



**Government of Pakistan
National Tariff Commission**

REPORT

ON

**Newcomer Review of Definitive Antidumping Duties Imposed on
Dumped Imports of Polyester Filament Yarn Originating in and/or
Exported from the People's Republic of China and Malaysia**

A.D.C No. 46/2016/NTC/PFY/NR/2020

February 19, 2021

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

2. On request of M/s Suzhou Rusheng Chemical Fiber Co., Ltd, China (the "Applicant") the Commission has conducted this newcomer review of definitive anti-dumping duties imposed on Polyester Filament Yarn (the "PFY"), originating in and/or exported from the People's Republic of China ("China") in accordance with provisions of the Act and the Rules. This report on conclusion of newcomer review has been issued in accordance with Section 39(5) of the Act.

3. In terms of Section 60(2) of the Act, a newcomer review shall normally be completed within six months from its initiation and, in any event, no later than twelve months. The newcomer review was initiated on February 21, 2020. Therefore, the Commission was required to conclude this review by February 20, 2021.

A. PROCEDURE

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

5. **Antidumping Duties in Force**

5.1 The Commission concluded an anti-dumping investigation on dumped imports of PFY originating in and/or exported from the People's Republic of China and Malaysia (the "Exporting Countries") in the year 2017 (A.D.C No.46/2016/NTC/PFY) upon request of Gatron Industries Limited, Karachi and Rupali Polyester Limited, Lahore, the domestic producers manufacturing PFY. The Commission made an affirmative final determination of dumping of PFY and material injury to the domestic industry in that investigation. The Commission imposed definitive antidumping duties on dumped imports of PFY originating in and/or exported from the Exporting Countries ranging from 3.25 percent to 11.35 percent for a period of five years effective from August 25, 2017.

5.2 The Applicant is/was liable to pay residual antidumping duty at the rate of 11.35 percent *ad valorem* on its exports of PFY to Pakistan.

6. **Receipt of Application**

6.1 The Commission received an application from the Applicant under Section 60 of the Act.

6.2 The Applicant requested the Commission for determination of individual dumping margin for its export of PFY to Pakistan. According to the Applicant, it did not export PFY into Pakistan during original POI (from October 01, 2014 to September 30, 2015) and that it is not related to any exporter or producer who is subject to antidumping duty.

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

7.1 If a product is subject to definitive anti-dumping duties, any exporter or foreign producer who did not export the product to Pakistan during the original period of investigation can request for determination of individual dumping margin under Section 60(1) of the Act. However, such exporter or producer has to show that it is not related to any of the exporters or producers in the exporting country who are subject to the antidumping duties levied on the investigated product.

7.2 The examination of the application showed that it *prima facie* met requirements of Section 60 of the Act.

8. **Standing**

8.1 In terms of Section 60 of the Act, the Commission shall carry out a review for the purposes of determining individual dumping margin for any exporters or producers in an exporting country concerned provided such exporter has:-

- i. Not exported the product to Pakistan during the original POI (from October 1, 2014 to September 30, 2015);
- ii. is not related to any exporter or producer in China who is subject to anti-dumping duty imposed by the Commission on imports of PFY from China.

8.2 In support of its claims, the Applicant has stated that:-

- i) The Applicant is a Sole Proprietorship which started its operations on January 05, 2011 after getting the business license provided by Suzhou Wujiang Market supervision and administration under the Company Law of China, and
- ii) the Applicant has submitted affidavit duly notarized by the notary public in China and attested by the Embassy of Pakistan in Beijing, China.

8.3 In view of the above, it was *prima facie* determined that the Applicant met the requirements of Section 60 of the Act.

9. Initiation of Newcomer Review

9.1 In terms of Section 60(2) of the Act, a newcomer review under Section 60(1) shall be initiated within thirty days following the date of receipt of an application for such review. The application in this case was received on January 27, 2020. Therefore, the Commission was required to initiate this review by February 26, 2020.

9.2 The Commission issued a notice of initiation in terms of Section 27 of the Act, which was published in the Official Gazette of Pakistan and in two widely circulated national newspapers (one in English language and one in Urdu Language) on February 21, 2020. Thus, this newcomer review was initiated on February 21, 2020.

9.3 The Commission notified the Embassy of China in Pakistan of the initiation of newcomer review by sending a copy of the notice of initiation on February 21, 2020. Copy of notice of initiation was also sent to exporters/producers from China (whose complete addresses were available with the Commission), known Pakistani importers, Pakistani domestic producers and the Applicant on February 21, 2020, in accordance with the requirements of Section 27 of the Act.

10. Period of Review ("POR")

For determination of dumping/individual dumping margin, the Applicant has submitted information/data from January 01, 2019 to December 31, 2019.

11. The Product Under Review

The product under review is PFY, excluding coloured PFY. It is classified under Pakistan Customs Tariff ("PCT") Heading Nos. 5402.3300 (Drawn Textured Yarn), 5402.4700, (Fully Drawn Textured Yarn) and 5402.6200 (Multiple (folded) or cabled PFY in two or three ply) imported from the Exporting Countries. Investigated product is mainly used as raw material in the manufacturing of art silk fabrics and other fabrics.

12. Information/Data Gathering

12.1 Upon initiation of this newcomer review, interested parties (importers, exporters and domestic producers) were requested for views/comments and information for the purposes of this review. However, none of the interested parties responded to the Commission's request and did not provide any information for this purpose.

12.2 The application filed by the Applicant was examined and the same was found deficient. Accordingly, on June 16, 2020, first deficiency letter was sent to the Applicant. The Applicant was requested to submit its reply within seven days of issuance of the deficiency letter. On June 20, 2020, the Applicant requested for extension in timeline for another 25 days for submission of requisite information. The Commission granted extension till July 05, 2020. Reply to deficiency letter was received on July 13, 2020. The data provided in response to the deficiency letter was examined and was still found deficient. Accordingly, second deficiency letter was sent on July 20, 2020. Reply to the deficiency letter was received on July 27, 2020, which was examined. The data submitted was again found deficient and another deficiency letter was sent on August 03, 2020. Reply was received on August 11, 2020. However, the data received was still deficient.

12.3 It was decided to hold a virtual meeting on Zoom with the lawyer of the Applicant to explain the data /information requirements under the Act and Rules for this newcomer review. Accordingly, on August 19, 2020, a meeting was held on Zoom with the lawyer of the Applicant, wherein, the data deficiencies were explained to the Applicant's lawyer. On September 08, 2020, the Applicant requested for two-weeks extension for submission of information requested during the virtual meeting on Zoom. The Commission granted two-weeks extension in the time period for submission of requisite data /information. The information was received on September 17, 2020. In response, the Applicant revised its responses to three earlier data deficiency letters. The revised data submitted was examined and once again certain deficiencies were found, which were communicated to the Applicant on November 17, 2020. The Applicant was requested to submit its response within seven days of issuance of the deficiency letter. Response was received on December 02, 2020 (instead of November 24, 2020), however, upon examination certain points, that needed clarification /explanation were identified. Letters containing data deficiency and clarification /explanation of certain points were issued on December 16, 2020 and December 28, 2020. Reply to letter dated December 16, 2020 was received on December 21, 2020. Reply to letter dated December 28, 2020 was received on January 05, 2021. The information submitted in response to December 28, 2020 letter was not providing the clarification /explanation sought. On January 05, 2021, an email was sent to the Applicant, explaining the data requirement. Data requirement was also explained to the Applicant's lawyer. The Applicant was asked to submit the data latest by January 07, 2021. However, data was not provided by the timeline. Required data was related to provision of grade wise domestic sales and documentary evidence in support of adjustments claimed in the exports and domestic sales made by the Applicant during the POR. On January 18, 2021, Applicant sent an email stating that required information will be provided however, partial data was received on January 21, 2021 after the issuance of statement of essential facts (SEF). While issuing SEF, the Commission informed the interested parties that the Applicant has not provided information on grade-wise domestic sales of the product under review and documentary evidence of the adjustments claimed in its domestic and export sales of PFY during the POR within prescribed time limit, therefore, a fair

comparison between normal value and export price at ex-factory level cannot be made in terms of Section 11 of the Act. On February 01, 2021, the Commission informed the Applicant with the reasons as to why data/information submitted cannot be taken into account.

12.4 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 newcomer review the Commission would use import data obtained from PRAL in addition to the information provided by the Applicant.

13. **Public File**

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

14. **Hearing**

In terms of Rule 14 of the Rules, the Commission shall, upon request by an interested party made not later than forty five days after publication of notice of initiation, hold a hearing at which all interested parties may present information and arguments. None of the interested party requested for hearing in this newcomer review. Therefore, no hearing was held in this review.

15. **Confidentiality**

In terms of Section 31 of the Act, any information, which is marked confidential by the interested parties in their submissions and considered confidential by the Commission, shall, during and after the review, be kept confidential. Furthermore, any information, which is by nature confidential in terms of Section 31 of the Act, shall also be kept confidential. However, in accordance with Section 31(5) of the Act, interested parties submitting confidential information are required to submit non-confidential summary(ies) of the confidential information, which shall permit a reasonable understanding of the substance of information submitted in confidence.

16. **Verification of the Information**

In terms of Sections 32(4) and 35 of the Act, during the course of newcomer review, the Commission shall satisfy itself as to the accuracy of the information supplied by the interested parties through on-the-spot-investigation pursuant to Rule

12 of the Rules. However, on-the-spot investigation was not conducted at the office and plant of Applicant from China, due to travel restrictions imposed because of COVID-19. Further, the Applicant did not provide complete information which was suitable even for "Desk Verification". The Commission asked the Applicant to provide basis of allocation of joint costs, documentary evidence for adjustments claimed in all domestic (*discount, indirect tax, insurance and bank charges*) and export transactions (*credit cost, commission, inland freight, ocean freight, handling cost, bank charges and rebate*) made during the POR, reasons for difference in weighted average prices for different customers and documentary evidence of installed production capacity. The Applicant provided reasons for difference in weighted average prices for different customers on January 05, 2021. The Applicant submitted partial data regarding adjustments after issuance of SEF.

17. Views/Comments of Interested Parties

The Commission, through notice of initiation, advised the interested parties to submit views/comments (if any) on this newcomer review investigation. None of the interested party has submitted written submissions/comments on initiation and conduct of this newcomer review within the prescribed time limit. However, after issuance of SEF, few interested parties submitted comments. Comments germane to this review and their replies thereof are placed at Annex-I.

B. COMMISSION'S DETERMINATION

18. Issues to be Determined in Newcomer Review

18.1 Section 60(1) of the Act states that:-

"If a product is subject to definitive antidumping duties, the Commission shall carry out a review for the purpose of determining individual dumping margins for any exporters or producers in an exporting country concerned who did not export the product to Pakistan during the period of investigation if such exporters or producers can show that they are not related to any of the exporters or producers in the exporting country who are subject to the anti-dumping duties on an investigated product."

18.2 It is clear from the above provision of the Act that to qualify for applying for individual dumping margin, the Applicant must be: -

- i. a bona fide exporter;
- ii. it has not exported the product during original investigation;
- iii. and it is not related to any of the exporters or producers in the exporting country who are subject to the anti-dumping duties on an investigated product.

18.3 In order to qualify for bona fide exporter, the Commission has considered the following: -

- i. quantity of the product under review exported by the Applicant;
- ii. price of the product under review exported by the Applicant;
- iii. timing of sales of the product under review;
- iii. expenses arising from export transactions of the product under review;
- iv. whether export transactions were made at arm's length basis; and
- v. whether the product under review was resold at profit.

18.4 The investigation of the Commission has revealed the following:-

18.4.1 **Quantities of the Product under Review Exported by the Applicant**

18.4.1.1 Following table shows total imports of PFY into Pakistan and exports of product under review by the Applicant during POR:

Table-I
Import of PFY during the POR

Imports from:	Quantity (MT)
China	141,353
Other Sources	41,252
Total	182,605
Share of Applicant	159.43
Applicant imports as % of:	
Imports from China	0.11
Total Imports	0.08

Source: the Applicant and PRAL

18.4.1.2 The Applicant's export to Pakistan constitutes only 0.11% of total imports from China and 0.08% of overall imports during the POR. The Applicant's export share is meager in the total imports of Pakistan. Further, exports sales are only 0.89% of the total sales of the Applicant. The Applicant did not sell PFY to any other export market. The Applicant did not made exports to other countries where no antidumping duties are in place but contrarily it exported to Pakistan where antidumping duties are in place on the imports of product under review. The Applicant's export sales were only made to two Pakistani importers namely RAD Enterprises and OSM Engineering during the period of review. Aforementioned importers did not import product under review from any other Chinese exporter or from any other source during the POR. The facts mentioned above leads to the conclusion that Applicant and importers made an effort to get lower dumping margin by making targeted sales transactions. It may also be added that name of importers indicate that the importers are not dealing with PFY or even synthetic textiles. This leads to the conclusion that the transactions are arranged and manipulated.

18.4.2 Prices of the Product Under Review

18.4.2.1 Investigation of the Commission has revealed that prices of the product under review exported by the Applicant were, on yearly basis, in the same range of prices at which PFY was imported into Pakistan during the POR from other sources. Following table shows weighted average C&F import prices of PFY imported into Pakistan from the Applicant and other Chinese exporters during the POR:

Table -II
Prices of Imports During POR

Imports from	C&F Price (Rs./MT)
Applicant	104
China	100

Source: the Applicant and PRAL

*For the purpose of confidentiality C&F price column has been indexed by taking C&F price per M. Ton for import from China as base.

18.4.2.2 As the Applicant has exported the product under review only during the months of July, August and September of 2019, it is important to compare the prices for these months as well. Product exported during the months of July, August, and September 2019 entered Pakistan's commerce with the lag of one month. Prices for the months of August, September and October remained as under:-

Table-III
Prices of Imports during August, September and October 2019

	Rs./kg		
	August	September	October
Applicant	111	98	96
Other Chinese exporters	100	94	96

Source :- PRAL

*For the purpose of confidentiality all the figures have been indexed by taking per kg price of imports from other Chinese exporters during August as base.

18.4.2.3 As evident from the above table that the Applicant only exported the product under review during three months of the POR and its prices also remained more than the average export price of the Chinese exporters. It is also pertinent to note that the exporter deliberately exported product under review at higher prices during a specific time period to keep the export price higher to get a favorable dumping margin. Export sales to specific customers for a certain period of time at higher prices does not constitute normal pricing pattern.

18.4.3 Timing of Sales of the Product Under Review

Investigation of the Commission has revealed that the Applicant exported product under review to Pakistan after imposition of antidumping duties on its exports of PFY during the months of July, August and September 2019 in seven transactions and to two importers only. These two importers have not imported the product from any other Chinese exporter and from any other source. There is no continuity found in the pattern of exports to Pakistan as the Applicant only exported during a specific period of time which shows that it was targeted export to get a lower dumping margin from the Commission.

18.4.4 Expenses Arising from Export Transactions of the Product under Review

18.4.4.1 The Applicant has reported expenses arising on its exports to Pakistan on account of credit cost, inland freight, ocean freight, handling cost, bank charges and rebate.

18.4.4.2 On December 28, 2020, the Applicant was asked to provide documentary evidence in support of adjustments claimed against the export sales to Pakistan in the export price. After issuance of SEF, the Applicant provided partial information regarding the adjustments claimed. The Commission informed the Applicant that as this information was not presented in timely fashion, therefore, the Commission will not consider this information while making final determination.

18.4.4.3 For bank charges, the Applicant provided bank receipts. However, the amount mentioned as bank charges on receipts did not reconcile with the amount claimed at export sales table. No adjustment was reported on account of insurance. However, the Applicant has provided cargo transportation insurance policy against each export transaction which mentions the premium entry as arranged. This implies that expense has been incurred against each export transaction on account of insurance charges. The Applicant has not provided evidence in support of adjustments claimed on account of handling cost and rebate. Due to absence of documentary evidence mentioned above, the Commission cannot determine that the expenses incurred by the Applicant on its exports to Pakistan were in line with the normal expenses to be incurred on such exports.

18.4.5 Whether Export Transactions were made on Arm's Length Basis

18.4.5.1 Investigation of the Commission has revealed that Applicant sold PFY to its two customers in Pakistan during the POR. Its exports to customers were on similar terms and conditions, however, weighted average sales prices charged from its two customers in Pakistan varied by 17 percent during the period of sales. The Applicant stated that the major difference in the price is due to the different grade materials (AA and A) sold to one

of the customers. Other than grading of the product, fluctuation for US Dollar rate in the market has an impact on the pricing. The Commission notes that different grade material is an important parameter which has bearing on the price.

18.4.5.2 Further in order to ascertain whether export transactions were made on arm's length basis, the Commission compared the cost to make and sell of export transactions with export sales revenue. It was noted that export price covers cost to make and sell and provides for reasonable profit as well. It is therefore, determined that exports to Pakistan were made at arm's length basis.

18.4.6 **Whether the Product under Review was Resold at Profit**

The Commission was unable to determine whether product under review was resold at a profit, because importers of the product under review did not cooperate with the Commission in this review and did not provide necessary information.

18.5 On the basis of information gathered, it cannot be convincingly concluded that the Applicant was bona fide exporter of the product under review.

19. **Exports of the Product under Review by the Applicant**

19.1 Investigation of the Commission has shown that Applicant produces, markets and sells PFY (the product under review) in its domestic market as well as exports to Pakistan only.

19.2 The Commission's investigation has revealed that the Applicant did not export product under review during POI of the original investigation. Evidence and information provided by the Applicant has proved that Applicant was established in the year January 05, 2011 and it started exporting product under review to Pakistan in the month of July 2019. In export market, the Applicant exported 0.89 percent of its total sales of PFY to Pakistan only during POR.

19.3 On the basis of the above, the Commission has concluded that the Applicant has not exported product under review to Pakistan during the POI of original investigation. It started exporting product under review to Pakistan after imposition of antidumping duties. The Applicant has not exported product under review to Pakistan after POR.

20. **Relationship of the Applicant with Exporters or Producers**

20.1 The Applicant claimed that it is not related to any of the exporters or producers of the product under review, who are subject to antidumping duties. In support of above-

mentioned claims, the Applicant has submitted affidavit duly notarized by the notary public in China and attested by the Embassy of Pakistan in Beijing, China.

20.2 The Applicant is a Sole Proprietorship company started on January 05, 2011 and got the business license provided by Suzhou Wujiang Market supervision and administration under the Company Law of the People's Republic of China. The Company is located in YuanXin Road, Taoyuan Town, Wujiang City. The Company scope is self-employed manufacturer of Polyester Filament Yarn.

20.3 The evidence and information provided by the Applicant have shown that the Applicant is not related to any of the exporter and producer who is subject to definitive antidumping duty. Therefore, it qualifies to request for an individual dumping margin under Section 60 of the Act.

21. **Determination of Individual Dumping Margin for the Applicant**

21.1 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".

21.2. **Normal Value**

21.2.1 Section 5 of the Act defines normal value 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".

21.2.2 Section 6 of the Act states that: "(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".

21.2.3 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. 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.”

21.3 **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”.

21.4 **Determination of Normal Value for the Applicant**

21.4.1 During the newcomer review, the Commission observed that there is difference between prices charged to importers of the product under review. The Applicant was asked to provide explanation about such differences. The Applicant stated that “major difference in price is due to the different grade materials (AA and A) sold to one of the customers. Other than grading of the product, fluctuation for US Dollar rate in the market has an impact on the pricing.”

21.4.2 The Commission requested to provide grade wise domestic sales of the product under review. The Applicant did not provide grade wise domestic sales. For like to like comparison, information on grade wise domestic sales is necessary. In the absence of such information, it is not possible to determine normal value.

21.4.3 Further, the Applicant has reported adjustments on account of indirect tax, discount, insurance and bank charges. The Applicant was asked to submit evidence of the adjustments claimed. However, documentary evidence was only provided against

indirect tax adjustment. Documentary evidence in support of other adjustments was not provided by the Applicant. In view of the above, it is not possible to calculate normal value at ex-factory level.

21.5 Determination of Export Price

21.5.1 Export price for the Applicant is determined on the basis of the information provided by it on its export sales to Pakistan made during the POR.

21.5.2 The Applicant exported three variants of the product under review to Pakistan during POR. Its total exports of the product under review to Pakistan during POR were 159.43 MT. All export sales to Pakistan, during POR, were to un-related parties.

21.5.3 To arrive at the ex-factory level, the Applicant has reported adjustments on account of credit cost, freight, handling cost, bank charges and rebate. The Applicant has stated that Chinese Government provides rebate @ 13% to the exporters of product under review. The Applicant has added back the rebate in export price. Upon query, it was stated that rebate relates to VAT. VAT is levied @ 17%, out of which 13% of VAT is paid to the exporters as rebate whereas 4% of VAT remains unrefunded. VAT has been deducted from domestic sales while calculating normal value. The Commission in its previous investigations has deducted unrefunded VAT from export price. As per previous investigation, unrefunded VAT @ 4% has been deducted from export price. The Applicant was asked to submit documentary evidence of the adjustments claimed in the export price. For detailed discussion on the adjustments, other than VAT, in export sales transaction, please refer to para 18.4.4.3. In view of the explanation at para 18.4.4.3, it is not possible to calculate export price at ex-factory level.

22. Dumping Margin

22.1 The Act defines “dumping margin” in relation to a product as “the amount by which its normal value exceeds its export price”. Section 12 of the Act provides three methods for fair comparison of normal value and export price in order to establish dumping margin. As stated earlier that the Applicant has not provided documentary evidence in support of adjustments claimed in domestic and export sales, it is therefore the Commission was unable to establish dumping margin by comparing weighted average normal value with weighted average export price at ex-factory level.

22.2 Section 11 of the Act, 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". As the Applicant itself contended that grades of product under review are an important parameter in price determination, comparison of export price and normal value of similar grades is necessary. As the Applicant has not provided grades wise domestic sales, it is not possible to determine normal value for like to like comparison with export price.

C. CONCLUSIONS OF NEWCOMER REVIEW

23. On the basis of fore-going facts and analysis, the Commission has concluded the following:

- i. The application filed by the Applicant fulfills requirements of Section 60 of the Act.
- ii. The Applicant did not export product under review during period of investigation.
- iii. The Applicant is not related to any producer and/or exporter who are subject to definitive antidumping duty imposed on product under review.
- iv. The Applicant did not made exports to other countries where no antidumping duties are in place but contrarily it exported to Pakistan only where antidumping duties are in place on the imports of product under review. These two importers to whom sales were made by the Applicant have not imported the product under review from any other Chinese exporter and from any other source. Further, there is no continuity found in the pattern of exports to Pakistan as the Applicant only exported during a specific period of time which shows that it was targeted export to get a lower dumping margin from the Commission. On the basis of information gathered, it cannot be convincingly concluded that the Applicant was bona fide exporter of the product under review.
- v. Arguendo, even if it is accepted that the Applicant is a bona fide exporter, it failed to provide essential information for determination of individual dumping margin. Like to like comparison is necessary for determination of individual dumping margin. According to the Applicant, grades of product under review is an important parameter for determination of price. The Applicant did not provide grade wise domestic sales and this piece of information was necessary for like-to-like comparison which leads to non-determination of individual dumping margin.

The onus to provide essential information (grade wise domestic sales and documentary evidence in support of adjustments claimed in domestic and export sales transactions) requested by the Commission lied on the Applicant which it could not furnish. This newcomer review thus stands concluded with anti-dumping duty imposed on the Applicant at the rate of residual antidumping duty rate @ 11.35 percent.

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Annexure-I

Interested Parties' Comments	Commission's response
<p><u>O.S.M and SQM Enterprises (Importers):</u></p> <p>1. That the item produced by M/S Suzhou Rusheng Fiber Co. Ltd are PFY FDY Cationic which is not produced by any local manufacturer from Pakistan.</p> <p>2. That, as not produced by local manufacturers from Pakistan and only two Chinese Exporters can do exports for the said products, these items are already monopolized in the market due to which small industries (specially netting sector) are facing too much problems.</p> <p>3. That as a preliminary margin and till the final investigation, your good self may reconsider the slab and allow anti-dumping margins as low as possible for the M/S Suzhou Rusheng Fiber Co Ltd.</p> <p><u>Gatron (Industries) Limited</u></p> <p>4. Following is stated at para 7 of the SEF “ All interested parties were invited to make their views/comments known to the Commission and to submit information and documents (if any) with regard to this review. None of the interested parties has submitted written submission/comments on initiation and conduct of this newcomer review”</p>	<p>Importers, during the original investigation, raised the same point that domestic industry is not producing cationic PFY. In original investigation, during on-the-spot verification of the domestic industry, it was noted that the domestic industry is manufacturing cationic PFY. After receiving similar query during newcomer review, the question was referred to Gatron (Industries) Limited, one of the Applicant during original investigation. Gatron Industries Limited has stated that it has manufactured and sold cationic PFY during POR as well.</p> <p>The importers are free to procure the required quantity of cationic PFY from non-dumped sources. They can also procure it from the dumped sources at fair price.</p> <p>During pendency of newcomer review, the importer is required to pay a cash deposit at the rate of the residual antidumping duty in pursuance to sub-section (5) of Section 51 of the Antidumping Duties Act 2015.</p> <p>Letter dated March 18, 2020 was received in the Commission on February 03, 2021 via email.</p>

It is respectfully submitted that the Gatron (Industries) Limited has submitted its views/comments to the Commission on March 18, 2020 (copy enclosed), which have not been considered by the Commission.

5. Throughout the SEF, particularly at paragraphs 14.2. and 14.3, the Commission has stated that it has provided more than sufficient opportunities to the applicant to provide necessary information and yet the Applicant has failed to provide the information to the Commission. Sub-section (2) of Section 60 of the Anti-Dumping Duties Act 2015 (the Act) states as follows:

“A review under sub-section (1) shall be initiated within thirty days following the date of receipt of an application for such review by any producer or exporter concerned and shall normally be completed within six months from its initiation and, in any event, no later than twelve months:

Provided that the Commission may require an applicant requesting a review under sub-section (1) to fill in an additional questionnaire provided by it requiring such information and for such period as the Commission deems necessary before such review is initiated in which case are view under sub-section (1) shall be initiated within thirty days following the receipt by the Commission of such questionnaire duly filled in.”

Therefore, it is quite clear that a [newcomer] review can only be initiated

At the time of initiation, the Commission has to decide that whether the application *prima facie* meets the criteria for the initiation of a review. During the course of review, the Commission gathers documentary evidence against the information submitted in the Application for the purpose of verification.

Thus, the Commission rightly initiated the instant review based on *prima facie* information provided in the application for newcomer review. However, as the Applicant was not able to produce requisite documentary evidence in support of data submitted, newcomer review has been rescinded.

after receipt of complete information. In this case the application was not complete but the Commission initiated this review, which is a violation of the Act. We therefore urge the Commission to terminate the review immediately for lack of sufficient of information without calculating individual dumping margin for the Exporter.

6. Following is gathered from the SEF:

- i. the applicant has exported only 159MT of PFY during period of review and its share in the imports from China during the same period was 0.11%.
- ii. these imports were in July-September 2019 only. The applicant has not exported at all after September 2019.
- iii. the applicant only exported to Pakistan where antidumping duty was/is in place and it has not exported to any other country where no such duties are applicable.
- iv. the applicant exported three types of the product under review to Pakistan during the POR; and
- v. Price of the transactions for the month of July was aberrantly higher as compared to other Chinese exporters / producers prices in this period.

All the above information clearly states that the applicant is not a bona-fide exporter and has not exported product under review in commercial quantities

The Commission considered all these points while concluding the newcomer review.

<p>after imposition of definitive antidumping duties on dumped imports of the PFY. This is clear that the applicant has exported meager quantity of specific types at higher price with malafide intentions to get rid of antidumping duty. Hence, the applicant does not justify to apply for individual dumping margin under new comers review.</p> <p>7. The website of the applicant shows that it has started production in 2011 and has been exporting worldwide since 2014 (extracts from the website is enclosed for ready reference). Since Pakistan has always been among top 3 destinations of exports of Chinese PFY, therefore it is most likely that the applicant had exported PFY to Pakistan during 2014 to 2019, may be through a trader, stockist or a related party.</p> <p>8. The applicant has conducted business with multiple names in the past such as M/s Suzhou Chunsheng Environmental Protection Fibre Co, Ltd. & M/s Hitextile International Co. Ltd. in addition to its present name M/s Suzhou Rusheng Chemical Fibre Co. Ltd. (website extract attached).</p> <p>9. There a potential risk of Circumvention exists as the applicant exports different products produced by the different producers. It is quite possible that after getting the individual dumping margin, it may export product under review produced by those producers who are subject to definitive antidumping duties.</p>	<p>As per import data available with the Commission the company did not export the product under review under its name during original period of investigation. Prior to initiation of newcomer review, the exporter filed an application, but the case was turned down because the company did not export to Pakistan and hence export price could not be established. This implies that company did not export to Pakistan before July 2019.</p> <p>According to the audited report of the Applicant, the company name is M/S Suzhou Rusheng Fiber Co. Ltd. which is an authentic document. According to the Applicant, it does not maintain an official website. The website extracts provided by Gatron Industries Limited are from a third-party website.</p> <p>Gatron Industries Limited's apprehension is based on the assumption that, after getting lower dumping margin, exporter may indulge in funneling of exports. As the Commission has not determined lower dumping margin for the Applicant, there are no chances of funneling of exports through it.</p>
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