

(NON-CONFIDENTIAL)



**Government of Pakistan
National Tariff Commission**

Report

On

**Preliminary Determination of Anti-Dumping Investigation
on Dumped Imports of Certain Electrical Capacitors into
Pakistan Originating in and/or Exported from the
People's Republic of China**

**ADCNo.57/2020/NTC/CAP
July 13 , 2020**

Preliminary Determination of Anti-Dumping Investigation on Dumped Imports of Certain Electrical Capacitors into Pakistan Originating in and/or Exported from the People's Republic of China

The National Tariff Commission (the "Commission") having regard to the Anti-Dumping Duties Act, 2015 (the "Act"), the Anti-Dumping Duties Rules, 2001 (the "Rules") and the WTO's Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (the "Antidumping Agreement").

2. The Commission is responsible for conducting anti-dumping investigations for determination of dumping of the imported products, injury to the domestic industry and imposition of anti-dumping duty to offset injurious impact of dumped imports on domestic industry and to ensure fair competition thereof.

3. The Commission is conducting an investigation on alleged dumped imports of different types of electrical capacitors ("Certain Capacitors") into Pakistan originating in and/or exported from the People's Republic of China, under the Act and the Rules. The Commission has made preliminary determination in this investigation under Section 37 of the Act. This report on preliminary determination has been issued in accordance with Rule 10 of the Rules.

4. 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. This investigation was initiated on January 23, 2020. The preliminary determination is based on the information available to the Commission so far.

A. PROCEDURE

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

6. Receipt of Application

6.1 On November 22, 2019, the Commission received a written application under Section 20 and 24 of the Act from M/s. Khawaja Electronics (Pvt) Limited, Lahore, (the "Applicant"). The Applicant is a domestic producer of different types of electrical capacitors i.e. start capacitor, running capacitor, tubular capacitor, power factor high voltage capacitor, power factor low voltage capacitor and A.C capacitor. The Applicant has alleged that start capacitor, running capacitor, tubular capacitor, and A.C capacitor (the "Certain Capacitors") are being exported to Pakistan at dumped prices from the People's Republic of China ("China"). According to the Applicant, alleged dumped imports of Certain Capacitors from China have caused and are causing material injury to Pakistan's domestic industry producing Capacitors.

6.2 The Commission informed Embassy of China in Islamabad through a note verbal dated November 29, 2019 of the receipt of application in accordance with the requirements of Section 21 of the Act.

7. Evaluation and Examination of the Application

Examination of the application showed that it met requirements of Section 20 of the Act as it contained sufficient evidence of dumping of Certain Capacitors into Pakistan from China and material injury to the domestic industry caused therefrom. Requirements of Rule 3 of the Rules, which relate to the submission of information prescribed therein were also found to have been met.

8. The Domestic Industry

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

“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.

8.2 The domestic industry producing Certain Capacitors consists of following three units:.

- i. M/s. Khawaja Electronics (Pvt) Ltd, Lahore;
- ii. M/S Amber Capacitors Limited, Lahore; and
- iii. M/S Unitech Electronics (Pvt) Limited, Lahore

8.3 Khawaja Electronics (Pvt) Ltd is the Applicant in this case and its installed production capacity to produce certain capacitors is around 6,000,000 pieces per annum on three shift basis. The Commission has approached other two producers and asked them for necessary information including their capacities, but they have not provided requisite information so far. However, according to the Applicant domestic industry's installed production capacity of electrical capacitors is much more than the domestic demand. As per the Applicant, *"Pakistan's total Capacitor market is approximately 95,000,000 pcs p.a. and the installed capacity of all the producers of capacitors is 120,000,000 pcs pa in Pakistan."*

9. Standing of the Application

9.1 Section 24 of the Act enjoins upon the Commission to assess the standing of the domestic industry on the basis of the degree of support for or opposition to the application expressed by the domestic producers of the domestic like product. Section 24(1) of the Act states as follows:

".... an application shall be considered to have been made by or on behalf of the domestic industry only if it is supported by those domestic producers whose collective output constitutes more than fifty percent of the total production of a domestic like product produced by that portion of the domestic industry expressing either support for or opposition to the application."

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

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

9.3 The application has been filed by M/S Khawaja Electronics (Pvt) Ltd. who is one the major producer of certain capacitors in Pakistan. The Commission has approached other two producers i.e. Amber Capacitors and Unitech Electronics and asked them for necessary information including their position with respect to the application, but they have not provided requisite information so far. Therefore, other units (Amber Capacitors and Unitech Electronics) have treated as indifferent for the purposes of this investigation.

9.4 The Applicant has claimed that its share in domestic production is about 60 percent of total domestic production of certain capacitors. As production of other units is not available at this point of time, therefore, the Commission has preliminarily basis accepted Applicant's contention regarding its share in domestic production. Based on the information provided by the Applicant, the Commission has preliminarily determined that the application fulfills requirements of Section 24 of the Act.

10. **Applicant's Views**

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

- i. Certain Capacitors imported from China into Pakistan and Certain Capacitors produced in Pakistan by the domestic industry are like products;
- ii. Exporters/producers from China are exporting Certain Capacitors to Pakistan at dumped prices; and
- iii. Exports of Certain Capacitors by the exporters/producers from China to Pakistan at dumped prices has caused and is causing material injury to the domestic industry producing Certain Capacitors mainly through:
 - a) Increase in volume of dumped imports relative to domestic production and consumption
 - b) Price undercutting;
 - c) Decline in market share;
 - d) Decline in sales;
 - e) Decline in production and capacity utilization;
 - f) Negative effects on productivity per worker and salaries & wages;
 - g) Increase in inventories and;
 - h) Magnitude of dumping margin

10.2 The Applicant has made following requests to the Commission:

- i. Initiate an investigation on alleged dumped imports of Certain Capacitors from China under Section 23 of the Act;
- ii. Impose appropriate antidumping duties on alleged dumped imports of Certain Capacitors in accordance with Section 50 of the Act; and
- iii. Impose provisional measures under Section 43 of the Act to prevent injury being caused to the domestic industry during course of the investigation.

11. **Initiation of Investigation**

11.1 The Commission examined accuracy and adequacy of the evidence and

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information provided in the application in accordance with Section 23 of the Act, and found that there was sufficient evidence of alleged dumping of Certain Capacitors into Pakistan from China and consequent alleged material injury to the domestic industry. Therefore, the Commission decided to initiate an investigation in this case on January 20, 2020.

11.2 The Commission issued a notice of initiation in accordance with Section 27 of the Act, which was published in the Official Gazette¹ of Pakistan and in two widely circulated national newspapers² (one in English language and one in Urdu Language) on January 23, 2020. Investigation concerning alleged dumped imports of Certain Capacitors into Pakistan originating in and/or exported from China was thus initiated on January 23, 2020 in accordance with Section 27(2) of the Act.

11.3 In pursuance of Section 27 of the Act the Commission notified to the esteemed Embassy of China in Islamabad of initiation of the investigation (by sending a copy of the notice of initiation) on January 24, 2020 with a request to forward it to all exporters/ producers involved in production, sales and export of Certain Capacitors in China. Copy of the notice of initiation was also sent to Chinese exporters/ producers directly (whose addresses were available with the Commission), Pakistani importers, the Applicant and other domestic producers on January 24, 2020.

11.4 In accordance with Section 28 of the Act copies of full text of the written application (non-confidential version) were sent on January 24, 2020 to all exporters/ producers, whose complete addresses were available with the Commission and to the Embassy of the People's Republic of China in Islamabad with a request to forward it to their respective exporters/ producers involved in production, sale and/or export of Certain Capacitors.

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

12.1 Sub-sections (k), (e) and (m) of Section 2 of the Act defines investigated product, domestic like product and like product as follows:

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

¹ The Official Gazette (extra ordinary) of 23 January 2020

² The daily 'Express' and 'Pakistan Today' of 23 January 2020

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

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

12.3 Investigated Product:

12.3.1 The investigated product is different types of electrical capacitors which include start capacitor, running capacitor, tubular capacitor, and A.C capacitor but not includes power factor capacitors (“Certain Capacitors”).

12.3.2 Following table shows the uses of each type of Capacitors along with its HS/ PCT Nos as defined in Pakistan Custom Tariff:

**Table-I
Types of Electrical Capacitors**

Capacitor Type	PCT No	Uses
Start Capacitor/ Electrolytic Capacitor	8532.2200 8532.2900	Water pumps/water motors, fridge/freezers compressors etc. These are in round shape in aluminum housing.
Running Capacitor	8532.1000 8532.2900 8532.2500 8532.3090	Fan, grinders, washing machine, water coolers. These Capacitors are in plastic box casing/round casings.
Tubular Capacitors	8532.1000 8532.2900	Power factor correction and mostly used in industries.
A.C. Capacitors	8532.1000 8532.2900	Mostly used by air-conditioners manufacturers. These capacitors are in aluminum housing.

12.3.3 Tariff structure applicable on import of Certain Capacitors is given in the following table:

**Table - II
Tariff Structure of the Investigated Product**

PCT Nos	Description	Customs duty	Add. duty
85.32	Electrical capacitors, fixed, variable or adjustable (pre-set)		
8532.1000	- Fixed capacitors designed for use in 50/60 Hz circuits and having a reactive power handling capacity of not less than 0.5 kvar (power capacitors)	20	7
8532.2200	- - Aluminium electrolytic	20	7
8532.2500	- - Dielectric of paper or plastics	20	7
8532.2900	- - Other	20	7

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	- Variable or adjustable (pre- set) capacitors:		
8532.3090	- - - Other	20	7

Source: Pakistan Customs Tariff 2019-20

12.4 Domestic Like Product

Domestic like product means the like product that is produced by the domestic industry. Domestically produced product is also different types of Electrical Capacitors i.e. start/ electronic capacitor, running capacitor, tubular capacitor, and A.C capacitor (“Certain Capacitors”). Customs tariff classification and uses of the domestic like product is same/identical to the classification and uses of the of the investigated product.

12.5 Like Products:

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 not alike in all respects, has characteristics closely resembling those of the investigated product.

12.5.2 For the purposes of determination of dumping of the investigated product, the like product is Certain Capacitors produced and sold by the exporters/producers of China in their domestic market as well as exported to the countries other than Pakistan. For the purposes of determination of injury to the domestic industry the like product is Certain Capacitors imported into Pakistan from countries other than the China.

12.5.3 According to the information available with the Commission, there is no difference between investigated product, the domestic like product and Certain Capacitors imported from other than China. All the three products (investigated product, domestic like product and Certain Capacitors imported from other sources) are produced with same/similar inputs and manufacturing process and are used interchangeably. Further, all products bear same specifications and fall under same classification.

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

13. Period of Investigation

13.1 In terms of Section 36 of the Act, Period of Investigation (“POI”) is:

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

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- ii. *“for the purposes of an investigation of injury, the investigation period shall normally cover thirty-six months:
“Provided that the Commission may at its sole discretion, select a shorter or longer period if it deems it appropriate in view of the available information regarding domestic industry and an investigated product”.*

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

For determination of dumping: From July 1, 2018 to June 30, 2019
For determination of injury: From July 1, 2016 to June 30, 2019

14. Foreign Producer(s) and Exporter(s) Involved in Dumping

The Applicant has identified 18 exporters/foreign producers involved in dumping of the investigated product from China. However, the Applicant has stated that there may be other exporters /foreign producers of the investigated product, which are not known to him. Therefore, the Applicant has requested for imposition of antidumping duties on all imports of the investigated product originating in and/or exported from China instead of imposition of anti-dumping duties on identified exporters/foreign producers.

15. Information/Data Gathering

15.1 The Commission sent a copy of the questionnaire on January 24, 2020 to the Embassy of the People's Republic of China in Islamabad with a request to forward it to all exporters/ producers of the investigated product in his country. Exporter's questionnaire was also sent on January 24, 2020 directly to the Chinese exporters/ producers whose addresses were available to the Commission for collection of data and information necessary for this investigation. The exporters/ producers were asked to supply information within 37 days of the dispatch of questionnaire. However, none of the exporters/ producers from China responded to the Commission and did not provide requisite information within stipulated time period. Therefore, reminders were issued to the exporters/foreign producers on March 03, 2020 explaining that, if no response of the questionnaire is submitted by the exporters/ foreign producers, the Commission will be constrained to make preliminary and/or final determination of dumping in this investigation on the basis of “Best Information Available” including those contained in the application submitted by the domestic industry, in terms of Section 32 of the Act. However, no response has received from any exporter/ foreign producer.

15.2 On January 24, 2020 questionnaires were sent to Pakistani importers of the investigated product known to the Commission and these importers were asked to

respond to the Commission within 37 days of the dispatch of the questionnaires. Only M/S Dawlance (Pvt) Limited responded to the questionnaire with limited information.

15.3 On January 24, 2020 questionnaire was also sent to the other domestic producers of Certain Capacitors i.e. M/S Amber Capacitors Limited, Lahore and M/S Unitech Electronics (Pvt) Limited, Lahore for necessary information. None of them has provided the requisite information so far. However, Amber Capacitors Limited has stated that requisite information will be provided on improving the conditions of COVID 19.

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

15.5 Interested parties were invited to offer their views/comments and submit information (if any) relevant to this investigation within 45 days of initiation of investigation. However, none of the interested party offered/submitted views/comments regarding this investigation.

15.5 Thus, the Commission has sought from all available sources the relevant data and information deemed necessary for the purposes of this investigation. Therefore, this preliminary determination is based on the information available to the Commission.

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 to the accuracy of the information. Accordingly, the Commission has satisfied itself to the accuracy and adequacy of information and evidence supplied by the interested parties to the extent possible for the purposes of this preliminary determination.

16.2 In order to verify the information/data provided by the Applicant and to obtain further information (if any) an on-the-spot investigation at office and plant of the Applicant was scheduled from 8-11 June 2020, however, due to the COVID 19 situation it could not be done. On-the-spot investigation/verification of the information provided by the Applicant will be done in due course of time on improvement of COVID 19 situation.

17. Public File

The Commission, in accordance with Rule 7 of the Rules, has established and maintained a public file at its office. This file remains available to the interested parties for review and copying from Monday to Thursday between 11.00 hours to 13.00 hours throughout the investigation (except public holidays). This file contains non-

confidential versions of the application, 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 has 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, investment, salaries & wages, number of employees etc. In addition to this, the Applicants have also provided certain other information on confidential basis under Section 31(2)(c), as such information, e.g. export or import price and import volume of the investigated product, may lead to the disclosure of the by nature confidential information of the Applicant by way of reverse calculations. However, the Applicant has submitted non-confidential summaries of the confidential information in accordance with the Section 31(5) of the Act. Non-confidential summaries permit a reasonable understanding of the information submitted in the confidence.

18.3 Pursuant to request made by the Applicant to treat certain information as confidential, 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.

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

B. DETERMINATION OF DUMPING

19. Dumping

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

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

20. Normal Value

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20.1 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”.

20.2 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.”.

20.3 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.”

21. 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”.

22. Dumping Determination

As stated earlier (paragraph 15 supra) the Commission sent questionnaires to exporters/ producers whose complete addresses were available with the Commission. A copy of the questionnaire was also provided to the embassy of China in Islamabad with a request to forward it to all exporters/ foreign producers of the investigated product to submit information to the Commission. However, the Commission did not receive information in response to the questionnaire from any of the exporter/ foreign producer of the investigated product in this investigation. Therefore, dumping of the investigated product in this preliminary determination is determined on the basis of best information available in accordance with Section 32 of the Act. Details of determination of normal value, export price and dumping margin are provided in the following paragraphs.

23. Determination of Normal Value

23.1 Since none of the exporters/ producers from China has provided requisite information to the Commission in response to the questionnaire, therefore, the Commission is constrained to determine normal value of the investigated product from China on the basis of the best information available to the Commission. For this purpose, the Commission has used the data base of International Trade Centre (ITC), Trade Map, an interactive online database on international trade statistics.

23.2 The Applicant in application provided invoices of Chinese domestic prices of

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certain types of capacitors (i.e. Plastic Box Capacitors 450 VAC and A.C Capacitor Round Aluminium Casing Capacitor), whereas, scope of the investigated product is wider covering wide range of capacitors excluding power factor capacitors. Therefore, the Commission has determined normal value on the basis of China's export to Bangladesh of certain capacitors during the POI for dumping, which is obtained from Trade Map. The Commission is of the view that the Bangladesh as an appropriate third country for determination of normal value in this case as Bangladesh is:

- i. located in the same region i.e. South Asia;
- ii. has population and size of economy closer to Pakistan as compared to other regional countries; and
- iii. has imported similar product mix (types of capacitors) from China as were imported by Pakistan during the POI;

23.3 As per the information obtained from ITC Trade Map database, the weighted average FOB price of China's export of Certain Capacitors to Bangladesh (Normal value) works out US\$ ***/kg.

24. Determination of Export Price

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

24.2 As none of the exporter/ producers from China has provided information in response to the questionnaire, therefore, export price has been worked out on the basis of the best information available.

24.3 As the normal value for the investigated product is determined from the information obtained from ITC Trade Map database (paragraphs 23.2 and 23.3 supra), therefore, for like to like comparison, export price of the investigated is also determined on the information obtained from ITC Trade Map database. As per the information obtained from ITC Trade Map database, the weighted average FOB export price of the investigated product from China to Pakistan works out US\$ ***/kg.

25. Dumping Margin

25.1 Section 2(f) of the Act defines dumping margin in relation to a product as "*the amount by which normal value exceeds its export price*".

25.2 Section 12 of the Act provides three methods for fair comparison of normal value and export price in order to establish dumping margin. The Commission has calculated

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dumping margin by comparing normal value with export price at ex-factory level.

25.3 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.

25.4 Taking into account the requirements of Section 11 of the Act, dumping margin for China work out as follows:

**Table-III
Dumping Margin**

Description	Amount
Normal Value at FOB level	100.00*
Export Price at FOB level	80.34*
Dumping Margin per Kg	19.66
Dumping Margin in percentage terms	24.47%

* To maintain confidentiality, actual figures have been indexed with respect to normal value by taking it equal to 100

26. De minimis Dumping Margins and Negligible Volume of Dumped Imports

26.1 In terms of Section 41(3) of the Act, that the dumping margin shall be considered to be negligible if it is less than two percent, expressed as a percentage of the export price. The dumping margin established for dumped imports of the investigated product, set out in paragraph 25.4 supra, are above negligible level.

26.2 As regards the volume of dumped imports, Section 41(3) of the Act provides that the volume of such imports shall normally be regarded as negligible if the volume of dumped imports of an investigated product is found to be 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 collectively account for more than seven per cent of the total imports of the like product.

26.3 Volume of Certain Capacitors imported from China and other sources during the POI is given in the table below:

**Table-IV
Volume of Dumped Imports during 2018-19**

Imports from	Volume (Kgs)	percentage
China	648,813.09	90.42
Other countries	68,769.90	9.58
Total	717,582.99	100.00

Source: PRAL

26.4 It appears from the above table that the volume of dumped imports of the investigated product from China is well above the negligible threshold set out in Section 41(3) of the Act during POI as 90.40% of total imports of Certain Capacitor during the POI for dumping was coming from China.

C. INJURY TO THE DOMESTIC INDUSTRY

27. Determination of Injury

27.1 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...”*

27.2 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”.

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

27.4 As stated earlier, there are three units in the domestic industry (paragraph 8 supra). Out of three, one unit is the Applicant in this case. The other two units are also in operation, however, none of them has provided the requisite information (paragraph 15.3 supra). Therefore, for the purposes of this preliminary determination the Applicant is considered as domestic industry and analysis of the injury factors is based on the Applicant's information. The Applicant is also producer of power factor capacitors, which is not the like product in this investigation. Applicant's published Audited Accounts are consolidated for all products, therefore, information provided in consolidated accounts

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could not be taken for the domestic like product. Further, there are certain discrepancies in the information provided by the Applicant for different types of the capacitors vis-à-vis audited accounts, which could only be clarified by checking relevant record of the Applicant. Due to COVID 19 lockdown 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. However, at this point of investigation the information which looks closer to the audited accounts has been used to determine injury to the domestic industry.

28. Volume of Dumped Imports

28.1 In order to ascertain the increase in the volume of dumped imports of the investigated product, the Commission has obtained import data for the POI from PRAL.

28.2 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 volume of dumped imports, either in absolute terms or relative to the production of the domestic like product in Pakistan. The following table shows imports of the investigated product and production of domestic like product during the POI:

Table V
Volume of Dumped Imports

Year	Quantity			Dumped imports as % of Production
	Dumped Imports	Total Imports	Applicant's production	
2016-17	409.89	429.84	100.00	409.89
2017-18	231.87	245.69	72.21	321.12
2018-19	209.01	231.16	53.72	389.08

Sources: PRAL and the Applicant

Note: To maintain confidentiality, actual figures have been indexed with respect to the Applicant's production in the year 2016-17 by taking it equal to 100

28.3 The information given in the above table shows that the volume of dumped imports of the investigated product decreased in absolute terms during the POI. Applicant's production also decreased during the POI. However, dumped imports of the investigated product increased relative to the Applicant's production in the year 2018-19 as compared to the year 2017-18. As total domestic production is not available at this point, therefore, the Commission is of the view that there would be similar trend with respect to the volume of imports relative to the total domestic production if production of the domestic like product of other two units is added up.

29. Price Effects:

29.1 Effect of dumped imports on sales price of the domestic like product in the

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

29.2 Price Undercutting

29.2.1 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 calculated on the basis of information obtained from the applicant:

**Table-VI
Price Undercutting**

Year	Price of domestic like product	Landed cost of dumped imports	Price Undercutting	
			Absolute	Percentage
2016-17	100.00	39.42	60.58	60.58
2017-18	123.64	91.82	31.81	25.73
2018-19	78.92	75.19	3.73	4.73

Sources: the Applicant, PRAL

Note: To maintain confidentiality, actual figures have been indexed with respect to the domestic like product's price in the year 2016-17 by taking it equal to 100

29.2.2 The above table shows that the domestic industry faced price undercutting due to dumped imports throughout the period of investigation. The dumped imports undercut the price by 60.58 percent, 25.73 percent and 4.73 percent in the years 2016-17, 2017-18 and 2018-19 respectively. The price undercutting was the lowest during the POI for dumping.

29.3 Price Depression

The prices of the domestic like product provided in table-VI above show an increase in the year 2017-18 and decrease in 2018-19. However, decrease in price in the year 2018-19 was due to decline in cost to make and sell in this year (see Table-VII) below.

29.4 Price Suppression

29.4.1 Weighted average cost to make and sell and ex-factory prices of the domestic like product during the POI is given in the following table;

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**Table-VII
Price Suppression**

Year	Cost to Make & Sell	Ex-Factory Price	Increase/(decrease) in	
			Cost to M& S	Price
2016-17	105.47	100.00	--	--
2017-18	128.11	123.64	22.64	23.64
2018-19	83.49	78.92	(44.62)	(44.72)

Source: the Applicant

Note: To maintain confidentiality, actual figures have been indexed with respect to the ex-factory price in the year 2016-17 by taking it equal to 100

29.4.2 The above table shows that there was an increase in cost to make & sell and prices of the domestic like product in the year 2017-18 and decrease in price and cost to make and sell in the year 2018-19. Increase in cost to make and sell in the year 2017-18 was recovered by a correspondence increase in price. Therefore, the domestic industry did not face price suppression during the POI.

30. Effects on Market Share

30.1 The total domestic demand of Certain Capacitors in the country is met through sales by the domestic industry and imports. To establish the size of Pakistani market, sales by the domestic industry, imports of the investigated product and imports of Certain Capacitors from other sources are used. Following table shows the market share from each source of supply during last three years (the POI for injury):

**Table-VIII
Market Share**

Year	Applicant's Sales		Dumped Imports		Other Imports		Total Market	
	Volume*	%share	Volume*	%share	Volume*	%share	Volume*	%Change
2016-17	19.23	19.23	77.02	77.02	3.75	3.75	100.00	-
2017-18	13.53	22.66	43.57	72.99	2.60	4.35	59.69	-40.31%
2018-19	10.71	19.79	39.27	72.53	4.16	7.69	54.15	-9.29%

Source: the Applicant, PRAL

*: To maintain confidentiality, actual figures have been indexed with respect to the total market volume in the year 2016-17 by taking it equal to 100

30.2 The above table shows that the total domestic market decreased during the period of investigation by 40.31 percent during the year 2017-18 as compared to 2016-17 and then further decreased by 9.29 percent during the year 2018-19 as compared to 2017-18.

30.3 The domestic industry's market share declined from 22.66 percent in 2017-18 to 19.79 percent in the year 2018-19. At the same time the dumped imports of the

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investigated product maintained its market share at 73 percent during 2017-18 and 2018-19 despite decline in total market during these years. Market share of imports from other sources increased from 4 percent to 8 percent in 2018-19.

31. Effect on Sales of the Domestic Like Product

31.1 Information on domestic sales of the domestic like product by the Applicant during the POI is given in the following table:

**Table-IX
Sales of the Domestic like Product**

Year	Sales volume*
2016-17	100.00
2017-18	70.34
2018-19	55.71

Source: the Applicant

*:To maintain confidentiality, actual figures have been indexed with respect to the sales volume in the year 2016-17 by taking it equal to 100

31.2 The above table shows that the sales of the domestic like product, decreased over the POI. The sales of the domestic industry decreased by 30 percent during the year 2017-18 over the preceding year and by 21 percent during the year 2018-19 as compared to year 2017-18.

32. Effects on Production and Capacity Utilization

32.1 Total installed production capacity of the Applicant to produce Certain Capacitors is 2,652,000 Kgs per annum on three shift basis. Information on quantity produced and the capacity utilization of the Applicant for last three years is provided in following table;

**Table-X
Installed Capacity, Production and Capacity Utilization**

Year	Capacity (volume)*	Production (volume)*	Capacity Utilization
2016-17	854.31	100.00	11.71%
2017-18	854.31	72.21	8.45%
2018-19	854.31	53.72	6.29%

Source: the Applicant

*:To maintain confidentiality, actual figures have been indexed with respect to the production volume in the year 2016-17 by taking it equal to 100

32.2 The above table shows that the production and capacity utilization by the domestic industry decreased throughout the period of investigation.

33. Effects on Inventories

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33.1 The data relating to accumulation of inventories of the domestic like product during the POI is given in the table below:

**Table-XI
Inventories**

Year	Opening Inventory	Production	Sales		Closing Inventory
			Domestic	Exports	
2016-17	17.31	100.00	102.36	1.48	13.47
2017-18	13.47	72.21	72.00	--	13.68
2018-19	13.68	53.72	57.02	--	10.37

Source: the Applicant

Note: To maintain confidentiality, actual figures have been indexed with respect to the production volume in the year 2016-17 by taking it equal to 100

33.2 The above table shows an overall decrease in closing inventories during the POI. However, this decrease in inventories is attributable in significant decrease in production. Production decreased in the years 2017-18 and 2018-19 by 28 percent and 26 percent respectively and during the same period closing inventories decreased by 2 percent and 24 percent respectively which is significantly less relative to production.

34. Effects on Profits and Profitability

34.1 The table below shows the profits and profitability from the Certain Capacitors Business of the domestic industry for the POI:

**Table-XII
Profit/Loss of the Applicant**

Year	Net Profit/(Loss)	
	All Products*	Domestic Like Product
2016-17	100.00	(492.53)
2017-18	322.88	(283.31)
2018-19	695.62	(229.45)

Source: the Applicant *includes power factor capacitors

Note: To maintain confidentiality, actual figures have been indexed with respect to the profit of all products in the year 2016-17 by taking it equal to 100

34.2 It is evident from above table that the Applicant incurred loss on production and sales of the domestic like product throughout the POI. However, loss on production and sales of the domestic like product declined over the POI.

35. Effects on Return on Investment

35.1 As the Applicants also produced power factor capacitors during the POI and the

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ROI cannot be determined separately for different products. Therefore, ROI is determined in accordance with Section 17(2) of the Act for its entire production of capacitors including power factor capacitors. Section 17(2) of the Act states that:

“the Commission shall assess effect of dumped imports in relation to production of a domestic like product in Pakistan when available data permit separate identification of that production on the basis of criteria of production process, producer’s sales and profits:

Provided that if such separate identification of that production is not possible, the Commission shall assess effects of dumped imports by examination of the production of the narrowest group or range of products, which includes a domestic like product, for which necessary information can be provided.

35.2 Applicant’s return on investment (ROI) during the POI is provided in the following table:

**Table-XIII
Return on Investment**

Year	ROI (%)
2016-17	(0.47)
2017-18	2.62
2018-19	8.25

Source: the Applicant

35.3 The above table shows that the overall return on investment improved during the POI. However, the investigation has shown that the improvement in ROI was due to production and sales of power factor capacitors which consists of about 75 percent of the Applicant’s total sales during the year 2018-19.

36. Effects on Cash Flows

36.1 As the Applicant produces different type of capacitors including the power factor capacitor, which is not the domestic like product. Cash flows for different products cannot be determined separately, as number of factors are combined for all products. Therefore, effects on cash flows is assessed for entire operations of the Applicant in accordance with Section 17(2) of the Act., which is provided in the following table:

**Table-XIV
Cash Flow**

Year	Net cash flow
2016-17	(100.00)
2017-18	43.89
2018-19	1171.67

Source: the Applicant

Note: To maintain confidentiality, actual figures have been indexed with respect to the net cash flow in the year 2016-17 by taking it equal to 100

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36.2 The above table shows that the cash flows from operating activities increased significantly in the years 2017-18 and 2018-19. However, this is due to major sales of Power Factor Capacitors, which were made to Water and Power Development Authority of Pakistan (WAPDA).

37. Effects on Employment, Productivity and Salaries & Wages

37.1 As the Applicant produces different type of capacitors including the domestic like product and the Applicant informed that it is difficult to segregate data relating to the employment, salaries & Wages. Therefore, the Commission calculated productivity per worker and salaries & wages per KG for all types of capacitors including power factor capacitors in terms of Section 17(2) of the Act.

**Table-XV
Employment, Productivity and Salaries and Wages**

Year	Number of employees	Salaries & wages	Domestic Production	Productivity per worker	per unit Salaries & wages
2016-17	100.00	100.00	100.00	100.00	100.00
2017-18	102.27	104.83	77.03	75.31	136.36
2018-19	97.73	113.65	70.51	72.14	161.69

Source: the Applicant. All figures are inclusive of figures of power factor capacitors

Note: To maintain confidentiality, actual figures have been indexed with respect to the figures of the year 2016-17 by taking them equal to 100

37.2 The above table shows that the number of employees and productivity per worker declined, however, salaries & wages per kg increased during the POI. The productivity per worker decreased by 24.68 percent during 2017-18 as compared to 2016-17 and by 4.20 percent during 2018-19 as compared to 2017-18. It is pertinent to note that this increase can be attributed to sales of power factor capacitors which have been excluded from scope of this investigation. It is evident from analysis in preceding paragraphs that the production of Certain Capacitors declined during the POI.

38. Effects on Growth

The domestic industry manufacturing Certain Capacitors was not able to utilize its optimum installed production capacity during the POI despite the fact that domestic demand was more than the quantity produced by the domestic industry. During POI the domestic industry was able to attain around 20 percent market share (paragraph 30 supra). The installed production capacity of the domestic industry is more than the total demand of Certain Capacitors, therefore, there was no chance of further growth and new investment in the domestic industry manufacturing in this situation.

39. Ability to Raise Capital

The Applicant is a Private Limited company and has displayed positive overall profit recently as shown in the forgoing paragraphs. However, it recorded loss on account of its sales of domestic like product. Keeping in view the overall profit of the Applicant, it seems that the Applicant won't face any problem in case it needs to raise capital through financing.

40. Magnitude of Dumping Margins

The Commission is of the view that the preliminary dumping margin of 24.47 percent, is significantly high, however price under cutting during the POI for dumping was quite low as compared to the dumping margin. Further, the domestic industry did not face price suppression and price depression during the POI for dumping due to dumped imports of the investigated product.

41. Summing up of Material Injury

It appears from the information and analysis in the fore-going paragraphs that the volume of dumped imports decreased in absolute terms during the POI, however it increased as percentage of domestic production during the POI for dumping. Domestic industry faced price undercutting throughout the POI for injury, however, price undercutting declined significantly during the POI for dumping. The domestic industry did not suffer price suppression and depression during the POI due to dumped imports. Market share of the dumped imports remained at the same level despite decline in total market size during the POI, whereas market share of the domestic like product declined slightly and market share of other imports increased. The Applicant suffered losses on production and sales of the domestic like product, however, loss declined during the POI for dumping. Material injury during the POI on various injury factors is summarized in the table below

**Table-XVII
Effects of Dumped Imports**

Description	2016-17	2017-18	2018-19
Volume of dumped imports*	100.00	56.57	50.99
Dumped imports relative to domestic production	409.89%	321.12%	389.08%
Price undercutting (%)	60.58%	25.73%	4.73%
Price suppression (%)	--	--	--
Price depression	--	--	--
Market share of domestic industry	19.23%	22.66%	19.79%
Market share of dumped imports	77.02%	72.99%	72.53%
Domestic production*	100.00	72.21	53.72
Domestic industry's sales*	100.00	70.34	55.71

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Profit/(Loss)*	(100.00)	(57.52)	(46.59)
Capacity Utilization	11.71%	8.45%	6.29%
Productivity per worker*	100.00	75.31	72.14
Salaries & wages per unit*	100.00	136.36	161.69

*: To maintain confidentiality, actual figures have been indexed with respect to the figures of the year 2016-17 by taking them equal to 100

D. CAUSATION

42. Effect of Dumped Imports

The information and analysis provided in the fore-going paragraphs show following:

- i. Volume of dumped imports of the investigated product and production of the Applicant decreased in absolute terms during the POI;
- ii. Domestic industry experienced price undercutting throughout the POI for injury. However, price undercutting declined significantly during the POI for dumping;
- iii. Domestic industry did not face price suppression and price depression during the POI due to dumped imports of the investigated product;
- iv. Market share of dumped imports of the investigated product remained at the same level whereas market share of the domestic like product declined by 2 percent in the year 2018-19;
- v. The Applicant incurred losses on production and sales of the domestic like product throughout the POI for injury. However, loss reduced significantly during the POI for dumping.
- vi. Production and capacity utilization of the Applicant were significantly at low level. Capacity utilization level was 12 percent, 8 percent and 6 percent in the years 2016-17, 2017-18, and 2018-19 respectively. This level of capacity utilization could not be considered as normal operation.

43. Other Factors

43.1 In accordance with Section 18(2) of the Act, the Commission shall examine that any known factors other than the dumped imports which are causing injury to the

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domestic industry. Injury caused by such other factors shall not to be attributed to dumped imports.

43.2 Section 18(3) of the Act states that the other factors which may be relevant for the purpose of examination may include the following:

- i. volume and price of imports not sold at the dumped prices;
- ii. contraction in demand or changes in the patterns of consumption;
- iii. trade restrictive practices of and competition between foreign and domestic producers;
- iv. development in technology; and
- v. export performance and productivity of domestic industry

43.3 Following table shows volume and prices of imports of the investigated product from China and other sources:

Table XVIII
Volume and prices of imports

Year	Volume of Imports from		Average Landed Cost of:	
	Dumped Imports	Other Countries	Dumped Imports	Other Countries
2016-17	100.00	4.87	100.00	230.31
2017-18	56.57	3.37	232.93	267.00
2018-19	50.99	5.40	190.72	307.29

Source: the Applicant

Note: To maintain confidentiality, actual figures have been indexed with respect to the volume and landed cost of dumped imports of the year 2016-17 by taking them equal to 100

43.4 The above table shows that other sources do not pose any material threat to the domestic industry as their import volume was not significant during the POI. Moreover, the landed cost of the imports from other sources was substantially higher than landed cost of imports from China throughout the POI.

43.5 Table VII clearly shows that the total domestic market declined during the POI for injury. Thus, there was a contraction in the market size, which partially affected negatively to the production, sales and market share of the domestic like product. However, market share of the dumped imports of the investigated product remained at the same level whereas market share of imports of certain capacitors from other sources increased during the POI for dumping.

43.6 There was no such policy by the government that have negatively affected the domestic industry and create distortion in the competitive environment between foreign and domestic producers.

43.7 There was no development in technology during the POI that could have contributed to the material injury of the domestic industry.

43.8 The Applicant did not export domestic like product during the years 2017-18 and 2018-19. Therefore, there is no possibility of material injury to the domestic industry due to its export performance during the POI for dumping.

44. Causal Link Between Dumped Imports and Injury to Domestic Industry

44.1 Information and analysis in the fore-going paragraphs preliminarily show that the domestic industry did not suffer material injury on account of price undercutting, price suppression, price depression, production, sales capacity utilization during the POI for dumping due to dumped imports.

44.2 The Applicant is also producer of power factor capacitors, which is not the like product in this investigation. Power factor capacitors accounted for about 75 percent of the sales revenues of the Applicant during the year 2018-19. Applicant's published Audited Accounts are consolidated for all products, therefore, information provided in consolidated accounts could not be taken for the domestic like product. Further, there are certain discrepancies in the information provided by the Applicant for different types of the capacitors vis-à-vis audited accounts, which could only be clarified by checking relevant record of the Applicant. Due to COVID 19 lockdown 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. Furthermore, information from other major domestic producer i.e. Amber Capacitors is still awaited. Therefore, in this situation while making preliminary determination, the Commission could not make a clear causal relationship between material injury to the domestic industry during the POI for dumping and dumped imports of the investigated product.

E. CONCLUSIONS

45. After taking into account all considerations for this preliminary determination, the Commission has reached on the following conclusions:

- i. the application was filed by the domestic industry as it fulfilled requirements of Sections 20 and 24 of the Act;
- ii. the investigated product and the domestic like product are like products;
- iii. during POI, the investigated product was exported to Pakistan by the exporters/ producers from China at prices below its normal value;

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- iv. the volume of dumped imports of the investigated product and the dumping margin established for the investigated product from China is above the negligible and *de minimis* levels respectively;
- v. the preliminary dumping margin expressed as a percentage of weighted average C&F export price works out 68.67 percent;
- vi. the volume of dumped imports decreased in absolute terms during the POI, however it increased as percentage of domestic production during the POI for dumping;
- vii. domestic industry faced price undercutting throughout the POI for injury, however, price undercutting declined significantly during the POI for dumping.
- viii. the domestic industry did not suffer price suppression and depression during the POI due to dumped imports;
- ix. market share of the dumped imports remained at the same level despite decline in total market size during the POI, whereas market share of the domestic like product declined slightly and market share of other imports increased.
- x. the Applicant suffered losses on production and sales of the domestic like product, however, loss declined during the POI for dumping.
- xi. the Commission could not make a clear causal relationship between material injury to the domestic industry during the POI for dumping and dumped imports of the investigated product due to non-verification of the Applicant's information and lack of cooperation in providing information by other producers of Certain Capacitors.

F. NON IMPOSITION OF PROVISIONAL ANTIDUMPING DUTY

46. 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 duty on dumped imports of the investigated product 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.

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(Muhammad Saleem)
Member
July 13, 2020

(Anjum Assad Amin)
Member
July 13, 2020

(Tippu Sultan)
Member
July 13, 2020

(Abdul Khaliq)
Member
July 13, 2020

(Robina Ather)
Chairperson
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