 2018 to June 30, 2019

For determination of injury: From July 01, 2016 to June 30, 2019

**14. Information/Data Gathering:**

14.1 The Commission sent Exporter's Questionnaire to all known exporters/producers from the Exporting Countries whose addresses were available with the Commission on December 26, 2019 for collection of data/information. The exporters/producers were asked to respond within 37 days of dispatch of the Questionnaire. On December 26, 2019, the Questionnaire was also sent to the Embassies of the Exporting Countries in Islamabad with a request to forward it to the all exporters/foreign producers of the investigated product in the Exporting Countries.

14.2 The Commission received requests on January 16, 2020 from two exporters namely Hanwha Solutions Corporation, Korea, (Hanwha Solutions) and Panjin Read Chemical Co. Ltd, China (Panjin Chemicals) for extension in time period for submission of data /information on Exporters Questionnaire till February 11, 2020. 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 till February 11, 2020. On February 17, 2020, the Commission received an email from Nan Ya Plastics Corporation, Chinese Taipei (Nan Ya Plastics) stating that it has received Exporter's Questionnaire on February

04, 2020 and intends to cooperate with the Commission. The company further requested for a reasonable extension in time period for submission of data /information on the Exporter's Questionnaire. The Commission granted extension till March 10, 2020.

14.3 The Commission received filled-in Exporter's Questionnaires from M/s Hanwha Solutions, M/s Panjin Chemical on February 11, 2020 and M/s Nan Ya Plastics on March 10, 2020. The Commission sent deficiency letter to M/s Hanwha Solutions, M/s Nan Ya and M/s Panjin Chemical, which will be mentioned in forthcoming paragraphs.

14.4 On December 24, 2019, Questionnaires were also sent to Pakistani importers of the investigated product known to the Commission and these importers were asked to respond within 37 days of dispatch of the Questionnaires. M/s. Archroma Pakistan Limited, M/s. Nimir Resins Limited and M/s. Power Chemical Industries Limited, have provided the data on importer questionnaire.

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

14.6 Interested parties were also invited to make their views/comments and submit information (if any) relevant to this investigation within 45 days of initiation of investigation. Six interested parties made comments /submitted information for the purposes of this investigation.

14.7 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 there from in this investigation.

## **15. Questionnaire(s) Response by Exporter /Producers from the Exporting Countries:**

### **15.1 Questionnaire Response by M/s Hanwha Solutions Corporation, Korea.**

15.1.1 The Commission sent the Exporter's Questionnaire to Hanwha Solutions Corporation, Korea on December 26, 2019 via email. On January 16, 2020, Hanwha Solutions requested for extension in time period for submission of data /information on Exporters Questionnaire till February 11, 2020. The Commission granted the extension vide its letter dated January 20, 2020 after considering the reasons given in the request for extension till February 11, 2020. Its response was received on February 11, 2020.

15.1.2 According to the information provided in response to the questionnaire, the legal name of the respondent is M/s Hanwha Solutions Corporation ("HSC"). The legal form of HSC is joint-

stock company on the basis of the commercial law of the Republic of Korea. However, legal name of the company was “Hanwha Chemical” (hereinafter “HCC”). HCC has merged with Hanwha Q Cells and Advanced Materials on Jan. 2, 2020. HCC is also a joint-stock company on the basis of the commercial law of the Republic of Korea.

15.1.3 The information submitted by M/s Hanwha Solutions in response to the questionnaire was analyzed at the Commission and certain deficiencies were identified. Accordingly, those data deficiencies were communicated to it vide the Commission’s letter dated March 12, 2020.

15.1.4 M/s Hanwha Solutions was asked to provide the deficient information/ data no later than 10 days of issuance of the letter, so as to enable the Commission to consider and analyze the same for the purposes of this investigation. However, M/s Hanwha Solutions Corporation, Korea requested for further extension of two week time to provide the data. The Commission granted the extension for submission of data. The deficiency response was received on April 06, 2020. The information submitted by M/s Hanwha Solutions in response to the questionnaire was analyzed at the Commission and again certain deficiencies were identified. Accordingly, those data deficiencies were communicated to it vide the Commission’s letter dated April 20, 2020. The deficiency response was received on April 24, 2020. The Commission has used information provided by M/s Hanwha Solutions for determination of its individual dumping margin.

## **15.2 Questionnaire Response by M/s Nan Ya Plastics Corporation, Chinese Taipei**

15.2.1 The Commission sent the Exporter’s Questionnaire to M/s Nan Ya Plastics Corporation, Chinese Taipei on December 26, 2019 via email. However, on February 17, 2020, the company informed that it did not receive Exporter’s Questionnaire. The company requested for electronic copy of the Exporter’s Questionnaire and reasonable extension in time period for submission of data/information. On February 29, 2020, the Exporter’s Questionnaire was sent to the company and extension till March 10, 2020 was granted as well. The company submitted its reply on March 11, 2020. The response was deficient and data deficiency was communicated on March 12, 2020. The reply to deficiency letter was received on March 27, 2020.

15.2.2 According to the information provided in response to the questionnaire, M/s Nan Ya Plastics was incorporated on August 22, 1958. The company engages in the manufacture and sale of plastic products, polyester fibers, petrochemical products and electronic materials. The company has gone through several capital increases and established many divisions. Currently, the company has plastics, fiber, petrochemical, electronics and engineering divisions.

15.2.3 The information submitted by M/s Nan Ya Plastics in response to the questionnaire was analyzed at the Commission and certain deficiencies were identified. Accordingly, those data deficiencies were communicated to it vide the Commission’s letter dated April 07, 2020.

15.2.4 M/s Nan Ya Plastics responded on April 10, 2020. The reply dated April 10, 2020 was analyzed and deficiencies were communicated to M/s Nan Ya Plastics on April 17, 2020. Reply to deficiencies was received on April 22, 2020. The Commission has used information provided by M/s Nan Ya Plastics for determination of its individual dumping margin.

### **15.3 Questionnaire Response by M/s Panjin Read Chemical Co. Ltd, China.**

15.3.1 The Commission sent the Exporter's Questionnaire to M/s Panjin Read Chemical Co. Ltd, China on December 26, 2019 via email. M/s Panjin Read Chemical Co. Ltd, China applied to the Commission in its letter dated January 16, 2020 for extension of time period for submission of response to the Exporter Questionnaire till February 11, 2020. The Commission granted the extension vide its letter dated January 20, 2020 after considering the reasons given in the request for extension till February 11, 2020. Its response was received in the Commission on February 11, 2020.

15.3.2 Response was analyzed and certain data deficiencies were found, which were communicated to the company on March 12, 2020, giving it seven days for submission of reply. The company did not reply. On April 08, 2020, the Commission issued a reminder that in case the company does not provide information by April 13, 2020, it will be constrained to make preliminary determination on the basis of best information available. The company did not reply afterwards, therefore, the Commission has treated M/s Panjin Chemicals as non-cooperating exporter.

## **16. Verification of the Information**

16.1 In terms of Sections 32(4) and 35 of the Act and Rule 12 of the Rules, during the course of an investigation, the Commission shall satisfy itself as to the accuracy of the information provided to it and for this purpose verify the information provided by mainly the Applicant as well as exporters/ producers from the Exporting Countries.

16.2 However, on the spot verification could not be conducted at the premises of the Applicant and cooperating exporters/producers due to restrictions imposed by the Federal Government on domestic and international travel owing to Covid - 19 pandemic.

## **17. Public File**

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

**18. Confidentiality**

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

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

18.3 On the basis of requests made by the Applicant and interested parties, the Commission has determined the confidentiality in light of Section 31 of the Act and for the reasons that disclosure of such information may be of significant competitive advantage to a competitor, or because its disclosure would have a significant adverse effect upon the interested parties providing such information. Therefore, the Commission kept all such information confidential for which the Applicants made a request to keep it confidential.

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

**19. Views/Comments of Interested Parties**

The Commission received views/comments from six interested parties, regarding initiation of this investigation during the course of investigation. The comments which are germane to this investigation have been taken into consideration while making this preliminary determination. Comments and the Commission's response thereto is at Annexure-I.

**B. DETERMINATION OF DUMPING**

**20. Dumping**

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

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

**21. Normal Value**

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

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

21.2 Further, Section 6 of the Act states:

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

*“a) the comparable price of the like product when exported to an appropriate third country provided that this price is representative; or*

*“b) the cost of production in the exporting country plus a reasonable amount for administrative, selling and general costs and for profits.*

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

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

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

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

*“(b) in substantial quantities; and*

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

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

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

*“(b) the volume of sales below per unit cost represents twenty per cent or more of the*



*volume sold in transactions under consideration for the determination of normal value.*

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

**22. Export Price**

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

**23. Dumping Determination:**

23.1 As stated earlier (paragraph 10 supra) the Applicant identified 18 exporters/ producers from the Exporting Countries involved in alleged dumping of the investigated product. The Commission sent Exporter’s Questionnaire to all known exporters/producers of the Exporting Countries on December 26, 2019 for collection of data and information. Questionnaire was also provided to the Embassies of the Exporting Countries in Islamabad with a request to forward it to all exporters/producers of the investigated product based in their countries to submit information to the Commission.

23.2 Only three exporter/producers namely M/s Hanwa Solutions Corporation, Korea, M/s Nan Ya Plastics Corporation, Chinese Taipei and M/s Panjin Read Chemical Co. Ltd, China provided information in response to the questionnaire. However, as stated earlier, information provided by Panjin Read Chemical Co. Ltd, China was not sufficient for calculation of individual dumping margin. Individual dumping margin in this investigation has been determined on the basis of the information provided by the other two cooperating exporters /producers. However, a residual dumping margin has been determined for all other non-cooperating exporters/producers of the Exporting Countries in terms of Section 32 of the Act and Schedule to the Act.

**24. Determination of Normal Value:**

24.1 The Commission received information on cost to make and sell of the like product from M/s Hanwha Solutions, Korea and M/s Nan Ya Plastics, Chinese Taipei. The information submitted by these exporters/producers has been used for determination of normal value as discussed below. Normal value for other non-cooperating exporters/producers has been determined on the basis of Best Information Available in accordance with Section 32 and Schedule to the Act.

## **24.2 Determination of Normal Value for Hanwha Solutions, Korea**

24.2.1 Normal value for M/s Hanwha Solutions Corporation is determined on the basis of the information provided by it on its domestic sales during the POI.

24.2.2 M/s Hanwha Solutions sold \*\*\* MT of the like product in its domestic market during the POI. It sold like product to related and un-related customers in its domestic market. Out of total domestic sales, sales of \*\*\* MT were made through related party namely M/s Hanwha Corporation. Sales to related party were at arm's length therefore, they were included in the calculation of normal value. For determination of arm's length, the Commission examined the per unit price charged to related and unrelated parties. Section 7 of the Act requires the Commission to determine ordinary course of trade for domestic sales to determine normal value. Investigation has revealed that out of total sales of \*\*\* MT, sales of \*\*\*MT were at loss, while \*\*\* MT were profitable sales. Below costs sales were in substantial quantities in terms of Section 7(2) of the Act. Furthermore, below costs sales were over an extended period of time. However, its prices provided for recovery of all costs within a reasonable period of time. Thus, in determination of normal value for the sales at loss were considered as made in ordinary course of trade and were taken into account for calculation of normal value in terms of Section 7 of the Act.

24.2.3 According to M/s Hanwha Solutions, during the POI, it sold like product in its domestic market on credit at delivered basis. To arrive at the ex-factory price, M/s Hanwha Solutions has claimed adjustments on account of credit cost, inland freight and packing cost. The Commission has accepted these adjustments for this preliminary determination as a principle and the amount of these adjustments would be verified during On the Spot Verification. Normal value at ex-factory level for the like product has been worked out by deducting values of these adjustments. Summary calculation of normal value for these types is placed at Annexure-II.

## **24.3 Determination of Normal Value for Nan Ya Plastics Corporation, Chinese Taipei**

24.3.1 Normal value for M/s Nan Ya Plastics is determined on the basis of the information provided by it on its domestic sales during the POI.

24.3.2 M/s Nan Ya Plastics sold \*\*\* MT of the like product in its domestic market during POI. It sold like product to un-related customers in its domestic market. Section 7 of the Act requires the Commission to determine ordinary course of trade for domestic sales to determine normal value. Investigation has revealed that all sales by the company were profitable sales. Thus, while making determination of normal value all domestic sales have been taken into account in terms of Section 7 of the Act.

24.3.3 According to M/s Nan Ya Plastics, during the POI, it sold like product in its domestic market on credit at delivered basis. To arrive at the ex-factory price, M/s Nan Ya has claimed

adjustments on account of credit cost, rebate, inland freight and packing cost. The Commission has accepted these adjustments for preliminary determination as a principle and the amount of these adjustments would be verified during On the Spot Verification. Normal value at ex-factory level for the like product has been worked out by deducting values of these adjustments. Summary calculation of normal value for these types is placed at Annexure-III.

**24.4 Determination of Normal Value for All Other Exporters/Producers from China, Chinese Taipei, South Korea and Russia**

24.4.1 As stated earlier, none of the exporters/producers of the investigated product from China and Russia provided requisite information in response to the Exporter's Questionnaire, therefore, normal value for the purposes of this preliminary determination for the investigated product is determined on the basis of the Best Information Available in terms of Section 32 of the Act and Article 6.8 and Annex II of the Agreement on Anti-dumping.

24.4.2 It is important to point out here that the Commission informed the exporters/producers from China, Chinese Taipei, South Korea and Russia of reliance by the Commission on the Best Information Available in its letters of March 02, 2020.

24.4.3 Normal value for all non-cooperating exporters /producers from China, and Russia has been constructed on the information provided by the Applicant duly adjusted for the prices of major raw material i.e. Orthoxylene. The methodology used for construction of normal value is given below:-

- a) For locally purchased raw and packing material, actual cost of raw/packing materials of the Applicant has been deflated to the C & F prices in International Market after deducting the import taxes/ charges/incidentals from the landed cost/purchase prices of the raw and packing material.
- b) For imported raw materials, export price of Orthoxylene prevailing in China and Russia has been used by adjusting for ocean freight, insurance and handling cost. For obtaining the prices of Orthoxylene, trademap data has been used.
- c) Labor hours of domestic industry to produce one MT of PA have been multiplied by labor rate applicable in China and Russia.
- d) Electricity cost has been calculated by using actual energy consumption required to produce one MT of PA. The same has been multiplied with electricity rate prevailing in China and Russia.

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

24.4.4 As stated earlier, exporters from Chinese Taipei and South Korea cooperated with the Commission by providing necessary information required for calculation of individual dumping margins. The Commission is of the view that information provided by the cooperating exporters is preferred, for the calculation of normal value for non-cooperating exporters of Chinese Taipei and South Korea, as compared to the information provided by the Applicant in the Application. After taking into account the level of cooperation from Chinese Taipei and South Korea, the Commission has decided, to base calculation of normal value, on the cost information provided by the cooperating exporters. For the purposes of calculation of normal value, cost to make and sell of the cooperating exporters has been used. 5% of cost to make and sell has been added on account of reasonable profit. Calculation of adjusted normal value has been placed at Annexure - IV. After adjustments in case of China and Russia, Normal value at ex-factory level for the Exporting Countries works out as follows:-

**Table-II**  
**Normal Value at Ex-factory Level**

Country Name	US\$/MT
Russia	100.00
China	110.59
South Korea - excluding Hanwha Corporation	108.15
Chinese Taipei - excluding Nan Ya Plastics	101.54

Sources: PRAL

Note: For the purpose of confidentiality, the actual figures have been indexed w.r.t normal value at ex-factory level for Russia as base.

## **25. Determination of Export Price**

25.1 The Commission received information on export sales of the investigated product from M/s Hanwa Solutions, Korea and M/s Nan Ya Plastics, Chinese Taipei in response to the Exporter's Questionnaires sent to various exporters/producers. The information submitted by M/s Hanwa Solutions and M/s Nan Ya Plastics has been used for determination on export price as discussed below. Export price for non-cooperating exporters/producers has been determined on the basis of Best Information Available in accordance with Section 32 and Schedule to the Act.

### **25.2 Determination of Export Price for Hanwha Solutions Corporation, Korea**

25.2.1 Export price for M/s Hanwha Solutions has been determined on the basis of the information provided by it on its export sales of the investigated product to Pakistan made during the POI.

25.2.2 According to the information, M/s Hanwha Solutions exported the investigated product to Pakistan during the POI. Its exports of the investigated product to Pakistan during the POI were \*\*\* MT. All export sales to Pakistan during the POI were to un-related customers.

25.2.3 During the POI, M/s Hanwha Solutions exported investigated product mostly on FOB price basis. However, few sales were made on CFR terms. To arrive at the ex-factory level, it has reported adjustments on account of inland freight, ocean freight, handling charges and packing cost. The Commission has provisionally accepted the adjustments. The adjustments claimed would be verified during On-the-Spot Investigation visit. The export price at ex-factory level has been worked out by deducting values reported for accepted adjustments from the gross value of sales transactions. Summary calculations of export price are placed at Annexure-V.

### **25.3 Determination of Export Price for Other Non-cooperating Exporters from Korea.**

25.3.1 Export price for exporters from South Korea other than M/s Hanwha Solutions, 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 Act. Information obtained from PRAL is used for the purposes of determination of export price for non-cooperating exporters from South Korea. This is the only information available with the Commission on export sales of the investigated product by the non-cooperating exporters from South Korea.

25.3.2 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, adjustments on account of inland freight, ocean freight, handling charges and packing cost have been made in the C&F price. Information submitted by M/s Hanwha Solutions on these adjustments has been used for non-cooperating exporters/producers. Calculations of export price for non-cooperating exporters/producers from South Korea are placed at Annexure-VI.

#### **25.4 Determination of Export Price for Nan Ya Plastics Corporation, Chinese Taipei**

25.4.1 Export price for M/s Nan Ya Plastics has been determined on the basis of the information provided by it on its export sales of the investigated product to Pakistan made during the POI.

25.4.2 According to the information, M/s Nan Ya Plastics exported the investigated product to Pakistan during the POI. Its exports of the investigated product to Pakistan during the POI were \*\*\* MT. All export sales to Pakistan, during the POI, were made to un-related customers.

25.4.3 During the POI, M/s Nan Ya Plastics exported investigated product on LC basis. To arrive at the ex-factory level, it has reported adjustments on account of credit cost, rebate, inland freight, ocean freight, handling charges, harbor service fee, trade promotion fee, bank charges and packing cost. The Commission has provisionally accepted the adjustments. The adjustments claimed would be verified during On-the-Spot Investigation visit. The export price at ex-factory level has been worked out by deducting values reported for accepted adjustments from the gross value of sales transactions. Summary calculations of export price are placed at Annexure-VII.

#### **25.5 Determination of Export Price for Other Non-cooperating Exporters from Chinese Taipei.**

25.5.1 Export price for exporters from Chinese Taipei other than M/s Nan Ya Plastics, 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 Act. Information obtained from PRAL is used for the purposes of determination of export price for non-cooperating exporters from South Korea, Chinese Taipei. This is the only information available with the Commission on export sales of the investigated product by the non-cooperating exporters from Chinese Taipei.

25.5.2 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, adjustments on account of credit cost, rebate, inland freight, ocean freight, handling charges, harbor service fee, trade promotion fee, bank charges and packing cost have been made in the C&F price. Information submitted by M/s Nan Ya Plastics on these adjustments has been used for non-cooperating exporters/producers. Calculations of export price for non-cooperating exporters/producers from Chinese Taipei are placed at Annexure-VIII.

#### **25.6 Determination of Export Price for All Other Non-Cooperating Exporters from China and Russia.**

25.6.1 Export price for non-cooperating exporters from China and Russia has been determined on the basis of Best Information Available in accordance with Section 32 of the Act. Information obtained from PRAL is used for the purposes of determination of export price for non-cooperating exporters from China and Russia. This is the only information available with the

Commission on export sales of the investigated product by the non-cooperating exporters from China and Russia.

25.6.2 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, adjustments on account of credit cost, rebate, inland freight, ocean freight, handling charges, harbor service fee, trade promotion fee, bank charges and packing cost have been made in the C&F price. Information submitted by M/s Nan Ya on these adjustments has been used for non-cooperating exporters/producers. Calculations of export price for non-cooperating exporters/producers from China and Russia are placed at Annexure-IX.

## **26. Dumping Margin**

26.1 The Act defines "dumping margin" in relation to a product to mean "*the amount by which its normal value exceeds its export price*". In terms of Section 14(1) of the Act the Commission shall determine an individual dumping margin for each known exporter or producer of an investigated product. In this preliminary determination, the Commission has determined individual dumping margin for the exporters/producers who cooperated with the Commission and supplied necessary information and the provisional antidumping duty rate for the exporters has been calculated on the basis of individual dumping margin. However, residual dumping margins/antidumping duty rates have been determined for non-cooperating exporters/producers of the Exporting Countries.

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

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

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

**Table-III**  
**Dumping Margin**

Country	Exporter Name	Dumping margin as % of	
		Export price	C & F price
South Korea	Hanwha Solutions	7.22	6.96
	All other exporters/producers	17.24	16.51
Chinese Taipei	Nan Ya Plastics	23.52	21.31
	All other exporters/producers	26.74	24.07
China	All exporters/producers	22.87	20.81
Russia	All exporters/producers	18.93	17.11

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

27.1 In terms of Section 41(2) of the Act “an investigation shall be immediately terminated if Commission determines that the dumping margin is negligible or that volume of dumped imports, actual or potential, or injury is negligible.”

27.2 Section 41(3) of the Act states that the dumping margin shall be considered to be negligible if it is less than two percent, expressed as a percentage of the export price. Dumping margins for the dumped imports of the investigated product, set out in paragraph 26.4 supra, appear to be above negligible (*de minimis*) level.

27.3 As regards the volume of dumped imports, Section 41(3) of the Act provides that the volume of such imports shall normally be regarded as negligible if the volume of dumped imports of an investigated product is found to account for less than three percent of total imports of a like product unless imports of the investigated product from all countries under investigation which individually account for less than three percent of the total imports of a like product collectively account for more than seven per cent of the imports of like product. The information/data on dumped imports of the investigated product and other imports of PA has been obtained from PRAL. Volume of dumped imports of the investigated product and PA imported from other sources during the POI (July 01, 2018 to June 30, 2019) is given in a table below:



**Table-IV**  
**Volume of Imports of PA during the POI**

Country	Volume of Imports in:
	Percentage
China	18.22
Chinese Taipei	10.63
Korea	43.67
Russia	18.22
Other Sources	9.28
<b>Total</b>	<b>100.00</b>

Source: PRAL

Note: For the purpose of confidentiality, the actual figures have been indexed w.r.t total imports for the POI as base.

27.4 On the basis of above information, the Commission has preliminarily determined that the volume of dumped imports of the investigated product from the Exporting Countries was well above the negligible threshold (less than three percent of volume of total imports of the like product) during the POI.

**28. Cumulation of Dumped Imports**

28.1 As per Section 16 of the Act:

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

*(a) dumping margin in relation to the investigated product from each countries is more than the negligible amount, and volume of dumped imports from each investigated country is not less than the negligible quantity; and*

*(b) a cumulative assessment of the effects of the imports is appropriate in the light of*

*(i) the conditions of competition between the imports; and*

*(ii) the conditions of competition between the imports and a domestic like product.*

28.2 Investigation by the Commission has revealed that the volume of dumped imports during the POI from the Exporting Countries was above the negligible quantity. Furthermore, dumping margins for each country was also more than the negligible amount.

28.3 It is evident from the weighted average export price charged by the exporters during the POI that there was a price competition between the imports of the investigated product exported

from the Exporting Countries. Weighted average export price of the investigated product during the POI from the Exporting Countries is given in a table below:

**Table-V**  
**Weighted Average C&F Price of the Investigated Product**

Country	Weighted Average C&F Price (US\$/MT)
China	100.00
Chinese Taipei	94.43
Korea	96.90
Russia	94.01

Sources: PRAL

Note: For the purpose of confidentiality, the actual figures have been indexed w.r.t weighted average C & F price of the investigated product for China as base.

28.4 The investigation revealed that there was a competition between investigated product and the domestic like product in terms of price, market share, and sales etc. Conditions of competition between imports of the investigated product and the domestic like product are discussed in detail in paragraphs 31 to 43 infra.

28.5 For the reasons given above, the Commission has cumulatively assessed the effects of dumped imports from the Exporting Countries on the domestic industry in following paragraphs:-

### C. INJURY TO DOMESTIC INDUSTRY

#### 29. Determination of Injury

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

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

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

29.2 Section 15 of the Act further provides that:

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

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

### **30. Domestic Industry**

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

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

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

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

30.2 As stated in Para 7.2 above, the domestic industry manufacturing PA comprises of one unit i.e. the Applicant. The Applicant is neither related to any importer or exporter, nor it import PA itself. Therefore, the Applicant is eligible to apply for anti-dumping investigation.

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

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

30.5 Analysis of injury factors carried out in this preliminary determination in the following paragraphs is, therefore, based on the information provided by the Applicant, which could not be verified by the investigating officers of the Commission after initiation of investigation due to lockdown imposed because of Covid-19 pandemic. The assessment and analysis of injury factors in the following paragraphs is a *prima-facie* analysis.

**31. Volume of Dumped Imports**

**Facts**

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

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

**Table-VI  
Absolute change in Dumped Imports**

Period	Volume of Dumped Imports (MT)	Increase/ (Decrease) (MT)	Increase/ (Decrease) (%)
2016-17	100	---	
2017-18	98	(-2)	(1.70)
2018-19	112	14	13.85

Source: PRAL Year is from July to June

**Analysis**

31.3 It appears from the above table that the dumped imports decreased by 1.70 percent in the 2017-18 over the imports of 2016-17. However, the imports of the investigated product increased by 13.85 percent during 2018-19 over 2017-18.

31.4 Above information show that the volume of dumped imports of the investigated product increased in absolute terms during the last year of the POI.

**32. Price Effects**

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

### 32.2 Price Undercutting

#### Facts

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

**Table-VII**  
**Calculation of Price Undercutting**

Period	Average Domestic Price (Rs./MT)	Average Landed Cost of Dumped Imports (Rs./MT)	Price Undercutting (Rs./MT)	Price Undercutting (%)
2016-17	100	98	2	2.24
2017-18	116	111	4	3.82
2018-19	142	136	6	4.04

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

Note: For the purpose of confidentiality, the actual figures have been indexed w.r.t average domestic price of domestic like product in 2016-17 as base.

#### Analysis

32.2.2 The above table shows that weighted average landed cost of the investigated product imported from the Exporting Countries was lower than ex-factory price of the domestic like product during 2016-17, 2017-18, and 2018-19. Resultantly, the investigated product undercut prices of the domestic like product at the rate of 2.24 percent, 3.82 percent and 4.04 percent respectively. The price undercutting has an increasing trend during the POI.

### 32.3 Price Depression

#### Facts

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

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

Year	Price of domestic like product	Price Depression (%)
2016-17	100	---
2017-18	116	---
2018-19	142	---

Source: the Applicant. Year is from July to June

Note: For the purpose of confidentiality, the actual figures have been indexed w.r.t price of domestic like product in 2016-17 as base.

**Analysis**

32.3.2 The above table shows that ex-factory sales price of the domestic like product increased by Rs. \*\*\*/MT in 2017-18 and by Rs. \*\*\*/MT in 2018-19. It appears from the above facts that the domestic industry *prima facie* did not suffer material injury on account of price depression.

**32.4 Price Suppression**

**Facts**

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

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

Period	Average Cost to Make & Sell (Rs/MT)	Domestic Average Price (Rs/MT)	Increase/ (Decrease) in Average Cost to Make and Sell	Increase/ (Decrease) in Average Domestic Price	Price Suppression	Price Suppression (%)
2016-17	100	115	---	----	---	---
2017-18	103	132	3	18	---	---
2018-19	150	162	47	30	17	10.47

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

Note: For the purpose of confidentiality, the actual figures have been indexed w.r.t average Cost to make and sell in 2016-17 as base.

**Analysis**

32.4.2 As evident from the table above, the Applicant’s average Cost to Make & Sell increased by Rs. \*\*\*/MT in 2018-19. The import data obtained from PRAL of import of Orthoxylene shows that before Feb. 2019 the Applicant was mainly importing (around 88%) Orthoxylene from India at C&F price of US\$\*\*\*/MT, in 2018-19 the C&F price increased to US\$\*\*\*/MT. Further, from March 2019 imports from India were stopped by the Government and imports from India of Orthoxylene decreased from \*\*\*MT in 2017-18 to \*\*\*MT in 2018-19. The Applicant imported the input i.e. Orthoxylene from Taiwan and USA at C&F price US\$\*\*\*/MT and C&F price of US\$\*\*\*/MT respectively. Average C&F price at which the Applicant imported Orthoxylene increased from US\$\*\*\*/MT in 2017-18 to US\$\*\*\*/MT in 2018-19. Therefore, the Applicant *prima facie* suffered price suppression during 2018-19, as it was not able to recover the increase in cost by way of increase in price. This issue will be discussed with the Applicant during On-the-Spot verification at its office.

**33. Effects on Market Share**

**Facts**

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

**Table-X  
Market Share**

Year	Share of Local Industry in Domestic Market				Share of Dumped Imports in Domestic Market		Share of Other Imports in Domestic Market		Total Domestic Market	
	External Sales		In house Consumption		MT	%	MT	%	MT	% Change
	MT	%	MT	%						
2016-17	57	56.46	21	20.60	19	19.09	4	3.84	100	---
2017-18	67	59.82	22	19.29	19	16.80	5	4.15	112	11.70
2018-19	51	53.38	21	21.96	21	22.43	2	2.23	95	(14.73)

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

Note: For the purpose of confidentiality, the actual figures have been indexed w.r.t total domestic market in 2016-17 as base.

**Analysis:**

33.2 The analysis of the above table reveals that the domestic market of PA expanded by 11.70 percent (\*\*\*) during the period 2017-18 as compared to previous year. However, domestic market of PA shrunk by 14.73 (\*\*\*) during 2018-19 as compared to 2017-18, due to reduction in the production of PA user industries i.e. DOP, Plasticizers & Resins, Synthetic leather etc. in 2018-19. It may be noted that there was contraction in total domestic market, but that contraction hurt the external sales of the domestic industry and imports from other countries. It is evident from the table above that share of dumped imports increased whereas share of imports from other sources decreased. It appears that burden of contraction is borne, primarily, by domestic industry. In house consumption and imports from dumped sources were not affected by such contraction. It may be also noted that share of domestic industry decreased during the POI for dumping.

**34. Effects on Sales**

**Facts**

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

**Table-XI**  
**Sales of the Applicant (MT)**

Year	Sales of the Applicant		Internal consumption	Increase/ (Decrease)
	Domestic	Exports		
2016-17	100	1	36	---
2017-18	117	---	38	18
2018-19	89	---	37	(28)

Source: the Applicant Year is from July to June

Note: For the purpose of confidentiality, the actual figures have been indexed w.r.t Sales of the Applicant in Domestic market in 2016-17 as base.

**Analysis**

34.2 The above table shows that the domestic sales of the Applicant increased by 18.36 percent during the year 2017-18 as compared to year 2016-17. However, domestic sales of the Applicant decreased by 23.92 percent as compared to previous year. It may be noted that internal consumption of the Applicant did not fluctuate considerably during the POI for injury. Above table shows that *prima facie* domestic industry suffered injury during the POI for injury.

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

**Facts**

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

**Table-XII**  
**Installed Capacity and Capacity Utilization**

Year*	Installed Capacity (MT)	Production (MT)	Capacity Utilization (%)
2016-17	100	83	83.31
2017-18	100	89	88.86
2018-19	100	74	74.13

Source: the Applicant Year is from July to June

Note: For the purpose of confidentiality, the actual figures have been indexed w.r.t total installed capacity in 2016-17 as base.

**Analysis**

35.2 The capacity of Applicant unit remained the same during the POI i.e. \*\*\* MT per annum. The above table shows that the production of the Applicant increased by \*\*\* MT during 2017-18 as compared to 2016-17. However, production of the Applicant decreased by \*\*\* MT during the year 2018-19 as compared to 2017-18.



**36. Effects on Inventories**

**Facts**

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

**Table-XIII  
Inventories (MT)**

Year	Opening Inventory	Production	Sales		Internal Consumption	Closing Inventory	Change in Inventory
			Domestic	Export			
2016-17	1	100	70	1	26	4	3
2017-18	4	107	83	---	27	1	(3)
2018-19	1	89	63	---	26	1	0

Source: the Applicant Year is from July to June

Note: For the purpose of confidentiality, the actual figures have been indexed w.r.t total production in 2016-17 as base.

**Analysis**

36.2 The above table shows that *prima facie* domestic industry did not suffer material injury on account of inventories as inventories of the domestic like product decreased during the POI for injury.

**37. Effects on Profit/Loss**

**Facts**

37.1 Profit/loss during the POI has been worked out by adding up the profit from sale of by product Maleic Anhydride (MA) into operating profit of PA. Furthermore, the internal transfers of PA to DOP plant have been valued at cost to make and sell minus selling & distribution expenses. The profit/(loss) position of domestic like product during the POI works out to the following figures:

**Table-XIV  
Profit/(Loss) from PA (Rs. millions)**

Year	*Net profit/(loss)
2016-17	100.00
2017-18	224.93
2018-19	76.63

Source: the Applicant. Year is from July to June

\* Profit earned from sale of Maleic Anhydride has been added.

Note: For the purpose of confidentiality, the actual figures have been indexed w.r.t net profit for 2016-17 as base.

**Analysis**

37.2 It appears from the above table that the Applicant was making profits of Rs. \*\*\*million in 2016-17, which increased to Rs. \*\*\* million during 2017-18. However, this profit drastically decreased to Rs. \*\*\* million in 2018-19, due to increase in costs to make and sell, as explained in para 32.4 supra. This issue of decrease in profit in 2018-19 will be discussed with the Applicant during On-the-Spot verification at its office.

**38. Effects on Cash Flow**

**Facts**

38.1 The Applicant in the application took the cash inflow/cash outflow on the basis of net profit/(loss) and adding it to depreciation for the year. Such an approach towards cash flow was adopted for the reason that cash flow cannot be measured with the products i.e. PA, MA, DOP and Alkyd Resins separately. However, such approach towards cash flow ignores the substantial effect of dumping on the elements of cash flow like debtors, stocks, stores and spares etc. The Commission has adopted the cash flow from operating activities as appearing in the audited reports may be taken as verified figures using the approach given in proviso to Section 17 of the Act in terms of which, if separate identification is not possible, the Commission shall assess the effects of dumped imports by examination of production of narrowest group or range of products which includes a domestic like product for which necessary information is available. Cash flow from operating activities of the Applicant during POI is given in the following table:

**Table-XV**  
**Cash Flow from Operating Activities (Rs. millions)**

Year	Cash Flow
2016-17	100.00
2017-18	185.92
2018-19	(114.08)

Source: the Applicant Year is from July to June

Note: For the purpose of confidentiality, the actual figures have been indexed w.r.t cash flow from operating activities for 2016-17 as base.

**Analysis**

38.2 The cash flow of the Applicant increased during the year 2017-18 as compared to the previous year. However, cash outflow increased during the period 2018-19. As stated earlier, cash flow of the Applicant is reported on consolidated basis for all business segments. Therefore, it is not possible to calculate cash flow for PA business segments separately. On the basis of overall cash flow, the domestic industry *prima facie* faced negative effect on its cash flow.

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

**Facts**

39.1 The Applicant’s employment, production, productivity per worker and salaries and wages paid during the POI is given in following table:-

**Table-XVI  
Employment, productivity and wages**

<b>Year</b>	<b>No. of Employees</b>	<b>Salaries &amp; Wages Amount (Rs '000)</b>	<b>Production (MT)</b>	<b>Productivity per worker (MT)</b>	<b>Salaries &amp; Wages per (Rs./MT)</b>
2016-17	100	100	100	100	100
2017-18	107	108	107	100	101
2018-19	102	130	89	87	147

Source: the Applicant Year is from July to June

Note: For the purpose of confidentiality, the actual figures have been indexed w.r.t values of respective columns for 2016-17 as base.

**Analysis**

39.2 The above table shows that the employment in the domestic industry did not fluctuate substantially during the POI. Productivity per worker decreased during the POI whereas salaries and wages per MT increased during the POI.

**40. Effects on Return on Investment**

**Facts**

40.1 Figures for consolidated profit after tax and equity were obtained from annual financial statements of the Applicant. Return on investment realized by the domestic industry for all the products during the POI is given in following table:

**Table-XVII  
Return on Investment (Rs. millions)**

<b>Year</b>	<b>Return on Investment (%)</b>
2016-17	14.66
2017-18	20.56
2018-19	0.91

Source: the Applicant. \* Year is from July - June

Total Investment = Shareholder’s equity + long term loans

Return = Profit + Interest paid on long term loans

**Analysis**

40.2 The above table shows that the return on investment remained positive during the POI for injury. Furthermore, the return on investment increased during the POI for injury.

**41. Ability to Raise Investment**

Dumped imports have adversely affected the profitability of the domestic industry which is evident from the fact that its profits of Rs. \*\*\* million during the year July 2017 – June 2018 decreased to Rs. \*\*\* million during the POI for dumping i.e. July 2018 – June 2019. In such a situation, *prima facie* the investors' confidence over the domestic industry has reduced and ability to raise investment of the domestic industry-seems to be impaired. As the Applicant has not provided convincing evidence in this regard, the Commission is inconclusive about the effects of dumped imports on ability to raise investment. This needs to be sorted out during on the spot verification and to reach at some final conclusion.

**42. Effect on Growth**

There is need of growth in the PA industry, as the total market of PA was more than the installed production capacity of the Applicant in 2016-17 and 2017-18. As the GDP growth of Pakistan decreased in 2018-19, the total demand for PA decreased in 2018-19. In 2017-18 the domestic demand for PA increased by 11% and if there is a forecast of annual increase in demand for PA in future, there would be need to either increase the installed production capacity of the Applicant or another unit is to be set up to cater the growing domestic demand.

**43. Magnitude of Dumping Margin**

As regards the impact on the domestic industry of the magnitude of provisional dumping margins set out above, given the volume and the prices of the imports from the countries concerned, this impact cannot be considered to be negligible.

**44. Summing up of Material Injury**

It appears from above that volume of dumped imports has increased in 2018-19 last year of the POI for injury analysis. Dumped imports are *prima facie* undercutting prices of the domestic industry by 2% to 4% during the POI for injury. The Applicant faced price suppression in 2018-19 due to increase in the Cost to Make & Sell of PA. Domestic market of PA increased by 11.70 percent (\*\*\*) MT) during 2017-18 as compared to previous year, however, it shrunk by 14.73 percent (\*\*\*) MT) during the year 2018-19. Similarly the production of the domestic like product has decreased in 2018-19 partly because of contraction in demand and partly due to increase in the volume of dumped imports in 2018-19. This led to decrease in capacity utilization of the domestic industry. As capacity utilization decreased, productivity of the domestic industry decreased which led to rise in salaries and wages/MT. Resultantly, sales of the investigated product from dumped sources increased. Imports from dumped sources have replaced the domestic like product. As a consequence, market share of the dumped imports increased during 2018-19.

## **D. CAUSATION**

### **45. Effect of Dumped Imports**

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

- i. Volume of dumped imports of the investigated product increased in 2018-19 last year of the POI for injury;
- ii. Domestic industry experienced price undercutting and price suppression *prima facie* due to dumped imports of the investigated product;
- iii. Market share of dumped imports of the investigated product increased;
- iv. Domestic industry faced negative effect on sales;
- v. Domestic industry faced decline in profits;
- vi. Domestic industry faced decline in production and capacity utilization;
- vii. Domestic industry faced negative effect on cash flow, return on investment, productivity, wages and salaries/MT and ability to raise capital and

45.2 On the basis of the analysis and conclusions, the Commission is of the view that *prima facie* there is a causal link between dumped imports of the investigated product and material injury suffered by the domestic industry.

### **46. Other Factors**

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

46.2 The Commission's investigation showed that the domestic industry did not suffer injury due to imports of the like product from sources other than the Exporting Countries during the POI for dumping. The imports from sources other than the Exporting Countries were in lesser quantities. The landed cost of such imports was higher than ex-factory price of the domestic like product and landed cost of investigated product except for the second year of POI for injury. Following table shows volume and landed cost of PA imported from other sources during the POI:

**Table-XVIII**  
**Imports from Other Sources**

Year	Volume of Dumped Imports (MT)	Imports from Other Sources (MT)	Landed Cost from dumped source (Rs./MT)	Landed cost from other sources (Rs./MT)
2016-17	100	20	100	108
2017-18	98	24	114	111
2018-19	112	11	139	182

Note:- Year is from July - June

Note: For the purpose of confidentiality, the actual figures have been indexed, volume of dumped imports and from other sources columns w.r.t the volume of dumped imports for 2016-17 and the columns of landed cost from dumped and other sources w.r.t the landed cost from dumped sources for 2016-17 as base.

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

- i. There was contraction in demand for PA, however, such decrease had negative effect on the sales of domestic industry and imports from other sources;
- ii. There was no change in technology to produce PA; and
- iii. The Applicant has not exported PA during the POI, hence there was no effect on export performance of the domestic industry during the POI.
- iv. During the POI there was no change in trade restrictive practices.

46.4 The Commission is of the view that the dumped imports are *prima facie* only likely factor to cause injury to the domestic industry.

## E. CONCLUSIONS

47. The conclusions, after taking into account all facts and analysis carried out in this preliminary determination, are as follows:

- i. the application was filed on behalf of the domestic industry as the Applicant represent 100% of the domestic production.
- ii. the investigated product and the domestic like product are like products;
- iii. the volume of dumped imports of the investigated product and the dumping margins established for the exporters/producers of the investigated product from China, Chinese Taipei, Korea and Russian Federation were above the negligible and *de minimis* levels respectively;

- iv. the Applicant is a multi-product producing company and its published Audited Accounts are consolidated accounts of different segments producing Phthalic Anhydride, Maleic Anhydride, Polyester Resins, Alkyd Resin, and Plasticizers. Due to lockdown imposed since third week of March 2020 because of Covid-19 pandemic, the concerned officers of the Commission could not carry out On-the-Spot verification of data /information provided by the Applicant in its application from the records maintained at its office and plant. The team of NTC officers normally verifies the data/information pertaining to injury factors like cost to make and sell, ex-factory prices, production, sales, profits, cash flow, return on investment etc before reaching to the Preliminary Determination;
- v. while making this preliminary determination the Commission could not make determination of material injury to the domestic industry during the POI in terms of Section 15 and 17 of the Act, because of unverified data /information provided in the application.
- vi. several issues /queries have been raised by the users of PA (as industrial input) in their comments on initiation of this investigation. Commission's replies to those comments are given in annotated form in the Annexure-I of this Report of Preliminary Determination;
- vii. the volume of dumped imports during the POI was in the range of 16 to 20 percent of total market of around \*\*\*MT, and the Commission is of the view that there are little chances of import of PA in large volumes during the remaining period of this investigation;

**F. Non-Imposition of Provisional Antidumping Duties**

In view of the above analysis and conclusions with regard to dumping, material injury, and causation, the Commission is of the view that the imposition of provisional antidumping duties on dumped imports of the investigated product from the Exporting Countries is not necessary to prevent injury being caused to the domestic industry during the course of investigation till final determination, in accordance with Section 43 of the Act.

(Mr. Abdul Khaliq)  
Member

(Mr. Tippu Sultan)  
Member

(Mrs. Anjum Asad Amin)  
Member

(Mr. Muhammad Saleem)  
Member

(Mrs. Robina Ather)  
Chairperson

**Annexure-I**

<b>Comments of Interested Parties</b>	<b>Commission's response</b>
<p><b>Comments filed by i) Nimir Resins Limited, ii) Power Chemicals Limited, iii) Chawla Chemical &amp; Metal Industries (Pvt.) Limited, iv) Archroma and Shalimar Resins Industries (Pvt.) Ltd:</b></p> <p>1. NCPL is the sole manufacturer of Phthalic Anhydride in Pakistan and has also entered in the downstream industries (Alkyd Resins and DOP), where PA is consumed as input in major quantity. NCPL's sister concern (ATS Synthetics) is also in the manufacturing of DOP. Their combined capacity constitutes significant share in total DOP and Alkyd Resin production in Pakistan. This gives a unique monopolistic position to NCPL. NCPL also sells major portion of PA to its sister concern or self-consumes it for production of DOP and Alkyd Resins. This fact was noted by the Commission in its final determination report dated December 14, 2017 in case of investigation of alleged dumping of PA from Russian Federation, the price at which NCPL sells PA to its related parties doesn't even cover its cost to make and sell.</p>	<p>The concerns raised regarding monopolistic position enjoyed by the Nimir Chemical Pakistan Limited (NCPL) may be brought before the relevant forum (Competition Commission of Pakistan) for resolution under prevailing laws. According to the financial statements of the Applicant: "All transactions with related parties and associated undertakings are entered on arm's length basis determined in accordance with comparable uncontrolled basis".</p> <p>Since the NTC investigating team has not conducted On-the-Spot Investigation to verify the data /information provided in the application by the Applicant, due to lockdown because of Covid-19. The issue of selling PA to its related /sister concern (for production of DOP &amp; Alkyd Resin) at price which does not cover its cost to make and selling will be verified from the record of NCPL during the verification visit.</p>
<p>2. NCPL enjoys 11% tariff protection on PA, 4% free recovery of Maleic Anhydride as by-product and over 10% gain in yield due to its exothermal process. NCPL passes these benefit of its sister concern (ATS Synthetics) and also transfers PA at cost for internal consumption for the production of DOP and Alkyd Resins. As against this, NCPL had adopted the policy of charging higher prices (in comparison to international market) from the other downstream DOP and Alkyd Resins industries to make their products more expensive. This factor has forced these industries to import PA from different sources at fair prices, prevailing in the international market. The real purpose of the antidumping applications by NCPL is to thwart fair imports and maintain a complete</p>	<p>As stated earlier, according to the financial statements of the Applicant, it adopted the policy of transfer of PA to its related parties (sister concerns) at arm's length price.</p> <p>For the purposes of this preliminary determination the Commission has relied in this data /information stated by the Applicant in its financial statement. However, this issue will be discussed and verified from the accounting records maintained by the Applicant, once the NTC investigating team conducts On-the-Spot verification at its office and plant.</p>



<b>Comments of Interested Parties</b>	<b>Commission's response</b>
<p>monopoly in the PA manufacturing as well as the downstream market of DOP and Alkyd Resins.</p>	
<p>3. The Commission has previously conducted investigation of dumping of PA against as many as 10 countries and the summary is as follows:</p> <ul style="list-style-type: none"> <li>• The Commission terminated the definitive antidumping duties on the imports of PA from Brazil, China, Indonesia, Taiwan, and Korea on March 28, 2017 in conclusion of sunset review under Section 58 of the Act. NCPL has filed Appeal No. 192 of 2017 before the Anti-Dumping Appellate Tribunal ("<b>Tribunal</b>"), which, as per their statement made in the application before the Commission for investigation under challenge, is still pending.</li> <li>• The Commission terminated antidumping duties on Iran, Italy and Thailand on November 28, 2016 in conclusion of review under Section 58 of the Act.</li> <li>• Vide the final determination dated December 14, 2017, the Commission concluded the investigation against Russia without imposition of antidumping duties in view of its findings that NCPL did not suffer material injury due to imports of PA from Russia. As per the statement given by NCPL at page 24 of its application, NCPL has filed Appeal before the Tribunal, which is still pending adjudication before it.</li> </ul> <p>It is evident from the foregoing that NCPL is habitually and without any lawful reason or justification has been filing applications for imposition of antidumping duties against every country from which user industry imports PA. The recent investigation in case of Russia concluded without imposition of duties with the findings of Commission that NCPL's sells PA to its own related parties at price which is below cost sales of PA, is the cause of injury and not the imported PA.</p>	<p>The Applicant has been approaching the Commission with an application for imposition of antidumping duties against alleged imports at dumped prices from different sources from time to time under Antidumping Duties Ordinance, 2000 (now Antidumping Duties Act, 2015), which is its legal right under the law, which cannot be denied.</p> <p>Upon receipt of the Application, the Commission examines the accuracy and adequacy of evidence provided in the application in accordance with Section 23 of the Act and if it is established that there is sufficient evidence of alleged dumping, and consequent injury to the domestic industry, the Commission initiates an antidumping investigation.</p> <p>It is a fact that the Commission initiated first antidumping investigation against dumped imports of PA from India on August 11, 2005 and antidumping duty @ 10.94% ad val of C&amp;F price was imposed on February 13, 2006. This duty @ 10.94% was continued after first sunset review for a period of five years w.e.f February 13, 2011. This duty @ 10.94% was continued after second sunset review for a period of five years w.e.f February 09, 2017.</p> <p>The Commission also conducted a second antidumping investigation against imports of PA from Brazil, China, Indonesia, Taiwan, and Korea and imposed antidumping duties ranging from 5.87% to 27.28% w.e.f September 30, 2010 for a period of 5 years. On the conclusion of sunset review the Commission decided to terminate the definitive anti-dumping duties imposed on imports of PA from the</p>

Report of Preliminary Determination in Anti-dumping Investigation against Dumped Imports of Phthalic Anhydride into Pakistan Originating In and / Or Exported from China, Chinese Taipei, Korea and Russia

<b>Comments of Interested Parties</b>	<b>Commission's response</b>
	<p>Exporting Countries with effect from March 28, 2017.</p> <p>The Commission conducted third antidumping investigation against dumped imports of PA from Iran, Italy and Thailand and imposed antidumping ranging from 7.62% to 12.91% w.e.f August 5, 2013. However, these antidumping duties on Iran, Italy and Thailand were terminated on November 28, 2016 on conclusion of sunset review under Section 58 of the Act.</p> <p>The Commission in every investigation makes the determination of dumping, material injury to the domestic industry and causal link in accordance with the provisions of Antidumping Duties Act, 2015 and decides every investigation on its own merits. There are cases where the Commission imposed antidumping duties in cases filed by NCPL, and on the other hand, terminated or did not impose the duties in the other cases filed by it.</p>
<p>4. Based on the annual audited financial accounts submitted by NCPL to SECP, we have prepared analysis of financial results, it is evident from this analysis that there is a continuous growth in business and profitability of NCPL. NCPL has earned a net profit of Rs.378 million in the last financial year 2018 as against Rs.362 million earned in 2017 and Rs.220 million earned in financial year 2016. After adding back depreciation, the cash profit of the company stood at Rs.585 million for the financial year 2018. NCPL has been continuously paying dividend of Rs.595 million per annum (representing 70% of share capital) in last three years period i.e. from 2016 to 2018. Furthermore, NCPL has paid Rs. 2.5 billion to its shareholders up to December 2018 from the date they acquired the company in 2011. With such strong profitability and cash flows, there is no probability of injury to NCPL.</p>	<p>The Commission has examined the effects of dumped imports on the profit of the Applicant with regard to PA operations. Please refer to paragraph 37 of the Report of PD.</p> <p>The issue of profit from PA operation will be verified from the record of NCPL during the verification visit to its office.</p>
<p>5. The main profits of NCPL come from PA in which it has a monopoly and due to stiff competition in the DOP</p>	<p>Reference para 37 of the preliminary determination report, the Applicant has not</p>

<b>Comments of Interested Parties</b>	<b>Commission's response</b>
<p>and Alkyd Resin markets, the profit margins in these sectors are very negligible. However, NCPL fabricates and distort the information provided to the Commission and wrongly shows losses in PA.</p> <p>Following are our submissions in the regard:</p> <ul style="list-style-type: none"> <li>• PA is produced from a single raw material, Ortho Xylene ("OX"), which is derived from a petrochemicals chain. As such OX price is linked with crude oil and keeps fluctuating in the international market on daily basis. Accordingly, there is also a wide variation in the international prices of PA.</li> <li>• Current net tariff protection on PA is 11%. Duty on PA for last many years it is 11% whereas there was 3% duty on OX; having a net protection of 8%. We, the consumer industry, supported NCPL and helped them reducing the duty on OX to Zero in the Supplementary Budget for the year 2018-19; thus securing 11% net tariff protection for PA.</li> <li>• Due to exothermal process, with input of 100 kg of OX, 100 to 114 Kg of PA is produced, depending upon the life of the catalyst. When the catalyst is replaced, the yield goes up to 114 which gradually reduces to 110 when the life of the catalyst is finished. As such there is significant yield gain to NCPL which contributes towards the profitability of PA.</li> <li>• Maleic Anhydride ("MA"), is a by-product of PA that is produced by NCPL. The recovery of MA is around 4% and MA has a higher value and is made without any raw material cost. Therefore, its sale price becomes profit for company and should be included in the profits of PA, which as established from previous investigations is not done by NCPL.</li> <li>• Due to exothermal process, PA produces free energy which is enough for PA's own requirement and at times, it is surplus and used for other products. It has been the practice of</li> </ul>	<p>incurred loss on operations of PA during the POI of injury, however, the issue of profit from PA operation will be verified from the record maintained by NCPL during the verification visit to its office.</p> <p>The Applicant submitted only PA segment financial data to the Commission to access the actual financial position of the PA segment of the Applicant's operations. The Commission made the necessary adjustments to reach the actual profit of the segment. The Commission considered all the issues raised while making this preliminary determination.</p> <p>The profit of MA has been added to the profit from PA operations.</p> <p>Energy required only for the production of PA has been attributed to it.</p>

<b>Comments of Interested Parties</b>	<b>Commission's response</b>
<p>NCPL to allocate total energy cost (incurred on other products) on PA too.</p> <ul style="list-style-type: none"> <li>• It has been a wrong practice of NCPL, as also noted by the Commission during previous investigations, that NCPL charges lower prices for sales to related parties whereas same should be booked at normal selling price of PA. The selling price of PA sales to ATS Synthetics must be in line with the average selling price of PA charged to other customers.</li> <li>• NCPL does not provide segment reporting (product wise breakup of P&amp;L) in its Annual Accounts. Hence audited accounts of NCPL provide overall profitability of the company and allocation into PA and other products is done by the company itself on the basis most suited to them to create fictitious injury in PA.</li> <li>• NCPL allocates the Cost of Sales on the basis of sale volume of PA instead of production volume. Furthermore, this allocation is done only to arrive at Gross Profit. Other expense after gross profit level i.e. administrative, financial, taxation etc. are not allocated fairly. As a result, higher cost is charged to PA and profit is passed on to other downstream products like DOP and Alkyd Resins.</li> <li>• Following normal accounting practices, NCPL charge actual cost of production to downstream products. This practice is not objectionable for the purpose of book keeping. However, in order to calculate true profitability of each product, PA consumed in-house for the manufacturing of DOP and Alkyd Resins must be charged at average selling price of PA prevailing in the market.</li> </ul> <p>It is evident from the foregoing that there is overwhelming evidence that NCPL does not suffer injury due to imports and main cause of injury, if any, is due to other factors.</p>	<p>As stated earlier, according to the financial statements of the Applicant it adopted the policy to transfer of PA to its related parties at arm's length price. However, this fact will be verified from the record maintained by the Applicant during On-the-Spot verification at its office and plant.</p> <p>The allocation of profit amongst different product will be checked and verified during On-the-Spot verification.</p> <p>PA has been charged to internal consumption on the cost to make and sell basis excluding selling and distribution expenses.</p> <p>As above.</p>

<b>Comments of Interested Parties</b>	<b>Commission's response</b>
<p>7. The prices of PA published by ICIS for Pakistan are in line with the prices offered for other neighboring countries. Furthermore, all imports are in line with ICIS scans reported for Pakistan. It is evident from the record that there is no dumping and the figures of normal value presented by NCPL in its application are untrue and distorted.</p>	<p>Dumping margin for cooperating exporters from Korea and Chinese Taipei has been determined on the basis of data /information provided by the exporter concerned. For dumping determination, please see paragraphs 23 to 26 of the Report of PD.</p>
<p>8. PA is manufactured through two different processes:</p> <ul style="list-style-type: none"> <li>• Ortho-xylene process (the one NCPL has); and</li> <li>• Naphthalene process</li> </ul> <p>PA manufactured through Naphthalene process is cheaper and lower in quality and cannot be treated as 100% like-product for comparison of prices. The local industry of PA, imports PA from a manufacturers in China which only produces it through Naphthalene process and in like to like comparison, the PA produced from Naphthalene process can't be compared with PA produced from Ortho-xylene process. Therefore, relatively cheaper imports are due to this reason and not dumping.</p>	<p>There is no difference between PA produced from Orthoxylene and PA produced from Naphthalene in terms of end use applications. The cooperating exporters/producers from Korea and Chinese Taipei are producing PA from Orthoxylene. One exporter/producer from China, who has provided incomplete /insufficient information stated that it produces PA from both process. It is impossible to segregate PA produced from Orthoxylene and PA produced from Naphthalene on the basis of PRAL data as description column does not have such details.</p>
<p>9. The total volumes of imports of PA in Pakistan are very insignificant for any exporters. NCPL has alleged in its application that manufacturers in the exporting countries have huge surplus capacities in hundreds of thousands tons each. The actual import data, however, indicates that there were only couple of suppliers who supplied around 1,000 tons of PA to Pakistan in one year. The imports from other individual suppliers are highly insignificant. These volumes for any exporter are fraction of a percent of their total production. So it does not make sense that these exporters will dump the product in Pakistan for such negligible volumes.</p> <p>Furthermore, there was negligible increase in imports from China, Korea and Taiwan when antidumping duties previously levied by the Commission on imports from Russia were removed, which is a quite normal phenomenon and can't be considered as surge in imports from these countries. The imports from Russia have actually decreased from 5000 tons to 1,200 tons after antidumping duties were removed from other</p>	<p>The volume of dumped imports from each exporting country under investigation is given in the paragraph 27.4 of the Report of PD. The import data has been obtained from PRAL.</p> <p>As regards the volume of dumped imports, Section 41(3) of the Act provides that the volume of such imports shall normally be regarded as negligible if the volume of dumped imports of an investigated product is found to account for less than three percent of total imports of a like product unless imports of the investigated</p>

Comments of Interested Parties	Commission's response																									
<p>exporting countries. Therefore, the negligible imports from Russia can't also be considered as significant volumes of imports for the purpose of dumping. Based on import numbers available with us, the imports in last four years (in tons) from the countries alleged for dumping are summarized below:</p> <table border="1" data-bbox="181 537 846 764"> <thead> <tr> <th>Countries</th> <th>2016</th> <th>2017</th> <th>2018</th> <th>2019</th> </tr> </thead> <tbody> <tr> <td>Russia</td> <td>4,976</td> <td>2,918</td> <td>1,733</td> <td>1,244</td> </tr> <tr> <td>China</td> <td>56</td> <td>-</td> <td>1,389</td> <td>1,296</td> </tr> <tr> <td>Chinese Taipei</td> <td>-</td> <td>-</td> <td>1,278</td> <td>774</td> </tr> <tr> <td>Korea</td> <td>616</td> <td>2,858</td> <td>1,636</td> <td>3,032</td> </tr> </tbody> </table> <p>Our comments on the above imports are as follows:</p> <ul style="list-style-type: none"> <li>PA imports from Russia has in fact reduced to one-fourth during the year 2019 (POI) from 4,976 tons in 2016 to 1,244 tons in 2019. We do not see any reason of accepting a fresh case by of anti-dumping by the Commission against Russia, when the imports have reduced so significantly. We do not see any change in the circumstances which can lead for initiation of such cases. It is important to mention that lead time from Russia to Pakistan is over three months and transactions are done through middlemen due to restriction on banking channels. Hence Pakistan can never be a market for dumping for Russian exporters.</li> <li>China is comparatively a different market because major production of PA in China is from Naphthalene process, which is based on their indigenous raw material (available in ample quantity). Therefore, PA coming from China is comparatively cheaper than other sources and is also inferior in quality in comparison to OX process and normally used for relatively low grade applications. Therefore, PA coming from China cannot be treated as 100% like-product. Overall imports of PA from China has reduced by 7% during the year 2019 (POI) and stood at 1,296 MT against 1,389 MT in 2018.</li> </ul>	Countries	2016	2017	2018	2019	Russia	4,976	2,918	1,733	1,244	China	56	-	1,389	1,296	Chinese Taipei	-	-	1,278	774	Korea	616	2,858	1,636	3,032	<p>product from all countries under investigation which individually account for less than three percent of the total imports of a like product collectively account for more than seven per cent of the imports of like product. The information/data on dumped imports of the investigated product and other imports of PA has been obtained from PRAL. Volume of cumulative dumped imports of the investigated product from the Exporting Countries and PA imported from each Exporting Country were above the <i>de-minimis</i> level. Please refer to paragraph 27 and paragraph 33 of the Report of PD.</p> <p>Imports from the Exporting Countries including Russia have been considered cumulatively for the purposes of injury analysis as provided for in Section 16 of Antidumping Duties Act, 2015. Even individual share of dumped imports from each of the exporting country was in the range of 10.63% to 43.67%, please see Table IV in paragraph 27 of the Report of PD.</p> <p>It is wrong to say that PA originating from China is cheaper, in fact PA originating from China has highest C&amp;F price as compared to other exporting countries. Further, imports of PA from China also exceed the <i>de-minimis</i> level. PA imported from China has the same end use as that of PA produced from Ortho-xylene. Please see analysis made in paragraph 28 of the Report on PD.</p>
Countries	2016	2017	2018	2019																						
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<b>Comments of Interested Parties</b>	<b>Commission's response</b>
<ul style="list-style-type: none"> <li>• Pakistan is a very insignificant PA market for any Taiwan exporters. PA imports from Taiwan reduced by 39% during the year 2019 (POI) and stood at 774MT against 1,278 MT in 2018. These small volumes and in fact reduction in import volumes do not justify the initiation of anti-dumping case against Chinese Taipei.</li> <li>• Pakistan is a very insignificant market for any Korean exporter of PA. Average monthly import of PA from Korea is 252 tons, which is further divided in 8 customers. Hence average export of a manufacturer is only 32 tons per month. No one can even think to dump PA in such a small market. Most of the exporters have large production capacities as mentioned by NCPL in their application note no. 11/C (Table 20). Their exports to Pakistan are just a fraction of their daily production.</li> </ul>	<p>Exporter from Chinese Taipei has cooperated with the Commission and provided the requisite data/information on Exporter's Questionnaire, meaning thereby that the company values its sales of PA to Pakistani market. Furthermore, the imports from Chinese Taipei were more than (i.e. 10.63%) the <i>de-minimis</i> level that is 3% of total imports of PA during the POI.</p> <p>Exporter from Korea has also cooperated with the Commission and provided the requisite data/information on Exporter's Questionnaire, meaning thereby that the company values its sales of PA to Pakistani market. Furthermore, the imports from Korea were more (i.e. 43.67%) than the <i>de-minimis</i> level of 3% of total imports of PA during the POI.</p>
<p>10. It is evident that there is no dumping of PA in Pakistan and also there is no change in the circumstance since the Commission had removed the antidumping duty. We hereby request the Commission to withdraw the notice of initiation of investigation and immediately terminate the captioned investigation of alleged dumping from Russia, China, Chinese Taipei and Korea. We request Commission to see the interests of overall industry instead of promoting the monopolistic position of NCPL and allow fair imports in Pakistan.</p>	<p>The Commission has determined in this preliminary determination that PA was exported to Pakistan from the Exporting Countries at dumped prices. The concerns of the user industry are also kept in mind while making this preliminary determination.</p> <p>However, as mentioned earlier there are relevant forums for contesting the alleged monopolistic position of NCPL.</p>
<p><b>Comments of Chawla Chemical and Metal Industries (Pvt.) Limited:</b></p> <p>11. M/S Nimir Chemicals is the only producer of this product and their plant is quite outdated. The quality of their product is not at par with international standards, resulting in manufacturing loses. Apart from this they do not supply the required quantity when we enquire with them without giving any reason. They supply quantities at their own will and above Scan price looking at the market situation of the final product manufactured from Phthalic that is DOP.</p>	<p>No evidence has been provided that could substantiate the claim that product produced by the Applicant is not at par with the international standards. Similarly, the existence of closing inventory at the end of each year of the POI for injury suggests that the Applicant had the ability to supply the domestic like product. Unutilized capacity of the Applicant augments this argument further. However, Chawla Chemical may submit the evidence in</p>

Comments of Interested Parties	Commission's response
	support of its claims for the consideration of the Commission.
<p><b>Comments of the Ministry of Economic Development of the Russian Federation:</b></p> <p>12. It is important to mention that the Russian side was not able to verify the information presented in the Application from Nimir Chemicals Pakistan Limited (hereinafter-Application) on the Russian Normal Value and Export Price because all the figures in the Application are indexed. Therefore, it is impossible to calculate dumping margin for the Russian product which means that the information on dumping margin submitted by the Pakistan industry (hereinafter-Applicant) is not transparent.</p> <p>At the same time the Application does not contain any source of information on indicators related to the product from Russian Federation.</p> <p>Normal Value is calculated as per constructed cost method, which cannot be sufficient evidence of dumping.</p> <p>At the same time according to Article 31.5 of Antidumping Duties Act 2015 (hereinafter-Law) and Article 6.5.1 of the WTO Antidumping Agreement (ADA), the party submitting confidential information should provide its non-confidential summary, which should be in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence. In accordance with Section 31.4 of the Law, a party wishing to keep information confidential must provide data justifying the confidentiality of information.</p> <p>Meanwhile the Applicant only indicates most of the sections of the Application that the information is confidential without justifying it.</p>	<p>The known exporters / producers of PA from Russia were requested to provide the data / information on the prescribed Exporter's Questionnaire, however, none of the exporters/producers from Russia cooperated in this investigation. Dumping margin for all exporters/ producers of PA from Russia has been determined on the basis of Best Information Available in terms of Section 32 of the Antidumping Duties Act, 2015, please see paragraph 24.4 and 25.6 of the Report of PD.</p> <p>The Applicant followed the relevant provisions of Section 31 of the Act, which deal with the confidentiality. Whenever certain information was claimed confidential, non-confidential summaries permitting a reasonable understanding of the substance of the information submitted in confidence were provided. However, in exceptional circumstances non-confidential version for certain information was not provided where such information was not susceptible to summarization. This exception is also provided for in Section 31(6) of the Act. The Applicant has provided the indexed summaries of the confidential information, including Normal Value calculation for each Exporting Country, which has been placed in the Public File for review /inspection of all the interested parties during office hours from Monday to Thursday.</p>
13. According to Article 3.5 of the ADA, "The authorities shall also examine any known factors other than the	The Commission considered all relevant factors other than dumped imports in



<b>Comments of Interested Parties</b>	<b>Commission's response</b>
<p>dumped imports which at the same time are injuring the domestic industry, and the injury caused by these factors must not be attributed to dumped imports".</p> <p>We would like to note that the import price of product includes the amount of import of customs duties and internal taxes of Pakistan (in total 35.5%) and despite this, product manufactured in Pakistan cannot compete with imported one in price, "importers kept of hunting for sources of dumped importation".</p> <p>The Application contains information on the long lasting (since 2005) trade protection of the product. The Applicant notes that antidumping measures were first imposed in respect of India for a period of 5 years. In 2010 antidumping measures were imposed to the import of the product from Brazil, China, Indonesia, Korea and Taiwan. From 2013-16 antidumping measures were applied to the import of product originating from Italy, Iran and Thailand. Thus the Applicant has been benefiting from trade remedies along with tariff protection for quite a long time. Consequently it is highly arguable to attribute the injury referred to by the Applicant to dumped imports.</p> <p>In addition the authority compelled in 2017 an antidumping investigation concerning import of the product from the Russian Federation without final measures (Preliminary measures were in effect for four months June-Oct 2017). We believe that the completion of the investigation without imposition of measures indicates the absence of dumped imports from Russia.</p> <p>We would like to point out that indicators of the Applicant provide mix message. Growth in the number of employees and wages took place at the same time with the drop in production and domestic sales, negative profitability. This may well be the reason of low interest on investment.</p> <p>However according to the annual report (2019) posted on the official website of the Applicant the main performance indicators of the Applicant shows a steady growth. Therefore the sales turnover of the Applicant during the investigation from 2016-2019 increased from 5011 million rupees to 14,850 million rupees, gross profit increased from 972 million rupees to 2030 million rupees, EBITDA increased from 832 million rupees to</p>	<p>accordance with Article 3.5 of the ADA and Section 18(2) of the Act, while making this preliminary determination.</p> <p>The Applicant's right to approach the Commission with an application for imposition of antidumping duties cannot be denied. Upon receipt of the Application, the Commission examines the accuracy and adequacy of evidence in the application in accordance with Section 23 of the Act and if established, that there was sufficient evidence of dumping, material injury to the domestic industry producing like product, the Commission initiates an antidumping investigation.</p> <p>In this case the Commission found <i>prima-facie</i> sufficient evidence of dumping of PA into Pakistan from the Exporting Countries and such imports are causing material injury to the domestic industry. The Commission decides every investigation on its own merits. There are cases where the Commission imposed antidumping duties in cases filed by NCPL, and on the other hand, terminated or did not impose the duties in the other cases filed by it.</p> <p>The Ministry, while quoting the facts, has relied on the annual report of "Nimir Resins Limited" which is in fact one of the importers of PA rather than mentioning the figures from the audited accounts of the Applicant i.e. Nimir Chemicals Pakistan Limited.</p>

Comments of Interested Parties	Commission's response
<p>1804 million rupees. These figures do not confirm the injuries to the Applicant.</p>	
<p>14. According to Article 3.3 of the ADA," a cumulative assessment of the effects of the imports is appropriate in light of the conditions of the competition between the imported products and the condition of the competition between the imported products and the like products". In this regard we believe that the import from the Russian Federation should be considered separately from imports from other countries, since the supply of the product from the Russian Federation from 2016-19 was declining, unlike China, Korea and Taiwan which supplies were growing.</p> <p>Thus, significant difference in the trends of volume of imports from the Russian Federation and from other countries indicates the absence of the influence of imports from the Russian Federation on the economic and financial performance of the Applicant.</p>	<p>The Commission has cumulatively assessed the effects of the dumped imports from the Exporting Countries in terms of Section 16 of the Act. Investigation by the Commission has revealed that the volume of dumped imports during the POI from the Russian Federation was above the negligible quantity. Furthermore, dumping margin for the exporters of Russian Federation was also more than the negligible amount.</p> <p>It is evident from the weighted average export price charged by the exporters during the POI that there was a price competition between the imports of the investigated product exported from the Russian Federation and other Exporting Countries.</p> <p>The investigation further revealed that there was a competition between investigated product and the domestic like product in terms of price, market share, and sales etc.</p> <p>For the reasons given above, the Commission has cumulatively assessed the effects of dumped imports from the Exporting Countries on the domestic industry.</p>
<p>15. We would like to draw attention of the Authority to the impact of the general economic situation in Pakistan on the Applicant, including inflation of (5.08%) devaluation of the national currency at the end of 2018 (34.9%).</p> <p>We believe that the costs of the product increased due to the purchase of more expensive imported raw materials Ortho-xylene (by 12%), which also affected the price of the Applicant competitiveness on the domestic market. The devolution of the Pakistani rupee, in turn,</p>	<p>The Commission considered all the relevant factors other than dumped imports, while making this preliminary determination. As the imports volume and dumping margin for Russia are above the <i>de-minimis</i> level thus the investigation against Russian Federation cannot be terminated.</p>

Report of Preliminary Determination in Anti-dumping Investigation against Dumped Imports of Phthalic Anhydride into Pakistan Originating In and / Or Exported from China, Chinese Taipei, Korea and Russia

<b>Comments of Interested Parties</b>	<b>Commission's response</b>
<p>contributed to rising competitiveness of the imported product.</p> <p>We believe that it is important to have in mind the value of competition for the interest of consumers while applying tariff protection and trade remedies.</p> <p>The Ministry of Economic Development of the Russian Federation calls the Authority to kindly take into consideration the arguments of the Russian side and exclude the Russian Federation from the anti-dumping investigation.</p> <p>At the same time, in accordance with Article 6.2 of the ADA, we ask the Pakistani side to conduct public hearing to provide an opportunity for all interested parties to express their views.</p>	