

ADC No. 56/2019/NTC/PA
GOVERNMENT OF PAKISTAN
NATIONAL TARIFF COMMISSION

STATEMENT OF ESSENTIAL FACTS

**CONCERNING ANTI-DUMPING INVESTIGATION ON DUMPED IMPORTS OF
PHTHALIC ANHYDRIDE ORIGINATING IN AND/OR EXPORTED FROM
CHINA, CHINESE TAIPEI, KOREA AND RUSSIAN FEDERATION**

A. INTRODUCTION

This Statement of Essential Facts (“SEF”) is prepared pursuant to Rule 14(8) of the Anti-Dumping Duties Rules, 2001 (“Rules”) in relation to the investigation of the dumping of Phthalic Anhydride (“PA”) originating in and/or exported from China, Chinese Taipei, Korea and Russian Federation (the “Exporting Countries”). The National Tariff Commission (the “Commission”) initiated this investigation on December 07, 2019 following receipt of application from M/s Nimir Chemical Pakistan Limited, Lahore (the “Applicant”), the manufacturers of PA on behalf of domestic industry.

B. PURPOSE

2. In terms of Rule 14(8) of the Rules, at least thirty days before the proposed date of the final determination, the Commission shall inform all the interested parties, in writing, of the essential facts under consideration which shall form the basis of a decision whether to apply definitive anti-dumping measures under the Anti-Dumping Duties Act, 2015 (the “Act”).

3. The purpose of this SEF is to provide interested parties an opportunity to comment on essential facts before the final determination is made. In terms of Rule 14(9) of the Rules, the interested parties may submit comments, if any, in writing on the information disclosed in the SEF, not later than fifteen days of such disclosure by the Commission.

4. Interested parties intending to respond to this SEF must also submit a non-confidential version of the confidential information in terms of Section 31 of the Act, to be placed in the public file maintained by the Commission under Rule 7 of the Rules. Submissions should be sent to:

Mr. Farrukh Mukhtar, Director,
National Tariff Commission,
State Life Building No. 5, Blue Area
Islamabad, Pakistan.
Fax: +92 51 9221205
Email: farrukh@ntc.gov.pk

5. Public File

In accordance with Rule 7 of the Rules the Commission has established and maintained a public file at its office in this investigation. This file remains available to the interested parties for

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review and copying from Monday to Thursday between 1100 hours to 1300 hours throughout the investigation. The public file contains non-confidential versions of the application, exporters' responses, submissions, notices, correspondence, report of preliminary determination, reports of on-the-spot investigation, record note of hearing and other documents for disclosure to the interested parties.

6. Hearing

In response to notice of preliminary determination dated June 05, 2020, interested party requested for a hearing in this investigation in accordance with Rule 14 of the Rules. The hearing was held on February 09, 2021 to obtain the views/comments of the interested parties. Submissions of the interested parties during the hearing and record note of the hearing are made available to the interested parties by placing them in the public file.

7. Written Submissions by the Interested Parties

7.1 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 investigation. The Commission has received written submissions/comments from the following parties:

- i. Ministry of Industry and Trade of the Russian Federation
- ii. Qaisar L.G Petrochemicals (Pvt.) Ltd (an importer of PA)
- iii. Chawla Chemical and Aluminum Ltd (an importer of PA)
- iv. Power Chemical Industries Limited (an importer of PA)
- v. Nimir Chemical Pakistan (Pvt.) Limited (the "Applicant")
- vi. Nan Ya Plastics Corporation (a cooperating exporter of PA)

7.2 Views/comments and the information submitted by the interested parties have been duly considered by the Commission while arriving at the essential facts of this case. The interested parties have broadly raised issues with respect to the following:

- i. Lower volume of imports;
- ii. No dumping as importers use ICIS prices for import of PA;
- iii. Alleged Plea of Injury and Factual Position of Applicant;
- iv. Sales of PA at lower rates to its sister concern M/s ATS Synthetics;
- v. Monopolistic Position of the Applicant;
- vi. Production Process Self-reliant on Energy;
- vii. Quality Variance in Phthalic Anhydride and like products on the basis of raw material used;
- viii. The Eligibility of Nimir Chemicals Pakistan Limited ("NCPL") being the Applicant as it is an associated party of a company namely Nimir Industrial Chemical Ltd in which Nimir Resins Limited is a subsidiary company. Nimir Resins Limited is the importer of PA;
- ix. Calculation of Dumping Margin

7.3 The Commission has taken into consideration the views /comments and issues raised by the interested parties in this investigation and has reached on these essential facts after consideration of all information, evidence, views and comments of the interested parties.

C. Facts of the Investigation

8. Receipt of Application

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

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

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

9. Evaluation and Examination of the Application

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

10. Initiation of Investigation

10.1 The Commission, in accordance with Section 23 of the Act examined the accuracy and adequacy of the evidence provided in application and established that there was sufficient evidence of alleged dumping of PA into Pakistan from the Exporting Countries and such imports are causing material injury to the domestic industry. Accordingly, the Commission issued a notice of initiation in accordance with Section 27 of the Act, which was published in the Official Gazette¹ of Pakistan and in two widely circulated national newspapers² on December 07, 2019. Investigation concerning alleged dumped imports of PA into Pakistan classified under PCT No³. 2917.3500 originating in and/or exported from the Exporting Countries was thus initiated on December 07, 2019.

¹The official Gazette of Pakistan (Extraordinary) dated December 07, 2019.

² “Daily Jang” and “Daily Nawa-i-Waqt” of December 07, 2019.

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

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

10.3 In accordance with Section 28 of the Act, on December 26, 2019, the Commission sent copy of full text of the written application (non-confidential version) and Exporter's Questionnaire to the known exporters /producers of the Exporting Countries. On December 26, 2019, copy of the full text of the written application (non-confidential version) along with Exporter's Questionnaire was also sent to the Embassies of the Exporting Countries in Pakistan with a request to forward it to all exporters/producers involved in production and/or sale/export of PA.

11. The Domestic Industry

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

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

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

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

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

11.3 After preliminary determination Nan Ya Plastics Corporation, Chinese Taipei an interested party submitted that:

“Nan Ya noted that the Pakistani company Nimir Resin Limited is a PA importer Nimir Resin was a sub-subsidiary of Nimir Chemical Industry Ltd, as page 58 of Nimir

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Chemical Industry 2019 Annual Report. On the same page, Applicant NCPL is marked as an associated company of Nimir Chemical Industry by sharing common directorship. A footnote further reads that the relationship has ceased on December 29, 2018 due to the retirement of the directors. POI of the present investigation ranges from July 2018 to June 2019. Therefore, at least during the first half of the POI, NCPL was related to the importer Nimir Resin and may be excluded from the domestic industry pursuant to Section 2(d) of the Act. Nan Ya urges the Commission to look into this issue during the remaining course of the investigation.”

11.4 The Applicant submitted the following response to the above submission of the exporter i.e. Nan Ya Plastics Corporation, Chinese Taipei:

“There is no subsidiary company of the Applicant. The only associated Company of the Applicant was Nimir Industrial Chemicals Limited (NICL) by virtue of common directorship (Mr. Mohsin Tariq and Mr. Saqib Raza were directors in NICL) which ceased to be an associated company w.e.f September 25, 2018 after resignation of the above said two persons from directorship in NICL. The same is evident from the Annual Report of NICL for the year 2019, which does not contain the name of the Applicant. Here it is pertinent to mention that NICL is not a user of PA and the Applicant has not sold PA to its associated company (till September 25, 2018) during the POI. Transactions with NICL only included purchases of Glycerin, Sodium Hypo Chlorite and Hydrochloric acid, none of which is used as an input in manufacturing of PA. Glycerin is used in the production of Alkyd Resin and other products which are used in boiler.”

11.5 The Commission has considered views/comments as well as explanations provided by the interested party on the issue of domestic industry and standing of the application keeping in view relevant provisions of the Act, the Agreement on Antidumping and the practices of other investigating authorities in the same/similar situations. The Commission has reached on the following conclusions:

- i. Neither the Applicant nor the related company namely Nimir Industrial Chemicals Limited imported PA. Subsidiary company of Nimir Industrial Chemicals Limited i.e. Nimir Resins Limited, imported PA during the POI.
- ii. Section 2(d) of the Act as well as Article 4.1 of the Agreement on Antidumping provides that, if domestic producers are related to exporters or are themselves importers of the investigated product the term “domestic industry” may be interpreted as referring to the rest of the producers. Thus, these provisions give an option and discretion to the investigating authority and does not impose an obligation to exclude, the domestic producer who is related to the exporter and/or a domestic producer who is itself an importer of the investigated product, from the definition of the domestic industry.
- iii. The WTO Panel in EC – Fasteners (China) found that “the use of the term 'may' in Article 4.1 makes it clear that investigating authorities are not required to exclude related producers or importing producers” and that “there is nothing in Article 3.1, or in Article 4.1, that limits the discretion of investigating authorities to exclude, or not, related or importing domestic producers.”

- iv. Exclusion of any producer from the definition of the domestic industry is conditional i.e., dependent upon the behavior of the domestic producer concerned. Section 2(d) of the Act stipulates that the concerned producer may be excluded from domestic industry if it “behave differently from non-related producers”. The question of different behavior does not arise as the producer itself is the Applicant in this case.
- v. The Applicant is the legitimate producer of PA in Pakistan and have made considerable investments for production of PA in the country. Therefore, their primary objective lies in domestic production and sales of the domestic like product.

12. Standing of the Application

As the Applicant is the only producer of PA in Pakistan, therefore, it fulfills requirements of Section 24 of the Act. Thus, the application is made by the domestic industry, which is supported by the 100 percent domestic production.

13. Investigated Product, Domestic Like Product and the like product

13.1 The Investigated Product

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

Specification:

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

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

13.1.3 During the course of investigation, importers of investigated product claimed that few Chinese exporters/producers are manufacturing PA from Naphthalene, which is not at par with PA produced by the domestic industry from Ortho-xylene. Upon query, it was informed by the importers that there was no difference between PA produced from Naphthalene and Ortho-xylene

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in terms of end use applications. The Applicant was of the view that there is no difference between the PA produced from Naphthalene and the PA produced from Ortho-xylene.

13.1.4 The tariff structure applicable to the investigated product during the POI is given below in the Table-I;

**Table-I
Customs Tariff Structure**

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

13.2. Domestic Like Product

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

13.2.2 It is used in the manufacturing of Polyester resins, Alkyd resin, Plasticizers, certain dyes and insecticides etc. It is also utilized as a retarder. The primary use of the investigated product is in the production of plasticizer used for production of plastics from vinyl chloride. PA is used in Polyester resins, Di-octyl- Phthalate (DOP), dyestuffs, tyres and technical rubber products, a range of pharmaceuticals and other products. It is also used in Alkyd Resins (Glyptal) and to modify physical properties of Synthetic Resins. After preliminary determination one of the interested parties namely Nan Ya Plastics Corporation, Chinese Taipei submitted,

“The Commission described the investigated product in paragraph 12.3.2 of the Preliminary Determination Report as, “Phthalic Anhydride (the investigated product) is an organic compound in white crystalline form, available in solid state, white flakes, with mild odour, slightly soluble in ether and hot water.” (emphasis added). This description somehow suggests that liquid PA is not within the scope of the investigation.”

13.2.3 During on-the-spot investigation it was verified by the officers of the Commission that Applicant has produced and consumed PA in liquid form. Its in-house consumption was for the manufacturing of DOP and Alkyd Resins. They clarified that both solid and liquid forms of PA are similar product, only difference is the difference of physical form of the product.

13.3. Like Product

13.3.1 The like product is PA, produced and sold by the exporters/producers of the Exporting Countries in their domestic markets, and export markets to countries other than Pakistan and PA imported into Pakistan from countries other than the Exporting Countries. The like product is classified under PCT/ H.S heading No. 2917.3500. Major uses of the like product are identical to those of the investigated product and domestic like product.

13.3.2 In order to establish whether the investigated product (PA produced from Naphthalene route and Ortho-xylene route), domestic like product are alike products, as contended by the Applicant, the Commission reviewed all the relevant information received/obtained from various sources including the Applicant, and the importers (i.e., Nimir Resins Limited, Lahore and Power Chemicals, Faisalabad) in the following terms:

- i. The Applicant uses Ortho-xylene as basic raw materials for the manufacture of the domestic like product (i.e., PA), while few Chinese exporters use Naphthalene to produce investigated product (i.e., PA). Although different raw materials are used, the finished product manufactured is the same i.e., PA. It is worth mentioning that no exporter/ producer who produces PA from Naphthalene cooperated with the Commission in this investigation.
- ii. The PA produced from Naphthalene and Ortho-xylene is manufactured by similar process i.e., oxidation reaction. The product manufactured from these manufacturing processes is the same i.e., PA. Furthermore, the investigated product is mainly manufactured from Ortho-xylene in China.
- iii. Both the products have same uses. These are mainly used in polyester resins, dyestuffs, tyres and technical rubber products, a range of pharmaceuticals and other products it is also used in Alkyd Resins (Glyptal) and to modify physical properties of Synthetic Resins. Major uses of the like product are identical to those of the investigated product and domestic like product.
- iv. Both the products are classified under the same PCT/HS sub-heading 2917.3500.

13.3.3 In light of the above, the Commission has determined that the investigated product, the domestic like product and like product are same.

14. Period of Investigation (“POI”)

In terms of Section 36 of the Act, Period of Investigation (“POI”) fixed for the purposes of this investigation for dumping and injury are, as follows:

For determination of dumping:	From July 01, 2018 to June 30, 2019
For determination of injury:	From July 01, 2016 to June 30, 2019

15. Information/Data Gathering

15.1 The Commission sent Exporter’s Questionnaire to all known exporters/producers of PA in the Exporting Countries, whose addresses were available with the Commission on December 26,

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

15.2 The Commission received requests on January 16, 2020 from two exporters namely Hanwha Solutions Corporation, Korea, (Hanwha Solutions) and Panjin Read Chemical Co. Ltd, China (Panjin Read Chemicals) for extension in time period for submission of data /information on Exporters Questionnaire till February 11, 2020.

15.3 After taking into account the due cause shown by these exporters in their requests, the Commission acceded to the requests and granted extension in time period for submission of information on Exporter's Questionnaire till February 11, 2020. On February 17, 2020, the Commission received an email from Nan Ya Plastics Corporation, Chinese Taipei (Nan Ya Plastics) stating that it has received Exporter's Questionnaire on February 04, 2020 and intends to cooperate with the Commission. The company further requested for a reasonable extension in time period for submission of data /information on the Exporter's Questionnaire. The Commission granted extension till March 10, 2020.

15.4 Hanwha Solutions, South Korea response on exporter's questionnaire was received on February 11, 2020, which was found deficient in certain aspects. Deficiencies were communicated to Hanwha Solutions vide a letter dated March 12, 2020. M/s Hanwha Solutions was asked to provide the deficient information/data no later than 10 days of issuance of the letter, so as to enable the Commission to consider and analyze the same for the purposes of this investigation. However, M/s Hanwha Solutions Corporation, Korea requested for further extension of two week time to provide the data. The Commission granted the extension for submission of data. The deficiency response was received on April 06, 2020. The information submitted by M/s Hanwha Solutions in response to the questionnaire was analyzed at the Commission and again certain deficiencies were identified. Accordingly, those data deficiencies were communicated to it vide the Commission's letter dated April 20, 2020. The deficiency response was received on April 24, 2020. On March 03, 2021, Hanwha was asked to submit documentary evidence in support of information submitted. The same was submitted by Hanwha on March 17, 2021. Information submitted by Hanwha Solutions will be used for determination of its individual dumping margin.

15.5 Panjin Read Chemical, China response on exporter's questionnaire was received on February 11, 2020 which was found deficient in certain aspects. Deficiencies were communicated to Panjin Read Chemical vide a letter dated March 11, 2020. Panjin Read Chemicals did not reply to the Commission's deficiency letter. The Commission informed Panjin Read Chemicals that in case it failed to provide complete data/ information, the Commission will rely on Best Information Available for determination of dumping.

15.6 Nan Ya Plastic Corporation, Chinese Taipei response on exporter's questionnaire was received on March 10, 2020, which was found deficient in certain aspects. The company submitted its reply on March 11, 2020. The response was deficient and data deficiency was communicated on March 12, 2020. The reply to deficiency letter was received on March 27, 2020. Deficiencies were communicated to Nan Ya Plastics vide a letter dated March 27, 2020. The data was examined

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and found deficient. Accordingly, those data deficiencies were communicated to it vide the Commission's letter dated April 07, 2020. Nan Ya Plastics responded on April 10, 2020. On March 03, 2021, Nan Ya was asked to submit documentary evidence in support of information submitted. The same was submitted by Hanwha on March 17, 2021. The reply dated April 10, 2020 was analyzed and deficiencies were communicated to M/s Nan Ya Plastics on April 17, 2020. Reply to deficiencies was received on April 22, 2020. On March 03, 2021 and March 12, 2021, Nan Ya was asked to submit documentary evidence in support of information submitted. The same was submitted by Nan Ya on April 09, 2021. Information submitted by Nan Ya will be used for determination of its individual dumping margin.

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

15.8 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 investigation, the Commission has used import data obtained from PRAL in addition to the information provided by the Applicant, the importers and the exporters/producers from the Exporting Countries.

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

15.10 Thus, the Commission has sought from all available sources the relevant data and information deemed necessary for the purposes of the determination of dumping and injury in this investigation.

15.11 In order to verify the information/data submitted by the Applicant, officers of the Commission conducted on-the-spot investigation at the office and plant of the Applicant from August 11-13, 2020. Report of on-the-spot investigation was provided to the Applicant in confidential as well as non-confidential versions. Non-confidential version of on-the-spot investigation report was provided to other interested parties by placing the same in the public file.

15.12 On the spot investigation at the premises of cooperating exporters/ producers could not be conducted due to travel restriction imposed in the wake of COVID-19. However, as stated earlier, to determine the accuracy of the information, the Commission asked the cooperating exporters/ producers to submit documentary evidence in support of information submitted.

16. Preliminary Determination

16.1 The Commission made preliminary determination in this investigation on June 05, 2020 and in terms of Section 37 of the Act a notice of preliminary determination was published on June 05, 2020 in official Gazette of Pakistan and in two widely circulated national newspapers (one

English “The Nation” and one Urdu Language “The Jang”) notifying preliminary determination. The Commission concluded that the imposition of provisional antidumping duties on dumped imports of the investigated product from the Exporting Countries is not necessary to prevent injury being caused to the domestic industry during the course of investigation till final determination, in accordance with Section 43 of the Act.

16.2 The Commission sent copy of the notice of preliminary determination to all registered interested parties on June 08, 2020. The notice of preliminary determination along with non-confidential version of the report of preliminary determination was also posted on the Commission’s official website.

17. Disclosure Meetings after Preliminary Determination

The exporters/producer from South Korea and Chinese Taipei for whom individual dumping margins were determined in the preliminary determination requested for disclosure of dumping calculations in accordance with Rule 11 of the Rules. On July 27, 2020 and July 28, 2020, the Commission provided disclosure documents explaining dumping calculation and methodology to Nan Ya Plastics Corporation, Chinese Taipei and Hanwha Solutions, South Korea respectively. The exporter/ producer namely Nan Ya Plastics Corporation has submitted its views/ comments on dumping calculations, which will be duly considered by the Commission for dumping calculations in the final determination of this investigation.

18. Dumping Determination

Only two exporter/ producers namely Hanwha Solutions Corporation, South Korea and Nan Ya Plastics Corporation, Chinese Taipei provided information in response to the questionnaire. Individual dumping margin in this investigation have been determined on the basis of the information provided by the cooperating exporters. However, a residual dumping margin has been determined for all other non-cooperating exporters/ producers of the Exporting Countries in terms of Section 32 of the Act and Schedule to the Act.

19. Determination of Normal Value:

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

19.2 Determination of Normal Value for Hanwha Solutions, Korea

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

19.2.2 After preliminary determination, Hanwha Solutions stated that it had exported PA to Pakistan during the months of July, December 2018 and January 2019 only. As the prices of PA

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fluctuated during the POI, the Commission shall determine normal value for these months to be compared with monthly weighted average export price.

19.2.3 M/s Hanwha Solutions sold *** MT of the like product in its domestic market during the POI. It sold like product to related and un-related customers in its domestic market. Out of total domestic sales, sales of *** MT were made through related party namely M/s Hanwha Corporation. Sales to related party were at arm's length therefore, they were included in the calculation of normal value. For determination of arm's length, the Commission examined the per unit price charged to related and unrelated parties. Section 7 of the Act requires the Commission to determine ordinary course of trade for domestic sales to determine normal value. Investigation has revealed that out of total sales, 28.63% of domestic sales were at loss, while 71.37% were profitable sales. Below costs sales were in substantial quantities in terms of Section 7(2) of the Act. Furthermore, below costs sales were over an extended period of time. However, its prices provided for recovery of all costs within a reasonable period of time. Thus, in determination of normal value the sales at loss will be considered as made in ordinary course of trade and will be taken into account for calculation of normal value in terms of Section 7 of the Act.

19.2.4 According to M/s Hanwha Solutions, during the POI, it sold like product in its domestic market on credit at delivered basis. To arrive at the ex-factory price, M/s Hanwha Solutions has claimed adjustments on account of credit cost, inland freight and packing cost. The Commission has accepted these adjustments for the purposes this investigation. Normal value at ex-factory level for the like product will be worked out by deducting values of these adjustments.

19.3 Determination of Normal Value for Nan Ya Plastics Corporation, Chinese Taipei

19.3.1 Normal value for Nan Ya Plastics will be determined on the basis of the information provided by it on its domestic sales during the POI. M/s Nan Ya Plastics sold *** MT of the like product in its domestic market during POI. It sold like product to un-related customers in its domestic market.

19.3.2 After preliminary determination, Nan Ya Plastics stated that it had exported PA to Pakistan during the months of July, August and September 2018 only. As the prices of PA fluctuated during the POI, the Commission shall determine normal value for these months to be compared with monthly weighted average export price. Apart from that Nan Ya Plastics exported only solid PA to Pakistan, whereas it sold PA in solid as well as liquid form in its domestic market. Furthermore, liquid PA is sold in bulk while the transaction size of solid PA can be more flexible. On the basis of above, for like to like comparison of export price and normal value, only solid PA domestic sales may be used for determination of normal value. On the basis of above, the Commission will determine normal value for the months in which PA was exported to Pakistan on the basis of solid PA domestic sales.

19.3.3 Section 7 of the Act requires the Commission to determine ordinary course of trade for domestic sales to determine normal value. Investigation has revealed that all sales by the company were profitable sales. Thus, while making determination of normal value all domestic sales will be taken into account in terms of Section 7 of the Act.

19.3.4 According to Nan Ya Plastics, during the POI, it sold like product in its domestic market on credit at delivered basis. To arrive at the ex-factory price, M/s Nan Ya has claimed adjustments on account of credit cost, rebate, inland freight and packing cost. Normal value at ex-factory level for the like product will be worked out by deducting values of these adjustments.

19.4 Determination of Normal Value for All Other Exporters/Producers from China, Chinese Taipei, South Korea (other) and Russia

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

19.4.2 It is important to point out here that the Commission informed the exporters/producers from China, Chinese Taipei, South Korea and Russia of reliance by the Commission on the Best Information Available in its letters of March 02, 2020, in case they do not provide the requisite information to the Commission.

19.4.3 For determination of normal value for all non-cooperating exporters /producers from China and Russia, the Commission will rely on information obtained from online portals, other publicly available information such as trademaps, comtrade, PRAL, domestic industry's cost to make and sell or any other relevant information.

19.4.4 As stated earlier, exporters from Chinese Taipei and South Korea cooperated with the Commission by providing necessary information required for calculation of individual dumping margins. The Commission is of the view that information provided by the cooperating exporters is preferred, for the calculation of normal value for non-cooperating exporters of Chinese Taipei and South Korea, as compared to the information provided by the Applicant in the Application. After taking into account the level of cooperation from Chinese Taipei and South Korea, the Commission will decide, to base calculation of normal value, on the cost information provided by the cooperating exporters. For the purposes of calculation of normal value, cost to make and sell of the cooperating exporters will be used. Five (5) % of cost to make and sell will be added on account of reasonable profit.

20. Determination of Export Price

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

20.2 Determination of Export Price for Hanwha Solutions Corporation, Korea

20.2.1 Export price for Hanwha Solutions will be determined on the basis of the information provided by it on its export sales of the investigated product to Pakistan made during the POI.

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

20.2.3 During the POI, Hanwha Solutions exported investigated product mostly on FOB price basis. However, few sales were made on CFR terms. To arrive at the ex-factory level, it has reported adjustments on account of inland freight, ocean freight, handling charges and packing cost. The Commission asked Hanwha to submit documentary evidence regarding export sales to Pakistan and adjustments claimed to arrive at ex-factory level. Hanwha submitted requisite information and documentary evidence, which was examined by the Commission. It was noted that there were minor discrepancies in the amount of handling cost reported in the Questionnaire response. The amount of handling charges appearing on the copies of invoices (provided as documentary evidence of adjustments) will be taken into account. The export price at ex-factory level will be worked out by deducting values reported for accepted adjustments from the gross value of sales transactions.

20.3 Determination of Export Price for Other Non-cooperating Exporters from Korea.

20.3.1 Export price for exporters from South Korea other than Hanwha Solutions, who did not cooperate with the Commission in providing information will be determined on the basis of Best Information Available in accordance with Section 32 of the Act. Information obtained from PRAL will be used for the purposes of determination of export price for non-cooperating exporters from South Korea. This is the only information available with the Commission on export sales of the investigated product by the non-cooperating exporters from South Korea.

20.3.2 Values in PRAL's information are reported at C&F level. The C&F export price will be adjusted to the ex-factory level. For this purpose, adjustments on account of inland freight, ocean freight, handling charges and packing cost will be made in the C&F price. Information submitted by Hanwha Solutions on these adjustments will be used for non-cooperating exporters/producers.

20.4 Determination of Export Price for Nan Ya Plastics Corporation, Chinese Taipei

20.4.1 Export price for Nan Ya Plastics will be determined on the basis of the information provided by it on its export sales of the investigated product to Pakistan made during the POI.

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

20.4.3 During the POI, Nan Ya Plastics exported investigated product on LC basis. To arrive at the ex-factory level, it has reported adjustments on account of credit cost, rebate, inland freight, ocean freight, handling charges, harbor service fee, trade promotion fee, bank charges and packing

cost. The Commission asked Nan Ya Plastics to submit documentary evidence regarding export sales to Pakistan and adjustments claimed to arrive at ex-factory. In response to Commission's letter, Nan Ya Plastics has provided the documentary evidence regarding adjustments claimed in export price. The export price at ex-factory level will be worked out by deducting values reported for adjustments from the gross value of sales transactions.

20.5 Determination of Export Price for Other Non-cooperating Exporters from Chinese Taipei.

20.5.1 Export price for exporters from Chinese Taipei other than M/s Nan Ya Plastics, who did not cooperate with the Commission in providing information will be determined on the basis of Best Information Available in accordance with Section 32 of the Act. Information obtained from PRAL is used for the purposes of determination of export price for non-cooperating exporters from South Korea, Chinese Taipei. This is the only information available with the Commission on export sales to Pakistan of the investigated product by the non-cooperating exporters from Chinese Taipei.

20.5.2 Values in PRAL's information are reported at C&F level. The C&F export price will be adjusted to the ex-factory level. For this purpose, adjustments on account of credit cost, rebate, inland freight, ocean freight, handling charges, harbor service fee, trade promotion fee, bank charges and packing cost have been made in the C&F price. Information submitted by Nan Ya Plastics on these adjustments will be used for non-cooperating exporters/ producers.

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

20.6.1 Export price for non-cooperating exporters from China and Russia will be determined on the basis of Best Information Available in accordance with Section 32 of the Act. Information obtained from PRAL is used for the purposes of determination of export price for non-cooperating exporters from China and Russia. This is the only information available with the Commission on export sales to Pakistan of the investigated product by the non-cooperating exporters from China and Russia.

20.6.2 Values in PRAL's information are reported at C&F level. The C&F export price will be adjusted to the ex-factory level. For this purpose, adjustments on account of credit cost, rebate, inland freight, ocean freight, handling charges, harbor service fee, trade promotion fee, bank charges and packing cost will be made in the C&F price. Information submitted by Nan Ya on these adjustments will be used for non-cooperating exporters/producers.

21. Dumping Margin

21.1 The Act defines "dumping margin" in relation to a product to mean "*the amount by which its normal value exceeds its export price*". In terms of Section 14(1) of the Act the Commission shall determine an individual dumping margin for each known exporter or producer of an investigated product. In this investigation, the Commission will determine individual dumping margin for the exporters/producers who cooperated with the Commission and supplied necessary information and the antidumping duty rate for the exporters will be calculated on the basis of

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individual dumping margin. However, residual dumping margins/ antidumping duty rates will be determined for non-cooperating exporters/producers of the Exporting Countries.

21.2 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 will determine dumping margin by comparing weighted average normal value with weighted average export price at ex-factory level.

21.3 The Commission will also comply 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*”.

22. De minimis Dumping Margin and Negligible Volume of Dumped Import

22.1 Section 41(3) of the Act states that the dumping margin shall be considered to be negligible if it is less than two percent, expressed as a percentage of the export price. Dumping margin for the investigated product determined in the report of preliminary determination was well above the negligible (*de minimis*) level.

22.2 Section 41(3) of the Act provides that the volume of dumped imports shall normally be regarded as negligible if the volume of dumped imports of an investigated product is found to account for less than three percent of total imports of a like product. The information/data on imports of the investigated product from dumped sources and import of PA from other sources has been obtained from PRAL. Volume of alleged dumped imports of the investigated product and the PA imported from other sources during the POI (July 01, 2016 to June 30, 2019) is given in a table below:

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

Country	Volume of Imports in percentage
China	18.22
Chinese Taipei	10.63
Korea	43.67
Russia	18.22
Other Sources	9.28
Total	100.00

Source: PRAL

D. DETERMINATION OF INJURY TO THE DOMESTIC INDUSTRY

23.1 The Commission will take into account all factors in order to determine whether domestic industry suffered material injury during the POI. Material injury to the domestic industry will be analyzed in accordance with Part VI of the Act.

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23.2 As stated above, the domestic industry manufacturing PA comprises of one unit i.e. the Applicant. The Applicant is neither related to any importer or exporters neither it imported PA itself. The Applicant represents 100% of the domestic production by the domestic industry. Thus, the standing requirements as given in section 24 of the Act are met and it is determined that the application was made by or on behalf of the domestic industry.

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

23.4 Analysis of injury factors carried out in this SEF in the following paragraphs is, therefore, based on the information provided by the Applicant and verified by the Commission.

24. Volume of Imports of the Investigated Product

With regard to the volume of dumped imports, the Commission will consider whether there was significant increase in its volume in absolute or relative to the domestic production or consumption in accordance with Section 15(2) of the Act. Following table shows the change in imports of the investigated product in absolute terms during POI:

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

Period	Volume of Dumped Imports (MT)	Increase/ (Decrease) (MT)
2016-17	100.00	---
2017-18	98.30	(1.70)
2018-19	111.92	13.62

Source: The PRAL

Note: For the purpose of confidentiality actual figures have been indexed by taking figures of volume of dumped imports in 2016-17 as base.

25. Determination of Price Effects

The Commission will determine price effects in accordance with Section 15(3) of the Act on the basis of the information provided by the Applicant on prices and cost to make and sell of the domestic like product and landed cost of the investigated product, which is calculated on the information obtained from PRAL. Following table shows the weighted average ex-factory price of the domestic like product, cost to make and sell of the domestic like product, and landed cost of the investigated product during the POI:

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**Table-VI
Ex-factory price, Cost to make & Sell and Landed Cost**

Period	Ex-Factory Price (Rs./MT)	Domestic Industry's Cost to make and sell (Rs./MT)	Landed Cost of Dumped Imports (Rs./MT)
2016-17	100	88	98
2017-18	116	90	111
2018-19	142	136	136

Source: the Applicant and PRAL

Note: For the purpose of confidentiality actual figures have been indexed by taking ex-factory price for the year 2016-17 as base.

Landed cost = CFR value + customs duty + additional customs duty + 2% incidentals

26. Market Share

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

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

Period	Volume of Sales of domestic industry	Volume of Dumped Imports from Dumped Source	Volume of Other Imports	Total Domestic Market (sales of local industry plus all imports)
2016-17	100	25	5	130
2017-18	115	24	6	145
2018-19	93	28	3	124

Source: the Applicant and PRAL

Note: For the purpose of confidentiality, actual figures have been indexed by taking volume of sales of domestic industry for 2016-17 as base.

27. Sales of the Domestic Like Product by the Applicant

Sales of the domestic like product made by the Applicant during the POI are given in the following table:

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

Year	Sales of the Applicant (including inhouse consumption)
2016-17	100
2017-18	115
2018-19	93

Source: the Applicant

Note: For the purpose of confidentiality, the actual figures have been indexed by taking sales of the Applicant for 2016-17 as base.

28. Installed capacity and Capacity Utilization

The installed capacity, production and the capacity utilization of the Applicant during the POI are provided in following table:-

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

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

Source: the Applicant

*Year is from July to June

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

29. Inventories of the Domestic Like Product

The information with regarding inventories of the domestic like product of the Applicant provided in the following table:

**Table-X
Inventories of the Domestic Like Product (MT)**

Year*	Opening Inventory	Production (Qty)	Sales (Qty)		Internal Consumption	Loss due to fire	Closing Inventory
			Domestic	Export			
2016-17	1.06	100.00	70.21	0.84	25.62	---	4.39
2017-18	4.39	106.67	83.09	---	26.72	0.07	1.18
2018-19	1.18	88.98	63.22	---	26.00	---	0.93

* Note: For the purpose of confidentiality actual figures have been indexed by taking production for 2016-17 as base.

30. Profits/Loss

Profit/loss during the POI has been arrived at by adding up the net profit of MA into operating profit of PA as the MA is its by-product. The profit/(Loss) position of domestic like product during the POI is given below:

**Table-XI
Profit/(Loss) Position for PA**

Year*	Profit/(Loss)
2016-17	100.00
2017-18	243.14
2018-19	39.40

Note: For the purpose of confidentiality actual figures have been indexed by taking profit for the year 2016-17 as base.

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31. Cash Flows

The Applicant has not provided separate data for the cash flow of PA. The Applicant company is a multi-product company. Cash flow of the whole company has been taken into account and figures are reproduced as under:-

**Table-XII
Operating Cash Flow**

Year	Cash flow
2016-17	100.00
2017-18	185.92
2018-19	-114.08

Note: For the purpose of confidentiality actual figures have been indexed by taking operating cash flow for 2016-17 as base.

32. Employment, Productivity and Salaries & Wages

The data with regard to employment, productivity, salaries and wages of the Applicant during the POI is given in following table;

**Table-XIII
Employment**

Year	Number of Employees	Salaries & Wages (Rs.000)	Domestic Production MT	Productivity Per Worker in MT	Salaries & Wages (Rs.000) Per MT
2016-17	100.00	100.00	100.00	100.00	100.00
2017-18	97.06	109.09	106.67	109.90	102.27
2018-19	95.10	184.48	88.98	93.57	207.33

*Note: For the purpose of confidentiality the actual figures indexed by taking figures for 2016-17 in respective columns as base.

33. Return on Investment

Figures of total investment were obtained from the audited accounts. As 87% of the total assets belong to PA and MA, same proportion of investment, fixed interest-bearing liabilities and finance cost on fixed interest-bearing liabilities has been used while calculating return on investment.

**Table-XIV
Return on Investment**

Year*	Return on Investment (%)
2016-17	16.22
2017-18	36.70
2018-19	6.29

* Total Investment = (Fixed Assets + Fixed interest-bearing liabilities) *.87

** Total Return = Profit for PA for the year + (Finance cost on fixed interest-bearing liabilities) *.87

34. Other Factors

34.1 In accordance with Section 18(2) of the Act, the Commission also examined factors other than dumped imports of the investigated product, which could at the same time cause injury to the domestic industry, in order to ensure that possible injury caused by other factors is not attributed to the dumped imports. The factors mentioned in Section 18(3) of the Act were also examined, which shows that:

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

34.2 However, during the course of investigation, interested parties raised following points as other factors which might have caused injury to the domestic industry:

- i. Devaluation of National Currency;
- ii. Reduction in local demand of PA;
- iii. Increase in inflation in Pakistan;
- iv. The change of source of procurement of Orthoxylene at higher rates due to ban on imports from India;
- v. Low price sales to its sister concern ATS Synthetics Pvt. Limited;
- vi. The Applicant's plant is quite outdated. The quality of their product is not at par with international standards, resulting in manufacturing loses.

34.3 The Commission will take into account submissions regarding other factors made by the interested parties while making final determination of causation between dumping of PA and injury to the domestic industry.

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