



**Government of Pakistan
National Tariff Commission**

**Final Determination and Levy of Antidumping Duty on Dumped Imports
of Tiles, which includes Ceramic, Porcelain, Vitrified, Granite Wall and Floor
Tiles in Glazed/Unglazed, Polished/ Unpolished Finish, Originating in and/or
Exported from the People's Republic Of China**

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

2. In Pursuance to the order of Honorable Islamabad High Court dated May 03, 2011 in Civil Petition Nos. 912 and others of 2010 proceeded afresh on the complaints against the petitioners keeping in view provisions of the Ordinance, the Rules and National Tariff Commission Act 1990 (hereinafter referred to as "NTC Act"). The Commission has made this final determination under Section 39 of the Ordinance in compliance of the order dated May 03, 2011 of the Hon'ble Islamabad High Court, Islamabad. This report of final determination is issued in accordance with the provisions of the Ordinance to give effect the findings of the Commission in this investigation.

A. BACKGROUND

3. The Commission conducted an antidumping investigation on wall and floor tiles, which includes ceramic, porcelain/vitrified/granite tiles in glazed/unglazed, polished/unpolished finish (hereinafter referred to as "Tiles") originating in and/or exported from the People's Republic of China (hereinafter referred to as "China") in the year 2006-2007 under Ordinance and Rules on request of domestic industry (paragraph 16 infra) manufacturing Tiles. The Commission initiated that investigation on March 27, 2006 under Section 23 of the Ordinance (paragraph 22 infra), made preliminary determination on November 28, 2006 (paragraph 30 infra) and final determination under Section 39 of the Ordinance on March 24, 2007 (paragraph 34 infra) and imposed following antidumping duties for a period of five years with effect from November 30, 2006.

Table-I

Exporter Name	Anti-dumping duty Rate (%)
Foshan Junjing Industrial Co. Ltd.	14.85
Guangdong Nanhai Light Industrial Products I/E Ltd.	21.08
J & M Designers Ltd.	16.46

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Guangzhou Metal and Minerals Import & Export Co.	23.65
All Others	23.65

4. The Commission's initiation, preliminary determination and final determination were challenged by the following parties in the Lahore High Court, Rawalpindi Bench through Writ Petition Nos. 97/07, 101/07, 36/07, 100/07, 21/07, 98/07, 99/07, 37/07, 102/07, 103/07, 1257/07, 222/07 and 1464/07 etc. which were subsequently transferred to Islamabad High Court, Islamabad.

- i. M/s M.I Sanitary Store
- ii. M/s Abu Yousaf Traders
- iii. M/s Euro Tiles and Dranites Etc
- iv. M/s Sajid Traders
- v. M/s W.H. Traders
- vi. M/s Al Sharja Trading Company
- vii. M/s Al-Raheem Tradres
- viii. M/s Real Trading Company
- ix. M/s Mehmood Sons
- x. M/s Hameed & Yasir International
- xi. M/s China National Machinery
- xii. M/s Waheed Sons

5. The honourable Islamabad High Court, Islamabad dismissed all above mentioned writ petitions on July 02, 2009 after discussing all issues mentioned in writ petitions in following words:

"... For what has been discussed above, there is no force in all these Writ Petitions which are hereby dismissed with no order as to costs."

6. Decision of the Islamabad High Court, Islamabad in above mentioned writ petitions was challenged in the Supreme Court of Pakistan through Civil Petition Nos. 1608, 1654, 1686, 1687, 1706, 1707 and 1708 of 2009 by the following petitioners in September 2009:-

- i. M/s Awami Sanitary Mart
- ii. M/s Waheed Sons
- iii. M/s Real Trading Company
- iv. M/s Orange International

- v. M/s W.H. Traders
- vi. M/s Friends International
- vii. M/s Euro Tiles & Granites

7. The Hon'ble Supreme Court of Pakistan passed following short order on October 29, 2009:

"Iftikhar Muhammad Chaudhry, CJ:- For the reasons to be recorded later, the impugned judgment as well as order dated 28th November 2007 and others reported to have been passed subsequently, by the National Tariff Commission are set aside. Cases are remanded to the National Tariff Commission to proceed afresh on the complaint against the petitioners keeping in view the provisions of Section 11 of the National Tariff Commission Act, 1990. It would be appreciated if the Commission may dispose of the matter expeditiously, preferably within a period of eight weeks. Petitions are converted into appeal and allowed in the above terms leaving the parties to bear their own cost."

8. Commission's preliminary determination and final determination was also challenged in the High Court of Sindh, Karachi through Civil Petition No. D-1196/2007. On December 4, 2009, the High Court of Sindh, Karachi disposed of that petition and decided as follows:

"... the petitioners grievance is also in respect of levying and charging of antidumping duty... that the petitioner will be satisfied, if an order is passed similar in nature as has been passed by the Hon'ble supreme Court in the above referring order. Counsels for the respondents have no objection, if the matter is remanded in terms of the order of the Hon'ble Supreme Court.... The petition and the listed application stands disposed of in the above terms."

9. The domestic industry (M/s Master Tiles and Ceramic Industries Ltd., Gujranwala) also filed a writ petition No. 1490 of 2007 in Lahore High Court, Rawalpindi Bench against Commission's final determination and raised following issues in the writ petition:

- i. That the petitioners are aggrieved of the final determination to the extent of dumping margin calculations therein and consequent determination of anti dumping duty rates.
- ii. The Commission has improperly exercised its discretion while applying the lowest available "normal value" in order to impose the minimum rates of duty despite non-cooperation of exporters.

- iii. The Commission as a matter of practice determines the “normal value” on the basis of best available information by applying highest available normal value. However, the Commission, contrary to its own consistent practice, has applied the lowest available “normal value” of the product in order to impose the minimum rates.
 - iv. The Commission has erroneously relied on the domestic sales price of *Zungui* and *Shimanli* in respect of those types, grades and sizes which were never purchased from those producers whereas admittedly *Junging* had made purchases in this category from other producers who did not cooperate.
 - v. That in rendering the impugned decision the Commission has failed to comply properly and adequately with the requirements of Section 39(3) of the Ordinance in terms of which it is under a mandatory obligation to mention in the final determination “relevant information on the matters of fact and law and reasons that have led to the determination”.
10. On December 21, 2009 the Lahore High Court, Rawalpindi Bench decided writ petition No. 1490/2007 and passed following order:
- “Advocate for the Applicant states that the anti-dumping duties imposed by the National tariff Commission have been set aside by the August Supreme Court vide order dated 29.10.2009 and the case has been remanded to the National Tariff Commission for decision afresh within eight weeks preferably and that in compliance with the aforesaid order, the National tariff Commission has initiated proceedings. The case of petitioner is that in the present writ petition it has challenged the determination of the anti-dumping duty by the National tariff Commission on the ground that the same are on the lower side.*
2. *As such, the learned counsel for the petitioner submits that the point of view of the petitioner must be considered by the National tariff Commission, who must take into account the grounds raised in the present writ petition before it reaches a decision on the contesting claims of the other parties and the petitioners.*
 3. *In view thereof, this writ petition is disposed of with a direction to National Tariff Commission to decide the matter in accordance with law and give due consideration to the grounds taken in this writ petition.”*
11. In pursuance of short order of the Supreme Court of Pakistan, the Commission, on November 13, 2009 initiated fresh proceedings on imposition of antidumping duty on imports of Tiles into Pakistan originating in and/or exported from China. For this purpose, the

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Commission issued a notice, which was published in Official Gazette¹ and two widely circulated national newspapers² (one in English language and one in Urdu Language). Copy of the notice of initiation of proceedings was sent to all interested parties known to the Commission on November 13, 2009 including petitioners. The Commission held a hearing on December 15, 2009 in these proceedings. The Commission made preliminary determination in these proceedings on February 20, 2010 and imposed following provisional antidumping duties:

Table-II

Exporter Name	Anti-dumping duty Rate (%)
Foshan Junjing Industrial Co. Ltd.	14.85
Guangdong Nanhai Light Industrial Products I/E Ltd.	21.08
J & M Designers Ltd.	16.46
Guangzhou Metal and Minerals Import & Export Co.	23.65
All Others	23.65

12. Decisions of the Commission to initiate afresh proceedings and preliminary determination in fresh proceedings were challenged by importers of Tiles in the Honorable Islamabad High Court through Writ Petitions 912/2010 on the grounds that fresh proceedings were not initiated by properly constituted Commission (*qourm-non-judice*). The Islamabad High Court in its judgment dated May 03, 2011, directed the Commission to proceed in the case in accordance with Section 11 of the NTC Act read with the Ordinance and passed the following orders:

“The contention of learned counsel for the petitioner is correct. The August Supreme Court of Pakistan has clearly held that the order of initiation of enquiry was to be issued by the properly constituted Commission. In the circumstances, instant writ petitions are accepted and the case is sent back to the National Tariff Commission with the direction to proceed in the case in accordance with Section 11 of National Tariff Commission Act, 1990 read with Anti-Dumping Duty Ordinance, 2000”.

13. In pursuance of the judgment of the Honorable Islamabad High Court, the Commission again initiated fresh proceedings on June 24, 2011 and issued a notice, which was published in Official Gazette³ and two widely circulated national newspapers⁴ (one in English language and one in Urdu Language). Copy of the notice of initiation of proceedings was sent to all interested parties known to the Commission on June 24, 2011 including petitioners

¹ Official Gazette of Pakistan (Extraordinary) part III dated November 13, 2009.

² The ‘Business Recorder‘ and the ‘Nawa-e-Waqt‘ of November 13, 2009 issue

³ Official Gazette of Pakistan (Extraordinary) part III dated June 24, 2011.

⁴ The ‘Business Recorder‘ and the ‘Nawa-e-Waqt‘ of June 24, 2011 issue.

14. The Commission's initiation of fresh proceedings in this case were again challenged by M/s Tasneem International, Hyderabad (Petition 2140/2011), M/s Dotview Importers and Hamza Traders, Lahore (Petition 2505/2011) and M/s Basic Chemical Industries, Lahore (Petitions 1396/2011) in the Honorable Islamabad High Court through Writ on July 20, 2011. The Honorable Islamabad High Court on January 17, 2012 dismissed writ petitions 2505/2011 and 1396/2011 on non-prosecution and decided writ petition No. 2140/2011 that this writ petition is devoid of merits and dismissed the same with following observations:

"Keeping in view the record and background of this petition, it becomes clear that the petitioner had been trying to avoid imposition of antidumping duties; at every stage, writ petitions were filed and the matter was taken up to the Hon'ble Supreme Court of Pakistan and in such a way the matter was prolonged on one way or the other."

"In the present case, main grievance of the petitioner is that since the order of earlier incompetent Commission was declared Coram non-judice by the Hon'ble Supreme Court of Pakistan, therefore, the evidence collected by the Commission in respect of the complaint filed by the domestic industry was also without any legal sanctity and could not be relied upon. If the contention of the learned counsel for the petitioner is accepted, the same would amount to setting aside judgement/order of the Hon'ble Supreme Court of Pakistan, because in that case, the order of remand passed by the Hon'ble Supreme Court of Pakistan would be set aside. The order of remand would stand converted in to order of acceptance of petition, which is not possible. In addition to that the Hon'ble Supreme Court of Pakistan while passing the judgement/order was well aware of all facts, but even then the case was remanded back to the Commission, which clearly shows that the complaint earlier filed was to be considered. As such the evidence attached to the complaint could not be thrown away. Furthermore, the evidence collected by the earlier Commission remained protected and that can not be declared as false or unreliable. The only requirement is that the same evidence is to be re-appraised and re-appreciated by the properly constituted Commission."

"..... the petitioner should allow the Commission to complete its proceedings and if the final determination, according to the petitioner is erroneous, then the same can be challenged before the tribunal constituted under the Anti-Dumping Duties Ordinance, 2000. Asking the court to appreciate or apprise the evidence collected during the course of investigation, by challenging one notice of the other or by invoking any other provisions of the Anti-Dumping Duties Ordinance, 2000 is only to stop the Commission from completing its task and prolong the matter, without any reason."

15. M/s Dotview Importers and Hamza Traders, Lahore and M/s Basic Chemical Industries, Lahore requested the Honorable Islamabad High Court for restoration of their writ petitions (Petitions 2505/2011 and 1396/2011), which the Honorable Islamabad High Court acceded to and their Writ petitions were restored. There was a stay order in these writ petitions. Therefore, the Commission could not proceed further till May 7, 2012. On May 7, 2012 the Honorable Islamabad High Court dismissed writ petitions 2505/2011 and 1396/2011 on non-prosecution. Therefore, in light of the decision of the Hon'ble Islamabad High Court, Islamabad dated January 17, 2012 (paragraph 14 supra) the Commission has re-appraised and re-appreciated the evidence and information collected/received during original investigation of this case. Findings of the Commission are in the following paragraphs.

16. **Receipt of Application**

16.1 The Commission received a written application on February 23, 2006 under Section 20 of the Ordinance from Master Tiles & Ceramic Industries Limited, G.T Road Gujranwala (hereinafter referred to as the "Applicant"), a domestic producer of Tiles on behalf of the domestic industry. The Applicant alleged that Tiles originating in and/or exported from China is being dumped into Pakistan, which has caused and is causing material injury to the domestic industry producing Tiles.

16.2 The Commission informed the Embassy of China in Islamabad of the receipt of application in accordance with the requirements of Section 21 of the Ordinance through a note verbale dated February 24, 2006.

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

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

18. **The Domestic Industry**

18.1 Section 2(d) of the Ordinance defines domestic industry as:

"domestic industry" means the domestic producers as a whole of a domestic like product or those of them whose collective output of that product constitutes a major proportion of the

total domestic production of that product, except that when any such domestic producers are related to the exporters or importers, or are themselves importers of the allegedly dumped investigated product in such a case "domestic industry" shall mean the rest of the domestic producers".

18.2 As per information obtained by the Commission from different sources, during the period of investigation (paragraph 24 infra), the domestic industry of Tiles comprises of the following six units with an installed production capacity of 19.03 million square meters ("SQM") per annum on three shift basis:

**Table-III
Domestic Tiles Industry**

S.No	Name of the Unit	Installed Capacity (million SQM)
i.	Master Tiles and Ceramic Industries Ltd., Gujranwala	7.50
ii.	Karam Ceramics Ltd., Karachi	2.76
iii.	Sonex Tiles and Ceramic Industries Ltd., Gujranwala	2.00
iv.	Shabbir Tiles and Ceramic Ltd., Karachi	3.37
v.	EMCO Industries Ltd., Karachi	1.90
vi.	Swat Ceramics (Pvt.) Ltd., Swat.	1.50
	Total	19.03

18.3 The Commission's investigation has shown that the following units were themselves importers of the investigated product during the period of investigation. Therefore, the Commission has excluded these units from definition of domestic industry in accordance with Section 2(d) of the Ordinance:

- i. Shabbir Tiles and Ceramic Ltd., Karachi;
- ii. EMCO Industries Ltd., Karachi; and
- iii. Swat Ceramics (Pvt.) Ltd., Swat.

18.4 The investigation has also shown that Sonex Tiles and Ceramic Industries Ltd., Gujranwala started commercial production in January 2006, which is out side period of investigation ("POI") (paragraph 24 infra). Thus, for the purposes of this investigation, the Commission has determined that during POI, domestic Tiles industry was comprised of the following two units:

- i. Master Tiles and Ceramic Industries Ltd., Gujranwala (Applicant); and

- ii. Karam Ceramics Ltd., Karachi.

19. **Standing of the Application**

19.1 In terms of Section 24(1) of the Ordinance,

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

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

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

19.2 The application was filed by the Master Tiles and Ceramic Industries Ltd., Gujranwala, who is a major producer of Tiles in Pakistan. Other unit in the domestic industry namely Karam Ceramics Ltd., Karachi remained indifferent in this investigation.

19.3 As per information supplied in the application and obtained from other sources, the Applicant produced 28.62 percent of total domestic production of Tiles and 56.33 percent of the production of the units determined domestic industry for the purposes of this investigation (paragraph 18.4 supra) during the year 2005 (January to December, POI for dumping determination). Details of production of Tiles by the entire domestic industry during POI was as follows:

**Table-IV
Production of Tiles During POI and Status of Units with respect to the Application**

S.No	Name of the Unit	Production (million SQM)	% Share in total domestic Production	% Share in Production of domestic industry	Supporting/ Opposing/ Indifferent
i.	Master Tiles and Ceramic Industries Ltd., Gujranwala	3.56	28.62%	56.33%	Applicant
ii.	Karam Ceramics Ltd., Karachi	2.76	22.19%	43.67%	Indifferent
iii.	Shabbir Tiles and Ceramic Ltd., Karachi	2.95	23.71%	Itself importer of Tiles	Indifferent
iv.	EMCO Industries Ltd., Karachi	1.67	13.42%	Itself importer of Tiles	Indifferent

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v.	Swat Ceramics (Pvt.) Ltd., Swat	1.50	12.06%	Itself importer of Tiles	Indifferent
vi.	Sonex Tiles and Ceramic Industries Ltd., Gujranwala	Started commercial production after POI			Indifferent
Total		12.44	100.00%	100.00%	

19.4 The above table shows that the Applicant was the major domestic producer of Tiles in Pakistan during POI representing 28.62 percent of total domestic production and 56.33 percent of domestic industry's production. Karam Ceramics Ltd, who remained indifferent in this investigation, represented 22.19 percent of total domestic production and 43.67 percent of domestic industry's production of Tiles during POI.

19.5 Other three units; (i) Shabbir Tiles and Ceramic Ltd., Karachi, (ii) EMCO Industries Ltd., Karachi and (iii) Swat Ceramics (Pvt.) Ltd., Swat who represented 49.20 percent of total production of Tiles during POI, were themselves importers of the investigated product during POI. Thus, these units have been excluded from definition of domestic industry in accordance with Section 2(d) of the Ordinance. Production of these units has been not considered in determination of standing of the application. Sonex Tiles and Ceramic Industries Ltd., Gujranwala started commercial production in January 2006, which is outside the POI.

19.6 Taking into account above facts, the Commission has determined standing of the application on the basis of the production of Tiles during POI of the Applicant and Karam Ceramics Ltd., Karachi, which are the domestic industry for the purposes of this investigation.

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

19.8 Some interested parties claimed that the Commission should determine standing on the basis of total production of Tiles instead of production of domestic industry determined for the purposes of this investigation. The Commission has determined domestic industry for the purposes of this investigation and standing of the application in accordance Sections 2(d) and 24 of the Ordinance. However, arguendo if claim of these parties is accepted, even then the application met requirements of Section 24 of the Ordinance, as all units of Tiles other than the Applicant remained indifferent in this investigation. It is obvious from the above table that the Applicant accounted for 28.62 percent of total domestic production of Tiles during POI and no domestic producer, including those who were themselves importers of Tiles, have opposed the application. Thus, the application was filed by the producer who accounted for 28.62 percent of total production of Tiles during POI and was supported by 100 percent of the producers who expressed their opinion.

20. **Applicants' Views**

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

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

21. **Exporters/ Foreign Producers of Tiles involved in Dumping**

The Applicant identified 219 exporters/producers involved in alleged dumping of Tiles from China. However, the Applicant provided complete addresses of 35 exporters/producers from China. The Applicant also stated that there may be other exporters/producers of investigated product who are not known to it and requested for imposition of antidumping duty on all imports of the investigated product originating in and/or exported from China. Upon initiation of investigation (paragraph 22 *infra*), copy of the notice of initiation was sent to all those known exporters/producers from China on March 27, 2006 directly to those whose complete addresses were available with the Commission. For the exporters/producers whose addresses were not available with the Commission, a copy of the notice of initiation was sent to Embassy of China in Islamabad, requesting the esteemed Embassy to forward the same to all exporters/producers involved in exports of Tiles to Pakistan from China.

22. Initiation of Investigation

22.1 The Commission under Section 23 of the Ordinance, upon examining the accuracy and adequacy of the evidence and information provided in the application, established that there was sufficient evidence of alleged dumping of Tiles into Pakistan and consequent material injury to the domestic industry to justify initiation of an investigation. Application also fulfilled requirement of Section 24(2) of the Ordinance, as the application was filed by the producer who accounted for more than 25 percent of total domestic production of Tiles during POI. Consequently, the Commission decided on March 14, 2006 to initiate an antidumping in this case. However, on March 13, 2006 some of the importers of Tiles filed writ petitions in Hon'ble Lahore High Court, Rawalpindi bench and obtained a stay order of the proceedings, which was received at the Commission on March 14 2006. The Hon'ble Lahore High Court vacated its stay order by disposing off writ petitions on March 20, 2006 on submission of facts to the Court by the Commission. Upon vacation of the stay, the Commission issued a notice of initiation in under Section 27 of the Ordinance, which was published in the Official Gazette⁵ of Pakistan and in two widely circulated national newspapers⁶ (one in English language and one in Urdu Language) on March 27, 2006.

22.2 The Commission notified the Embassy of China in Pakistan of the initiation of investigation against alleged dumped imports of Tiles from China (by sending a copy of the notice of initiation through Ministry of Foreign Affairs, Pakistan on March 27, 2006) with a request to forward it to all exporters/producers involved in export of Tiles from China.

22.3 Copies of notice of initiation were sent directly to 35 Chinese exporters/producers (whose complete addresses were available with the Commission), the known Pakistani importers, and the Applicant on March 27, 2006, in accordance with requirements of Section 27(1) of the Ordinance. For the exporters/producers whose addresses were not available with the Commission, the Embassy of China in Islamabad was requested to forward the same to all exporters/producers involved in export of Tiles to Pakistan from China. Copies of the notice of initiation were also sent to known Pakistani importers, the Applicants and indifferent domestic producers on March 27, 2006 in accordance with requirements of Section 27 of the Ordinance.

22.4 Since the number of exporters/producers involved in alleged dumping was too large, the Commission, through notice of initiation, requested exporters/producers for certain information in order to resort to the provisions of Section 14(2) of the Ordinance. All interested parties were informed, through notice of initiation, that if they did not respond to the

⁵ The official Gazette of Pakistan (Extraordinary) dated March 27, 2006.

⁶ The 'Daily Express and the 'Business Recorder' of March 27, 2006 issue.

Commission's request for information, the Commission shall resort to the use of best available information in terms of Section 32 of the Ordinance.

22.5 In accordance with Section 28 of the Ordinance, on March 28, 2006 the Commission sent copies of full text of the written application (non-confidential version) to the Embassy of China in Pakistan through the Ministry of Foreign Affairs, Pakistan with a request to forward it to all exporters/producers involved in export of Tiles from China.

22.5 The Commission's investigation was again suspended in compliance with order of the Hon'ble Lahore High Court, Rawalpindi Bench on April 6, 2006, issued upon the request of some importers of Tiles filed with the Lahore High Court. This time the importers pleaded that the application submitted by the Applicant to the Commission does not meet the requirements of Section 24 of the Ordinance. The investigation remained suspended till June 7, 2006, when the Lahore High Court, Rawalpindi Bench decided to vacate its stay order. The investigation was resumed on June 7, 2006 after decision of the Lahore High Court, Rawalpindi Bench and a notice of resumption of the investigation was published in the official Gazette⁷ of Pakistan and in two widely circulated national newspapers⁸ (one in English language and one in Urdu Language) on June 12, 2006.

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

23.1 Sections 2(k), 2(e) and 2(m) of the Ordinance defines the "investigated product", the "domestic like product" and the "like product, as follows:

i. Investigated Product:

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

ii. Domestic Like Product:

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

iii. Like Product:

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

⁷ The official Gazette of Pakistan dated June 12, 2006

⁸ The 'Daily Dawn' and 'Khabrain' of June 12, 2006 issue

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

23.2.1 Investigated Product:

The investigated product is Tiles, which includes ceramic, porcelain/vitrified/granite wall and floor tiles in glazed/unglazed, polished/unpolished finish, produced in and/or exported from China. Investigated product is used for walls and floors of bathrooms, kitchens, drawing rooms, TV lounges and bedrooms etc. It is also used for interiors and facings of schools, offices, industries, hospitals, airports, restaurants, hotels, cafes, cinema theatres, gymnasiums, mosques, high rise buildings, plazas, supermarkets, shopping malls etc. The investigated product is classified under Pakistan Customs Tariff ("PCT") Heading Nos. 6907.1000, 6907.9000, 6908.1000 and 6908.9000.

23.2.2 Domestic Like Product

The domestic like product is Tiles, which includes ceramic, porcelain/vitrified/ granite wall and floor tiles in glazed/unglazed, polished/ unpolished finish, produced by the domestic industry. Domestic like product is used for identical purposes as to those of the investigated product. It is also classified under PCT Heading Nos. 6907.1000, 6907.9000, 6908.1000 and 6908.9000.

23.2.3 Like Product:

The like product is Tiles, which includes ceramic, porcelain/vitrified/ granite wall and floor tiles in glazed/unglazed, polished/ unpolished finish, produced and sold by the exporters/foreign producers of China in their domestic market, and Tiles, which includes ceramic, porcelain/vitrified/ granite wall and floor tiles in glazed/unglazed, polished/unpolished finish, imported into Pakistan from countries other than China. The like product is classified under PCT/H.S Nos. 6907.1000, 6907.9000, 6908.1000 and 6908.9000. Major uses of the like product are identical to those of the investigated product and domestic like product.

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

- i. basic raw materials used in the production of the investigated product, the domestic like product, and the like product are the same;

- ii. all the three products (the investigated product, the domestic like product and the like product) are produced with same/similar manufacturing process;
- iii. all the three products have similar appearance;
- iv. all the three products are substitutable in use.; and
- v. all the three products are classified under the same PCT/HS Nos.

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

24. Period of Investigation

24.1 In terms of Section 36 of the Ordinance, period of investigation (hereinafter referred to as "POI") is:

- i. *"for the purposes of an investigation of dumping, an investigation period shall normally cover twelve months preceding the month of initiation of the investigation for which data is available and in no case the investigation period shall be shorter than six months."*
- ii. *"for the purposes of an investigation of injury, the investigation period shall normally cover thirty-six months:
"Provided that the Commission may at its sole discretion, select a shorter or longer period if it deems it appropriate in view of the available information regarding domestic industry and an investigated product".*

24.2 POI selected for dumping and injury were, therefore, as follows:

For determination of dumping:	from January 1 to December 31, 2005; and
For determination of material injury:	from July 1, 2002 to December 31, 2005.

25. Information/Data Gathering

25.1 The Commission sent exporter's questionnaire, on June 9, 2006, directly to 35 Chinese exporters/producers of the investigated product whose complete addresses were available with the Commission for submission of data and information, and asked them to respond within 37 days of the dispatch of the exporter's questionnaire i.e by July 16, 2006. For other Chinese

exporters/producers whose addresses were not available with the Commission, on March 28, 2006 a copy of the questionnaire was sent to the Embassy of China in Islamabad with a request to forward it to all producers/exporters of the investigated product, so that they can respond to the Commission and provide requisite information.

25.2 The following nine exporters responded to the Commission's request for information in response to the questionnaire, for supplying information on the exporters' questionnaire:

- i. Foshan Junjing Industrial Co., Ltd.;
- ii. J&M Designer Ltd.;
- iii. Guangdong Nanhai Light Industrial Products, Import & Export Corporation;
- iv. Guangzhou Metal and Minerals Import & Export Ltd. China;
- v. New Zhongyuan Ceramics Import & Export Co. Ltd.;
- vi. Foshan San De Bo Ceramics Co. Ltd.;
- vii. Foshan Lungo Ceramics Co. Ltd.;
- viii. Foshan Everlasting Enterprise Co. Ltd.; and
- ix. China National Machinery & Equipment, Import & Export Corporation.

25.3 However, all nine exporters requested for an extension in time period for submission of information for three weeks i.e. till August 7, 2006, through their respective attorneys/legal representatives. The Commission acceded to their requests after taking into account the due causes shown by these exporters in their requests and granted three weeks extension in time period for submission of information on exporters' questionnaire. Responses to the questionnaires from above-mentioned nine exporters were received at the Commission on August 7, 2006, and upon examination certain deficiencies were found in the information supplied. These deficiencies were communicated to the exporters on August 15, 2006 and were requested to supply the deficient information within seven days. Further details are given at paragraph 26 infra.

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

25.5 On June 12, 2006 questionnaires were sent to 19 Pakistani importers of Tiles known to the Commission and these importers were asked to respond to the Commission within 37 days of the dispatch of the questionnaires. None of the Pakistani importer responded to the Commission and did not provide requisite information including the petitioners mentioned at paragraphs 4 and 6 supra).

25.6 The Commission has an access to the database of import statistics of Pakistan Revenue Automation Limited ("PRAL"), the data processing arm of the Federal Board of Revenue, Government of Pakistan. For the purpose of this investigation, the Commission has used import data obtained from PRAL in addition to the information provided by the Applicant and Chinese exporters/producers of the investigated product.

25.7 Thus, the Commission sought from all available sources the relevant data and information deemed necessary for the purposes of this investigation to determine dumping of the investigated product and injury caused therefrom to the domestic industry.

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

26.1 Questionnaire Response by Foshan Junjing Industrial Co., Ltd.

26.1.1 The Commission sent questionnaire to Foshan Junjing Industrial Co., Ltd. (hereinafter referred to as "Junjing") on June 09, 2006. Its response was received at the Commission on August 7, 2006. According to the information provided by Junjing, it is a private limited company incorporated under the Chinese company laws. It neither produced nor sold Tiles in its domestic market during POI. It was involved in export of Tiles to Pakistan as well as to other countries during POI. According to Junjing, the investigated product, which it exported to Pakistan during POI was purchased from more than 75 Chinese producers of Tiles. However, it supplied information on domestic sales and cost to make and sell of the following two producers:

- i. Foshan Zungi Tiles Co. Ltd; and
- ii. Foshan Guangdong Shimanli Ceramic Co. Ltd.

26.1.2 The information submitted by Junjing in response to the questionnaire was analyzed at the Commission and certain deficiencies were identified. Accordingly, those data deficiencies were communicated to it vide Commission's letter dated August 15, 2006.

26.1.3 Junjing was asked to provide deficient information/data no later than August 21, 2006, so as to enable the Commission to consider and analyze the same for the purposes of this investigation. Junjing responded to the deficiencies vide its letter dated August 28, 2006. However, the information received was still deficient in some respects. The Commission

obtained deficient information, which was necessary for the purposes of this investigation during on-the-spot investigations conducted at premises of Junjing and the above mentioned two producers (paragraph 26.1.1 supra) from 16th to 19th September 2006 to verify information submitted by Junjing.

26.1.4 The Commission accepted information supplied by Junjing for the purposes of this investigation. Normal value for exports of the investigated product by Junjing is determined on the basis of information supplied by it for above mentioned two producers (paragraph 26.1.1 supra) and best information available under Section 32 of the Ordinance. Export price for Junjing in this investigation is determined on the basis of information provided by it in response to the questionnaire.

26.2 Questionnaire Response by J&M Designers Ltd.

26.2.1 The Commission sent questionnaire to J&M Designers Ltd. (hereinafter referred to as "J&M Designers") on June 09, 2006. Its response was received at the Commission on August 7, 2006. According to the information provided by J&M Designers, it is a private limited company incorporated under Hong Kong company laws. It neither produced nor sold Tiles in its domestic market during POI. It was involved in export of Tiles to Pakistan during POI. According to J&M Designer, the investigated product, which it exported to Pakistan during POI was purchased from four Chinese producers of Tiles. However, it supplied information on domestic sales and cost to make and sell of only one producer, Fujian Minqing Oumei Ceramics Co. Ltd ("Minqing Oumei").

26.2.2 The information submitted by J&M Designers in response to the questionnaire was analyzed at the Commission and certain deficiencies were identified. Accordingly, those data deficiencies were communicated to it vide Commission's letter dated August 18, 2006.

26.2.3 J&M Designers was asked to provide deficient information/data no later than August 25, 2006, so as to enable the Commission to consider and analyze the same for the purposes of this investigation. J&M Designers responded to the deficiencies. However, the information received was still deficient in some respects. The Commission obtained deficient information, which was necessary for the purposes of this investigation during on-the-spot investigations conducted for J&M Designers and Minqing Oumei at premises of Minqing Oumei from September 23, 2006 to verify information submitted by J&M Designers.

26.2.4 The Commission has accepted information supplied by J&M Designers for the purposes of this investigation. Normal value for exports of the investigated product by J&M Designers is determined on the basis of information supplied by it for above mentioned producer (paragraph 26.2.1 supra) and best information available under Section 32 of the Ordinance. Export price for J&M Designers in this investigation is determined on the basis of information provided by it in response to the questionnaire.

26.3 **Questionnaire Response by Guangdong Nanhai Light Industrial Products, Import & Export Corporation**

29.3.1 The Commission sent questionnaire to Guangdong Nanhai Light Industrial Products, Import & Export Corporation (hereinafter referred to as "Nanhai") on June 09, 2006. Its response was received at the Commission on August 7, 2006. According to the information provided by Nanhai, it is a private limited company incorporated under Chinese company laws. It neither produced nor sold Tiles in its domestic market during POI. It was involved in export of Tiles to Pakistan and other countries during POI. According to Nanhai, the investigated product, which it exported to Pakistan during POI was purchased from more than 35 Chinese producers of Tiles. However, it supplied information on domestic sales and cost to make and sell of only one producer, Foshan Center Ceramics Co. Ltd ("Center Ceramics").

26.3.2 The information submitted by Nanhai in response to the questionnaire was analyzed at the Commission and certain deficiencies were identified. Accordingly, those data deficiencies were communicated to it vide Commission's letter dated August 19, 2006.

26.3.3 Nanhai was asked to provide deficient information/data no later than August 25, 2006, so as to enable the Commission to consider and analyze the same for the purposes of this investigation. Nanhai responded to the deficiencies vide its letter dated August 25, 2006. However, the information received was still deficient in some respects. The Commission obtained deficient information, which was necessary for the purposes of this investigation during on-the-spot investigations conducted at its premises and Center Ceramics from 20 to 21 September 2006 to verify information submitted by Nanhai.

26.3.4 The Commission has accepted information supplied by Nanhai for the purposes of this investigation. Normal value for exports of the investigated product by Nanhai is determined on the basis of information supplied by it for above mentioned producer (paragraph 26.3.1 supra) and best information available under Section 32 of the Ordinance. Export price for Nanhai in this investigation is determined on the basis of information provided by it in response to the questionnaire.

26.4 Questionnaire Response by Guangzhou Metal and Minerals Import & Export Ltd.

26.4.1 The Commission sent questionnaire to Guangzhou Metal and Minerals Import & Export Ltd. (hereinafter referred to as "Guangzhou") on June 9, 2006. Its response was received at the Commission on August 7, 2006. According to the information provided by Guangzhou, it is a private limited company incorporated under Chinese company laws. It neither produced nor sold Tiles in its domestic market during POI. It was involved in export of Tiles to Pakistan and other countries during POI. According to Guangzhou, the investigated product, which it exported to Pakistan during POI was purchased from many Chinese producers of Tiles. However, it did not supply information on domestic sales and cost to make and sell of any producer from whom it bought investigated product.

26.4.2 The information submitted by Guangzhou in response to the questionnaire was analyzed at the Commission and certain deficiencies were identified. Accordingly, those data deficiencies were communicated to it vide Commission's letter dated August 18, 2006.

26.4.3 Guangzhou was asked to provide deficient information/data no later than August 25, 2006, so as to enable the Commission to consider and analyze the same for the purposes of this investigation. Guangzhou responded to the deficiencies vide its letter dated August 25, 2006. However, the information received was still deficient in some respects. The Commission obtained deficient information relating to its export sales of the investigated product, which was necessary for the purposes of this investigation, during on-the-spot investigations conducted at its premises from 22 to 23 September 2006 to verify information submitted by Guangzhou.

26.4.4 The Commission has accepted information supplied by Guangzhou for the purposes of this investigation. As it did not supply any information on normal i.e. information on domestic sales and cost to make and sell of the producers from whom it purchased investigated product during POI, therefore, normal value for exports of the investigated product by Guangzhou is determined on best information available under Section 32 of the Ordinance. Export price for Guangzhou in this investigation is determined on the basis of information provided by it in response to the questionnaire.

26.5 Questionnaire Response by New Zhongyuan Ceramics Import & Export Co. Ltd.

26.5.1 The Commission sent questionnaire to New Zhongyuan Ceramics Import & Export Co. Ltd (hereinafter referred to as "New Zhongyuan") on June 9, 2006. Its response was received in the Commission on August 7, 2006. According to the information provided in response to the questionnaire, New Zhongyuan is a private limited company incorporated under the Chinese

company laws. It was involved in export of Tiles to Pakistan as well as to other countries during POI. New Zhongyuan neither produced nor sold Tiles in its domestic market during POI. According to the information, New Zhongyuan only exported Tiles to Pakistan and other countries, which it purchased from its following four related producers:

- i. Foshan New Zhongyuan Ceramics Co. Ltd;
- ii. Heyuan Wanfeng Ceramics Co. Ltd;
- iii. Qingyuan Southern Building Materials & Sanitary Ware Co. Ltd; and
- iv. Shunde Yuezhong Branch of Guangdong New Zhongyuan Ceramics Co. Ltd.

26.5.2 New Zhongyuan provided information on its export sales and domestic sales of its related producers during POI and cost to make and sell of the producers. The information submitted by New Zhongyuan in response to the questionnaire was analyzed at the Commission and certain deficiencies were identified. Accordingly, those data deficiencies were communicated to it vide Commission's letter dated August 12, 2006.

26.5.3 New Zhongyuan was asked to provide deficient information/data no later than August 19, 2006 so as to enable the Commission to consider and analyze the same for the purposes of this investigation. New Zhongyuan requested for extension in time for six days to respond the deficiencies. New Zhongyuan responded to the deficiencies vide its letter dated August 28. However, the information received was still deficient.

26.5.4 The Commission conducted on-the-spot investigations from 11 to 14 September 2006 on the premises of New Zhongyuan and its related four producers to verify information submitted by it in response to the questionnaire and to obtain further information (if any) necessary for this investigation. During on-the-spot investigations, New Zhongyuan failed to provide documents (commercial invoices, freight invoices, LC, packing list etc) necessary to verify its information relating to its export sales of the investigated product during POI. However, the Commission determined individual dumping margin for New Zhongyuan in preliminary determination on the basis of that information and provided another opportunity to it to provide relevant evidence(s) to substantiate information submitted in response to the questionnaire, but it failed to do so. Therefore, the Commission disregarded its information on export sales of the investigated product submitted in response to the questionnaire and individual dumping margin for New Zhongyuan is not determined.

26.6 **Questionnaire Response by Foshan San De Bo Ceramics Co. Ltd**

Final Determination and Levy of Antidumping Duty on Dumped Imports of Tiles, which Includes Ceramic, Porcelain, Vitrified, Granite Wall and Floor Tiles in Glazed/Unglazed, Polished/Unpolished Finish, Originating In and/or Exported From the People's Republic of China

26.6.1 The Commission sent questionnaire to Foshan San De Bo Ceramics Co. Ltd. (hereinafter referred to as "San De Bo") on June 09, 2006. Its response was received at the Commission on August 7, 2006. According to the information provided by San De Bo, it is a private limited company incorporated under the Chinese company laws. It neither produced nor it sold Tiles in its domestic market during POI. It was involved in export of Tiles to Pakistan as well as to other countries during POI. According to San De Bo, the investigated product, which it exported to Pakistan during POI was purchased from its following four related producers:

- i. Foshan New Zhongyuan Ceramics Co. Ltd;
- ii. Heyuan Wanfeng Ceramics Co. Ltd;
- iii. Qingyuan Southern Building Materials & Sanitary Ware Co. Ltd; and
- iv. Shunde Yuezhong Branch of Guangdong New Zhongyuan Ceramics Co. Ltd.

26.6.2 San De Bo provided information on its export sales and domestic sales of its related producers during POI and cost to make and sell of the producers. The information submitted by San De Bo in response to the questionnaire was analyzed at the Commission and certain deficiencies were identified. Accordingly, those data deficiencies were communicated to it vide Commission's letter dated August 12, 2006.

26.6.3 San De Bo was asked to provide the deficient information/data no later than August 28, 2006, so as to enable the Commission to consider and analyze the same for the purposes of this investigation. San De Bo responded to the deficiencies vide its letter dated August 28. However, the information received was still deficient.

26.6.4 The Commission did not conduct on-the-spot investigation at premises of San De Bo to verify information submitted by it in response to the questionnaire. However, to verify information on domestic sales and cost to make and sell of its related producers, on-the-spot investigations were conducted at premises of its related producers from 12 to 14 September, 2006, as the same producers were also supplying investigated product to New Zhongyuan (paragraph 26.5.1 supra). The Commission asked San De Bo to provide relevant documents (commercial invoices, freight invoices, LC, packing list etc) to satisfy itself to the accuracy of the information provided for export sales of the investigated product. San De Bo failed to provide documents necessary to verify its information relating to its export sales of the investigated product during POI. However, the Commission determined individual dumping margin for San De Bo in preliminary determination on the basis of information provided by it and provided another opportunity to it to provide relevant evidence(s) to substantiate information submitted in response to the questionnaire, but it failed to do so. Therefore, the Commission disregarded its information on export sales of the investigated product submitted in response to the questionnaire and individual dumping margin for San De Bo is not determined.

26.7 Questionnaire Response by Foshan Lungo Ceramics Co. Ltd.

26.7.1 The Commission sent questionnaire to Foshan Lungo Ceramics Co. Ltd. (hereinafter referred to as "Lungo") on June 9, 2006. Its response was received at the Commission on August 7, 2006. According to the information provided by Lungo, it is a private limited company incorporated under the Chinese company laws. It neither produced nor sold Tiles in its domestic market during POI. It was involved in export of Tiles to Pakistan as well as to other countries during POI. According to Lungo, the investigated product, which it exported to Pakistan during POI was purchased from its following four related producers:

- i. Foshan New Zhongyuan Ceramics Co. Ltd;
- ii. Heyuan Wanfeng Ceramics Co. Ltd;
- iii. Qingyuan Southern Building Materials & Sanitary Ware Co. Ltd; and
- iv. Shunde Yuezhong Branch of Guangdong New Zhongyuan Ceramics Co. Ltd.

26.7.2 Lungo provided information on its export sales and domestic sales of its related producers during POI and cost to make and sell of the producers. The information submitted by Lungo in response to the questionnaire was analyzed at the Commission and certain deficiencies were identified. Accordingly, those data deficiencies were communicated to it vide Commission's letter dated August 12, 2006.

26.7.3 Lungo was asked to provide the deficient information/data no later than August 28, 2006, so as to enable the Commission to consider and analyze the same for the purposes of this investigation. Lungo responded to the deficiencies vide its letter dated August 28, 2006. However, the information received was still deficient.

36.7.4 The Commission did not conduct on-the-spot investigation at premises of Lungo to verify information submitted by it in response to the questionnaire. However, to verify information on domestic sales and cost to make and sell of its related producers, on-the-spot investigations were conducted at premises of its related producers from 12 to 14 September 2006, as the same producers were also supplying investigated product to New Zhongyuan (paragraph 26.5.1 supra). The Commission asked Lungo to provide relevant documents (commercial invoices, freight invoices, LC, packing list etc) to satisfy itself to the accuracy of the information provided for export sales of the investigated product Lungo failed to provide documents necessary to verify its information relating to its export sales of the investigated product during POI. However, the Commission determined individual dumping margin for Lungo in preliminary determination on the basis of information provided by it and provided

another opportunity to it to provide relevant evidence(s) to substantiate information submitted in response to the questionnaire, but it failed to do so. Therefore, the Commission disregarded its information on export sales of the investigated product submitted in response to the questionnaire and individual dumping margin for Lungo is not determined.

26.8 Questionnaire Response by Foshan Everlasting Enterprise Co. Ltd.

26.8.1 The Commission sent questionnaire to Foshan Everlasting Enterprise Co. Ltd. (hereinafter referred to as "Everlasting") on June 9, 2006. Its response was received at the Commission on August 7, 2006. According to the information provided by Everlasting, it is a private limited company incorporated under Chinese company laws. It neither produced nor sold Tiles in its domestic market during POI. It was involved in export of Tiles to Pakistan and other countries during POI. According to Everlasting, the investigated product, which it exported to Pakistan during POI was purchased from seven Chinese producers of Tiles. However, it supplied information on domestic sales and cost to make and sell of only one producer, Foshan Jianxing Ceramic Company Ltd. ("Jianxing").

26.8.2 The information submitted by Everlasting in response to the questionnaire was analyzed at the Commission and certain deficiencies were identified. Accordingly, those data deficiencies were communicated to it vide Commission's letter dated August 18, 2006.

26.8.3 Everlasting was asked to provide deficient information/data no later than August 25, 2006, so as to enable the Commission to consider and analyze the same for the purposes of this investigation. Everlasting responded to the deficiencies vide its letter dated August 28, 2006. However, the information received was still deficient in some respects. On-the-Spot investigation was not conducted at the premises of Everlasting, it was requested to supply deficient information, including information on domestic sales and cost to make of sell of the producers from whom it purchased investigated product and necessary documents for the purposes of verification of the information. It did not supply requisite information and evidences.

26.8.4 The Commission determined individual dumping margin for Everlasting in preliminary determination on the basis of information provided by it and provided another opportunity to it to provide relevant information and evidence(s) to substantiate information submitted in response to the questionnaire. Everlasting supplied some documents relating to its export sales of the investigated product. Examination of those documents revealed that Everlasting had not supplied information as per the specified format of the questionnaire, as it reported different types (glazed tiles and design/borders) of the investigated product under one transaction. Therefore, the Commission could not verify information from the documents supplied by

Everlasting. It was not possible to separate different types of the investigated product reported under a single transaction. Thus, the Commission was unable to determine export price for different types/models on the basis of the information provided by it on its export sales of the investigated product. Therefore, the Commission disregarded its information on export sales of the investigated product submitted in response to the questionnaire and individual dumping margin for Everlasting is not determined.

26.9 Questionnaire Response by China National Machinery & Equipment, Import & Export Corporation

26.9.1 The Commission sent questionnaire to China National Machinery & Equipment, Import & Export Corporation (hereinafter referred to as "China National Machinery") on June 9, 2006. Its response was received at the Commission on August 7, 2006. According to the information provided by China National Machinery, it is a private limited company incorporated under Chinese company laws. It neither produced nor sold Tiles in its domestic market during POI. It was involved in export of Tiles to Pakistan and other countries during POI. According to China National Machinery, the investigated product, which it exported to Pakistan during POI was purchased from one producer namely Fujian Huida Co. Ltd. In response to the questionnaire, it supplied partial information on domestic sales of this producer.

26.9.2 The information submitted by China National Machinery in response to the questionnaire was analyzed at the Commission and certain deficiencies were identified. Accordingly, those data deficiencies were communicated to it vide Commission's letter dated August 15, 2006.

26.9.3 China National Machinery was asked to provide deficient information/data no later than August 21, 2006, so as to enable the Commission to consider and analyze the same for the purposes of this investigation. China National Machinery responded to the deficiencies vide its letter dated August 21, 2006. However, the information received was still deficient in some respects. On-the-Spot investigation was not conducted at the premises of China National Machinery, it was requested to supply deficient information, including information on domestic sales and cost to make of sell of the producer from whom it purchased investigated product and necessary documents for the purposes of verification of the information. It did not supply requisite information and evidences.

26.9.4 The Commission determined individual dumping margin for China National Machinery in preliminary determination on the basis of information provided by it and provided another

opportunity to it to provide relevant information and evidences to substantiate information submitted in response to the questionnaire. China National Machinery supplied some documents in relating to its export sales of the investigated product. Examination of those documents revealed that the information supplied on export sales was not verifiable. Furthermore, China National Machinery did not supply some vital information (cost of production etc) for determination of normal value for the investigated product exported by it. Therefore, the Commission disregarded partial information submitted by China National Machinery in response to the questionnaire and individual dumping margin for China National Machinery is not determined.

27. Verification of the Information

27.1 In terms of Sections 23, 32(4), 35 of the Ordinance and Rule 12 of the Rules, during the course of an investigation, the Commission shall satisfy itself as to the accuracy of the information and verify/examine the accuracy of the information supplied by the interested parties.

27.2 In order to verify information/data provided by the Applicant and to obtain further information and evidences, on-the-spot investigation was conducted at the premises of the Applicant from July 13 to 15, 2005.

27.3 Since the number of exporters/producers involved in alleged dumping was large, the Commission decided to limit its on-the-spot investigations to the following exporters and their cooperating producers on the basis of the largest percentage of volume of the exports from China:

- i. Foshan Junjing Industrial Company Ltd.;
- ii. Guangdong Nanhai Light Industrial Products Import & Export. Co.;
- iii. JNM Designer Ltd., Hongkong ;
- iv. Guangzhou Metals & Minerals Imp. & Exp. Ltd.; and
- v. New Zhongyuan Ceramics Import & Export Co. Ltd,

27.4 In order to verify information submitted by the above-mentioned Chinese exporters and their relevant producers in response to the questionnaire(s) and to obtain further information necessary for the purposes of this investigation, on the spot investigations were conducted from September 10 to 23, 2006 at the premises of these five Chinese exporters and eight producers from whom these exporters purchased investigated product during POI for export to Pakistan.

28. **Public File**

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

29. **Confidentiality**

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

29.2 The Applicant and exporters/foreign producers requested the Commission to keep confidential, the information which is by nature confidential in terms of Section 31 of the Ordinance. This information includes data relating to sales, sale prices, cost to make and sell, inventories, production, profit/(loss), return on investment, cash flow, growth, investment, salaries & wages, number of employees and capacity etc. In addition to this, the Applicant and other interested parties also provided certain information on confidential basis, as its disclosure would cause adverse effect upon them.

29.3 Pursuant to requests made by the Applicant, exporters/foreign producers and other interested parties to treat certain information as confidential, the Commission has determined confidentiality in light of Section 31 of the Ordinance and for the reasons that disclosure of such information may be of significant competitive advantage to the competitor, or because its disclosure would have a significant adverse effect upon the interested parties providing such information.

29.4 However, in terms of Sub-Section (5) of Section 31, non-confidential summaries of all confidential information, which provides reasonable understanding of the substance were submitted by the interested parties and were placed on public file.

30. **Preliminary Determination in Original Investigation**

30.1 The Commission made preliminary determination in this investigation on November 28, 2006 on the basis of information available with the Commission at that time. In accordance with Section 37 of the Ordinance, the Commission issued a notice of preliminary determination,

which was published in Official Gazette⁹ of Pakistan and in two widely circulated national newspapers¹⁰ (one English and one Urdu Language) on November 30, 2006 notifying the preliminary findings and conclusions and imposition of provisional anti-dumping duties as follows: ranging from zero percent (0%) to 21.02 percent *ad valorem* of C&F price for a period of four months effective from November 30, 2006.

30.2 The Commission sent notice of preliminary determination to the Embassy of China in Islamabad, the exporters, the importers the Applicant and other domestic producers in accordance with the requirements of Section 37(4) of the Ordinance on November 30, 2006.

30.3 Findings of the Commission in the preliminary determination were as follows:

- i. The application was filed by the domestic industry;
- ii. The investigated product and the domestic like product were like products;
- iii. The investigated product was exported to Pakistan by the exporters below its normal value during POI;
- iv. The volume of duped imports from China and dumping margins established were above de-minimis level;
- v. The domestic industry suffered material injury during the POI;
- vi. A significant part of material injury to domestic industry was caused by dumped imports;
- vi. Imposition of provisional antidumping duties on the investigated product was needed to prevent further injury to the domestic industry during course of investigation.

31. **Disclosure after Preliminary Determination**

31.1 In terms of Rule 11 of the Rules, the Commission, upon request made by foreign producers/exporters within fifteen days of the publication of notice of preliminary determination, shall hold disclosure meeting(s) with the producer(s) or the exporter(s) to explain dumping calculation methodology applied for that producer/exporter. The Commission shall also provide an opportunity to producer or exporter or their legal representatives to examine and receive copies of the dumping calculation done by the Commission for their exports.

⁹ The Official Gazette of Pakistan dated November 30, 2006

¹⁰ The Daily 'Business Recorder' and 'Assas' of November 30, 2006 issue

31.2 Following exporters requested the Commission for disclosure meetings to discuss dumping calculations methodology and to receive copies of preliminary dumping calculations:

- i. Foshan Junjing Industrial Company Ltd.;
- ii. Guangdong Nanhai Light Industrial Products Import & Export Co.;
- iii. JNM Designer Ltd., Hongkong ;
- iv. Guangzhou Metals & Minerals Imp. & Exp. Ltd.; and
- v. New Zhongyuan Ceramics Import & Export Co. Ltd,
- vi. Foshan Everlasting Enterprise Co., Ltd, Foshan; and
- vii. China National Machinery & Equipment Import & Export corporation, Fujian Company Ltd., Fuzhou

31.3 Disclosure meetings were held with representatives of the above-mentioned exporters on January 8, 2007 and January 9, 2007 at office of the Commission, in which methodology applied for preliminary dumping calculations was explained and copies of the detailed preliminary calculations for normal value, export price and dumping margin were provided to the representatives of the exporters/foreign producers. The exporters/foreign producers offered their comments on methodology used and dumping calculations. Those comments were taken into account in final determination.

32. **Hearing in Original Investigation**

Upon request of the Applicant, a hearing was held on February 3, 2007 under Rule 14 of the Rules. In the hearing, interested parties commented on Commission's preliminary determination. The information submitted by the participants during the hearing, whether orally (oral statements were subsequently confirmed in writing as per Rule 14 of the Rules) or in writing, was made available to other interested parties by placing it in the public file maintained by the Commission (paragraph 28 supra). The Commission considered information submitted by interested parties in the hearing in its final determination.

33. **Disclosure of Essential Facts**

33.1 In terms of Rules 14(8) of the Rules, and Article 6.9 of Agreement on Antidumping, the Commission disclosed essential facts, and in this context dispatched Statement of Essential Facts (hereinafter referred to as the "SEF") on February 28, 2007 to all interested parties including the known exporters/foreign producers, the Applicant, other domestic producers, the known Pakistani importers, and to the embassy of China in Pakistan.

33.2 Under Rule 14(9) of the Rules, the interested parties were required to submit their comments (if any) on the facts disclosed in SEF, in writing, not later than fifteen days of such disclosure. The Commission received comments from following interested parties:

- i. The Applicant;
- ii. Junjung;
- iii. JNM Designers;
- iv. Nanhai;
- v. Ghangzhou
- vi. Everlasting;
- vii. New Zhongyuang;
- viii. San De Bo; and
- ix. Lungo

33.3 The Commission has considered comments/information received on essential facts from the above mentioned parties in its final determination.

34. Final Determination of Original Investigation

34.1 The Commission made final determination in original investigation on March 24, 2007 on the basis of verifiable information available with the Commission at that time. In accordance with Section 39(3) of the Ordinance, the Commission issued a notice of final determination, which was published in Official Gazette¹¹ of Pakistan and in two widely circulated national newspapers¹² (one English and one Urdu Language) on March 30, 2007 under Section 39(5) of the Ordinance notifying final findings/conclusions and imposition of definitive anti-dumping duty ranging from 14.85 percent to 23.65 percent *ad valorm* of C&F price for a period of five years effective from November 30, 2006. The Commission also made available a detailed report on final determination to all interested parties in accordance with Section 39(5) of the Ordinance by placing it in public file (paragraph 28 supra) and by posting on Commission's website: www.ntc.gov.pk.

34.2. On the basis of information available with the Commission it determined following dumping margins for Chinese exporters of the investigated product:

Table-V Dumping Margins

¹¹ The Official Gazette of Pakistan dated March 30, 2007

¹² The Daily 'Business Recorder' and 'Khabrain' of March 30, 2007 issue

Final Determination and Levy of Antidumping Duty on Dumped Imports of Tiles, which Includes Ceramic, Porcelain, Vitrified, Granite Wall and Floor Tiles in Glazed/Unglazed, Polished/Unpolished Finish, Originating In and/or Exported From the People's Republic of China

Exporter Name	Dumping Margin as	
	% of Export price	% of C&F Price
Junging	21.50	14.85
Nanghai	30.45	21.08
J&M	33.92	16.46
Guangzhou	54.73	23.65
All Others	54.73	23.65

34.3 The Commission sent notice of final determination to the Embassy of China in Islamabad, the exporters, the importers the Applicant and other domestic producers in accordance with the requirements of Section 39(6) of the Ordinance on March 30, 2007.

34.4 Findings of the Commission in final determination were as follows:

- i. the application was filed on behalf of domestic industry as the Applicant represents major proportion of the production of domestic like product;
- ii. the investigated product and the domestic like product are alike products;
- iii. during POI, the investigated product was exported to Pakistan by the exporters/producers from China at prices below its normal value;
- iv. the volume of dumped imports of the investigated product and the dumping margins established for investigated product were above the negligible and *de minimis* levels respectively;
- v. the domestic industry suffered material injury during the POI on account of, volume of dumped imports, price undercutting, price depression, price suppression, loss in market share, decline in profit, negative effects on production and capacity utilization, and increase in inventories (in terms of Section 15 and 17 of the Ordinance); and
- vi. there was a causal relationship between dumped imports and material injury suffered by the domestic industry.

35. **Disclosure after Final Determination**

35.1 In terms of Rule 16 of the Rules, the Commission, upon request made by foreign producers/exporters within fifteen days of the publication of notice of final determination, shall hold disclosure meeting(s) with the producer(s) or the exporter(s) to explain dumping calculation methodology applied for that producer/exporter. The Commission shall also provide an opportunity to the producer or exporter or their legal representatives to examine and receive copies of the dumping calculation done by the Commission for their exports.

35.2 Following exporters requested the Commission for disclosure meetings to discuss dumping calculations methodology and to receive copies of dumping calculations:

- i. Foshan Junjing Industrial Company Ltd.;
- ii. Guangdong Nanhai Light Industrial Products Import & Export. Co.;
- iii. JNM Designer Ltd., Hongkong ;
- iv. Guangzhou Metals & Minerals Imp. & Exp. Ltd.

35.3 Disclosure meetings with representatives of the above-mentioned exporters were held on April 25, 2007 at the office of the Commission, in which methodology applied for dumping calculations was explained and copies of the detailed calculations for normal value, export price and dumping margin were provided to the representatives of the exporters/foreign producers.

36. **Hearing in Afresh Proceedings**

The Commission held a hearing on December 15, 2009 in these proceedings initiated in compliance with decision of the Supreme Court of Pakistan. List of participants is placed at Annexure-I. In the hearing, interested parties commented on Commission's determination in this investigation. The information submitted by the participants during the hearing, whether orally (oral statements were subsequently confirmed in writing) or in writing, was made available to other interested parties by placing it in the public file maintained by the Commission (paragraph 28 supra). The Commission has considered views/comments and information submitted by interested parties in the hearing or otherwise in this determination.

B. DETERMINATION OF DUMPING

37. **Dumping**

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

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

38. Normal Value

38.1 In terms of Section 5 of the Ordinance “normal value” is defined as follows:

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

38.2 Further, Section 6 of the Ordinance states:

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

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

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

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

38.3 Ordinary course of trade is defined in Section 7 of the Ordinance as follows:

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

“(a) within an extended period of time which shall normally be a period of one year

and in no case less than a period of six months;

“(b) in substantial quantities; and

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

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

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

“(b) the volume of sales below per unit cost represents twenty per cent or more of the volume sold in transactions under consideration for the determination of normal value.

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

39. Export Price

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

40. Dumping Determination

40.1 As stated earlier (paragraph 21 supra) the Applicants identified 219 exporters/foreign producers from China involved in alleged dumping of the investigated product. The Commission sent questionnaires to 35 exporters/foreign producers whose complete addresses were available with the Commission (paragraph 25.1 supra). A copy of the questionnaire was also provided to the Embassy of China in Islamabad with a request to forward it to all exporters/foreign producers of the investigated product based in China to submit information to the Commission.

40.2 The Commission received response of the questionnaire from following nine exporters (paragraph 25.2 supra). As none of them was producer of the investigated product, these exporters have also supplied information of nine Chinese producers on their domestic sales etc. of the like product to determine normal value for the investigated product, from whom these

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exporters partially bought investigated product during POI. Names of the producers are placed at Annexure-II:

- i. Foshan Junjing Industrial Co. Ltd., Foshan, China (“Junging”);
- ii. J & M Designers Ltd, Hongkong (“J&M Designers”);
- iii. Guangdong Nanhai Light Industrial Products Imp. & Exp. Co., Ltd., Foshan, China (“Nanhai”);
- iv. Guangzhou Metals & Minerals Imp. & Exp. Ltd. Guangzhou, China (“Guangzhou”);
- v. New Zhongyuan Ceramics Import & Export Co. Ltd of Guangdong, Foshan, China (“New Zhongyuan”);
- vi. Foshan San De Bo Ceramics Co. Ltd., Foshan, China (“San De Bo”);
- vii. Foshan Lungo Ceramics Co. Ltd, Foshan, China. (“Lungo”);
- viii. Foshan Everlasting Enterprise Co., Ltd., Foshan, China (“Everlasting”); and
- ix. China National Machinery & Equipment Import & Export corporation, Fujian Company Ltd., Fuzhou, China (“China National Machinery”).

40.3 Information supplied by the above-mentioned exporters in response to the questionnaires was either deficient/partial/incomplete or was not verifiable. The Commission provided ample opportunities to the exporters to provide necessary information and documents (paragraph 26 supra).

40.4 None of the above-mentioned exporters was itself producer of Tiles and these exporters did not sold Tiles in their domestic market during the POI. Similarly none of the producers (referred in Annexure-II, whose information was submitted by the exporters for the purposes of determination of normal value) was exporter of Tiles to Pakistan during the POI. The exporters bought investigated product from many Chinese producers and exported it to Pakistan during the POI. However, according to the exporters’ responses received at the Commission, only nine producers cooperated with them and provided information/data in response to the Commission’s questionnaire.

40.5 Since, the number of exporters/producers involved in dumping of the investigated product was large, the Commission decided to limit its investigation to the following five exporter on the basis of the largest percentage of volume of the exports from China in accordance with Section 14(2) of the Ordinance:

- i. Foshan Junjing Industrial Co., Ltd.;
- ii. J&M Designer Ltd.;

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- iii. Guangdong Nanhai Light Industrial Products, Import & Export Corporation;
- iv. Guangzhou Metal and Minerals Import & Export Ltd. China; and
- v. New Zhongyuan Ceramics Import & Export Co. Ltd.

40.6 However, the following four exporters, who were not selected for the detailed investigation, requested the Commission not to limit the investigation and requested for individual dumping margins.

- i. Foshan San De Bo Ceramics Co. Ltd;
- ii. Foshan Lungo Ceramics Co. Ltd.
- iii. Foshan Everlasting Enterprise Co. Ltd.; and
- iv. China National Machinery & Equipment, Import & Export Corporation.

40.7 The Commission acceded to request of the exporters and decided to determine individual dumping margins for all exporters who cooperated and provided complete verifiable requisite information. However, the following exporters failed to provide missing/deficient information and/or evidences in support of the information submitted to the Commission. Therefore, the Commission was constrained not to determine individual dumping margin for these exporters:

- i. New Zhongyuan Ceramics Import & Export Co. Ltd;
- ii. Foshan San De Bo Ceramics Co. Ltd;
- iii. Foshan Lungo Ceramics Co. Ltd.
- iv. Foshan Everlasting Enterprise Co. Ltd.; and
- v. China National Machinery & Equipment, Import & Export Corporation.

40.8 In this investigation the Commission has determined individual dumping margins for the following four exporters who provided necessary verifiable information. Dumping margins for these exporters have been determined on the basis of information provided by them and the best information available under Section 32 of the Ordinance:

- i. Foshan Junjing Industrial Co., Ltd.;
- ii. J&M Designer Ltd.;
- iii. Guangdong Nanhai Light Industrial Products, Import & Export Corporation; and
- iv. Guangzhou Metal and Minerals Import & Export Ltd. China;

40.9 The Commission has established a residual dumping margin/duty rate for all other Chinese exporters/producers of the investigated product who failed to provide necessary

verifiable information or did not provide any information to the Commission in this investigation (paragraphs 52 and 53 infra).

40.10 For the purposes of determination of dumping in this investigation, the Commission has divided investigated product into three broad categories, ceramic (“glazed”), porcelain (“polished”) and design/borders tiles, on the basis of inputs, production process and price. Dumping in this investigation is determined by comparing weighted average normal value with weighted average export price of the relevant type, and size at ex-factory level.

41. Determination of Normal Value

The Commission received information on domestic sales and cost of production etc. of nine Chinese producers of Tiles (submitted by the exporters) (paragraphs 40.2 supra). Normal value in this investigation has been determined on the basis of that information (paragraphs 46 to 55 infra).

42. Determination of Export Price

The Commission received information on export sales of the investigated product from nine exporters/foreign producers (paragraph 40.2 supra) in response to the questionnaires sent to various exporters/foreign producers. Export price of investigated product in this determination for exporters who provided necessary verifiable information has been determined on the basis of the information provided by them. The Commission was constrained not to determine export price for the exporters who did not provide necessary verifiable information or the exporters who did not provide any information.

43. Determination of Dumping for Foshan Junjing Industrial Company Ltd.

Normal Value

43.1 According to the information supplied by Junjing it purchased investigated product from more than 75 producers, which was subsequently exported to Pakistan during POI. It supplied information on domestic sales of only two producers namely Foshan Zungui Ceramic Co. Ltd. (“Zungui”) and Foshan Guangdong Shimanli Ceramic Co. Ltd. (“Shimanli”). Normal value for the investigated product which Junjing purchased from Zungui and Shimanli has been determined on the basis of the domestic sales prices of the like product (relevant type, grade, size etc.) sold by these two producers in their domestic market during the POI.

43.2 Normal value for types and sizes of the investigated product, which Junging purchased from other producers, whose information on domestic sales of the like product was not supplied by it, is determined on the basis of the best information available in terms of Section 32 of the Ordinance. In this regard, normal value is determined on the basis of comparable types and sizes of domestic sales of other producers available with the Commission. In this situation, the weighted average price of the relevant type and size of the like product is applied for the purposes of normal value.

43.3 According to the information provided by Zungui, it produced and sold only ceramic (glazed) tiles in its domestic market during the POI. All its domestic sales were to unrelated customers.

43.4 Zungui sold 1263604.84 square meter ("SQM") of ceramic (glazed) tiles of different sizes including borders/design tiles in its domestic market during POI. These sales are in sufficient quantities to determine normal value in terms of Section 6(2) of the Ordinance, as those are more than 5 percent of the export sales of the investigated product exported by Junging, which it had purchased from Zungui.

43.5 Zungui sold like product on ex-factory/ex-works basis with no price discrimination based on quantity or level of trade (wholesaler, retailer, end user etc). Payment terms were cash at sight or cash in advance. All expenses from ex-factory level, including transportation etc., were borne by the buyer.

43.6 Junging purchased ***** SQM of glazed tiles of size 100x100mm, 200x300mm, 250x330mm, 300x450mm and 300x600mm from Zungui. Normal value for these sizes of the investigated product has been determined on the basis of domestic sales of same/similar sizes made by Zungui in its domestic market during POI. Section 7 of the Ordinance requires the Commission to determine whether Zungui's sales were made in the ordinary course of trade in its domestic market. In determination of normal value for the above-mentioned sizes, the Commission has disregarded sales, which were not in ordinary course of trade in terms of Section 7 of the Ordinance.

43.7 As per the information provided by Shimanli, it produced and sold only porcelain (polished) tiles in its domestic market during POI. Shimanli sold ***** SQM of Porcelain (polished) tiles in its domestic market during POI. These sales are in sufficient quantities to determine normal value in terms of Section 6(2) of the Ordinance, as those are more than 5 percent of the export sales of the investigated product exported by Junging, which it had purchased from Shimanli. All its domestic sales were to unrelated customers.

43.8 Shimanli sold like product on ex-factory/ex-works basis with no price discrimination based on quantity or level of trade (wholesaler, retailer, end user etc). Payment terms were cash at sight or in advance. All expenses from ex-factory level, including transportation etc. were borne by the customers.

43.9 Junging purchased ***** SQM of porcelain tiles of size 500x500mm, 600x600mm and 800x800mm from Shimanli. Normal value for these sizes of the investigated product has been determined on the basis of the domestic sales of the same sizes made by Shimanli in its domestic market during POI. Section 7 of the Ordinance requires the Commission to determine whether Shimanli's sales were made in the ordinary course of trade in the domestic market. In determination of normal value for the above-mentioned sizes, the Commission has disregarded sales, which were not in ordinary course of trade in terms of Section 7 of the Ordinance.

43.10 As stated earlier (paragraph 43.1 supra) Junging also exported investigated product, which it had purchased from other producers whose information on sales of the like product in their domestic market is not available with the Commission. According to the information provided by Junging, it purchased ***** SQM of glazed, polished and design/borders of different sizes of the investigated product from other producers (whose information is not available with the Commission). The Commission has used the best information available in accordance of Section 32 of the Ordinance to determine normal value for the investigated product whose corresponding domestic sales were not available.

43.11 In determination of normal value for the investigated product whose corresponding domestic sales were not available, normal value is determined on the basis of domestic sales of other producers whose information is available with the Commission for comparable type and size of the like product. In this situation, the weighted average price of the relevant type and size of the like product is applied for the purposes of normal value.

Export Price

43.12 Export price for Junging is determined on the basis of the information provided by it on its export sales of the investigated product to Pakistan during the POI (provided in Attachment C-3 of the questionnaire response).

43.13 According to the information, during the POI, Junjing purchased investigated product from different un-related Chinese producers of the investigated product and exported to Pakistan at a price considered appropriate by it. It exported ceramic (glazed), porcelain (polished) and border/design tiles in different sizes (ranging from 20x30mm to 800x800mm) of

the investigated product to Pakistan during POI. Its total exports sales of the investigated product to Pakistan during the POI were ***** SQM. All export sales to Pakistan, during the POI, were to un-related customers. The Commission has determined export price separately for different types and sizes.

43.14 To arrive at the ex-factory level, Junjing reported adjustments on account of handling cost, inland freight, ocean freight and bank charges (commission). During on-the-spot investigation conducted at the premises of Junging, it was found that Junging is a separate entity then the producer of the investigated product, it had incurred following further expenses on export sales of the investigated product during POI. These expenses have been also adjusted in export price to arrive at ex-factory level:

- i. administrative expenses;
- ii. financial expenses; and
- iii. operating (office) expenses

Furthermore, Junging's profit earned on export sales of the investigated product has also adjusted to arrive at ex-factory level.

43.15 During on-the-spot investigation, it was found that the value of the investigated product reported in response to the Questionnaire has been adjusted for 13 percent Value Added Tax ("VAT"), as 13 percent of VAT was refunded by the Government of China on export sales of Tiles. The investigating team verified refund of VAT from the relevant documents and found that VAT refund rate was 13 percent on exports while VAT at the rate of 17 percent of sales price was levied on sales of Tiles in Chinese domestic market. The export price has, therefore, been adjusted at the rate of 4 percent of net value on account of VAT to reach at ex-factory level.

43.16 Thus the export price at ex-factory level is worked out by deducting values reported for the above-mentioned adjustments from the gross value of the sales transactions.

44. Determination of Dumping for J&M Designers

Normal Value

44.1 According to the information supplied by J&M Designers it purchased investigated product from four producers namely Fuzhou pingchi Oumei Factory ("Oumei"), Foshan Sky planet ("Sky Planet"), Sanming foreign ("Sanming") and Fujian Furi, which was subsequently exported to Pakistan during POI. However, it supplied information on domestic sales and cost of sales etc. of only one producer i.e. Oumei. Normal value for glazed type of the like product of

size 200x300, which J&M Designers purchased from Oumei has been determined on the basis of the domestic sales price. Normal value for those types and sizes which either Oumei had no domestic sales or domestic sales were not in the ordinary course of trade in terms of Section 7 of the Ordinance during the POI has been determined on the basis of its cost to make and sell.

44.2 Normal value for the investigated product which J&M Designers purchased from other producers, whose information on domestic sales of the like product was not supplied by it has been determined on the basis of the best information available in terms of Section 32 of the Ordinance. In this regard, normal value is determined on the basis information on domestic sales of other producers of comparable type and size available with the Commission. In this situation, weighted average price of the relevant type and size of the like product is applied for the purposes of normal value.

44.3 As per the information provided by Oumei, it produced and sold only ceramic (glazed) tiles in its domestic market during POI. Oumei sold ***** SQM of ceramic (glazed) tiles in its domestic market during POI. These sales are in sufficient quantities to determine normal value in terms of Section 6(2) of the Ordinance, as those are more than 5 percent of the export sales of the investigated product exported by J&M Designers, which it had purchased from Oumei. All its domestic sales were to unrelated customers.

44.4 Oumei sold like product on ex-factory/ex-works basis with no price discrimination based on quantity or level of trade (wholesaler, retailer, end user etc). Payment terms were cash at sight or cash in advance. All expenses from ex-factory level, including transportation etc., were borne by the customers.

44.5 J&M Designers purchased ***** SQM of ceramic glazed tiles of 112x225mm, 200x300mm and 250x330mm from Oumei. However, Oumei sold only 200x300mm in its domestic market during the POI. Normal value for this size of the investigated product has been determined on the basis of the domestic sales of the same size made by Oumei in its domestic market. Section 7 of the Ordinance requires the Commission to determine whether domestic sales of Oumei were made in the ordinary course of trade in the domestic market. In determination of normal value for the above-mentioned size, the Commission has disregarded sales, which were not in ordinary course of trade in terms of Section 7 of the Ordinance. Normal value for those sizes, which either Oumei had no domestic sales or domestic sales were not in ordinary course of trade in terms of Section 7 of the Ordinance has been determined on the basis of its cost to make and sell.

44.6 As stated earlier (paragraphs 44.1 supra) J&M Designers also exported investigated product, which it had purchased from other producers and some specific sizes from Oumei whose information on sales of the like product in their domestic market is not available with the Commission. According to the information provided by J&M Designers, it purchased 620167.63 SQM of glazed and border/design tiles of different sizes of the investigated product (including sizes purchased from Oumei for which domestic sales are not available) from other producers (whose information is not available with the Commission). The Commission has used the best information available in terms of Section 32 of the Ordinance to determine normal value for the investigated product whose corresponding domestic sales were not available.

44.7 In determination of normal value for the investigated product whose corresponding domestic sales were not available, normal value is determined on the basis of information on domestic sales of other producers available with the Commission for comparable type and size. In this situation, weighted average price of the relevant type and size of the like product is applied for the purposes of normal value.

Export Price

44.8 Export price for J&M Designers is determined on the basis of the information provided by it on its export sales of the investigated product to Pakistan during the POI (provided in Attachment C-3 of the questionnaire response).

44.9 According to the information, during POI, J&M Designers purchased investigated product from four different un-related Chinese producers of Tiles through exporting companies based in China and exported (shipped) directly from China to Pakistan at a price considered appropriate by it. It exported design tiles and ceramic (glazed) types in different sizes to Pakistan during POI. Its total exports of the investigated product to Pakistan during POI were ***** SQM. All export sales to Pakistan, during POI, were to un-related customer. The Commission has determined export price separately for different types and sizes.

44.10 To arrive at the ex-factory level, J&M Designers reported adjustments on account of handling cost, inland freight, ocean freight, bank charges (commission), credit cost and Chinese exporting company's commission. During on-the-spot investigation (paragraph 30.4 supra), it was found that J&M Designers is a separate entity then the producer of the investigated product and it had incurred following further expenses on export sales of the investigated product during POI. These expenses have also been adjusted in export price to arrive at ex-factory level:

- i. administrative expenses; and
- ii. operating (office) expenses

Furthermore, J&M's Designers profit earned on export sales of the investigated product has also been adjusted to arrive at ex-factory level.

44.11 During on-the-spot investigation, it was found that the value of the investigated product reported in response to the Questionnaire has been adjusted for 13 percent of VAT, as 13 percent VAT was refunded by the Government of China on export sales of Tiles. The investigating team verified the refund of VAT from the relevant documents and found that VAT refund rate was 13 percent on exports while VAT at the rate of 17 percent of the sales price was levied on sales of Tiles in the Chinese domestic market. The export price has, therefore, been adjusted at the rate of 4 percent of net value on account of VAT to reach at ex-factory level.

44.12 After preliminary determination J&M Designers pointed out that the credit cost is covered in its profit margin as it did not borrow money from banks for exports of the investigated product but it charged a higher price to cover up sales made at credit, resulting a higher profit margin. Thus credit cost needs not to deduct from gross export price as its profit margin is being deducted to arrive at ex-works level. The Commission has accepted this argument and credit cost (supplied by J&M Designers) has not been deducted from gross export price. J&M Designers also claimed that incorrect figures for ocean freight and handling cost were reported in some transactions inadvertently in response to the questionnaire. However, documents submitted in support there of did not substantiate this claim. Thus, the Commission has not accepted these adjustments with respect of ocean freight and handling cost.

44.13 Thus the export price of J&M Designers at ex-factory level is worked out by deducting values reported for the above-mentioned adjustments from the gross value of the sales transactions.

45. Determination of Dumping for Nanhai Light Industrial Products Import & Export Company ("Nanhai")

Normal Value

45.1 As per information supplied by Nanhai it purchased investigated product from more than 35 producers, which was subsequently exported to Pakistan during POI. It supplied information on domestic sales of only one producer namely Foshan Center Ceramics Company Limited ("Center"). However, the Commission received information on domestic sales of another producer namely Zungui with response to the questionnaire of Junging. Normal value for the investigated product which Nanhai purchased from Center and Zungui has been

determined on the basis of the domestic sales prices of the like product (relevant type, grade, size etc.) sold by these two producers in their domestic market during the POI.

45.2 Normal value for the investigated product which Nanhai purchased from other producers, whose information on domestic sales of the like product was not supplied by Nanhai has been determined on the basis the of best information available in terms of Section 32 of the Ordinance. In this regard, normal value is determined on the basis of the information on domestic sales of other producers available with the Commission for comparable type and size. In this situation, weighted average price of the relevant type and size of the like product is applied for the purposes of normal value.

45.3 As per the information provided by Center, it produced and sold only porcelain (polished) tiles in its domestic market during POI. Center sold ***** SQM of Porcelain (polished) tiles in its domestic market during POI. These sales are in sufficient quantities to determine normal value in terms of Section 6(2) of the Ordinance, as those are more than 5 percent of the export sales of the investigated product exported by Nanhai, which it had purchased from Center. All its domestic sales were to unrelated customers.

45.4 Center sold like product on ex-factory/ex-works basis with no price discrimination based on quantity or level of trade (wholesaler, retailer, end user etc). Payment terms were cash at sight or in advance. All expenses from ex-factory level, including transportation etc. were borne by the customers.

45.5 Nanhai purchased ***** SQM of porcelain tiles of 600x600mm from Center. Normal value for this size of the investigated product has been determined on the basis of domestic sales of the same size made by Center in its domestic market during POI. Section 7 of the Ordinance requires the Commission to determine whether domestic sales of Center were made in ordinary course of trade in the domestic market. In determination of normal value for the above-mentioned size, the Commission has disregarded sales, which were not in ordinary course of trade in terms of Section 7 of the Ordinance.

45.6 According to the information provided by Nanhai, it purchased ***** SQM of the investigated product (glazed, 250x330 mm and 300x450mm) from Zungui. Normal value for these sizes and type of the investigated product has been determined on the basis of domestic sales of same/similar sizes made by Zungui in its domestic market during POI.

45.7 The Commission was required to determine whether Zungui's domestic sales were in sufficient quantities to determine normal value in terms of Section 6(2) of the Ordinance.

Analysis of the information revealed that its domestic sales were in sufficient quantities as those were more than 5 percent of the export sales of the investigated product exported by Nanhai, which it had purchased from Zungui.

45.8 Section 7 of the Ordinance requires the Commission to determine whether domestic sales of Zungui were made in the ordinary course of trade during POI. In determination of normal value for the above-mentioned type and sizes, the Commission disregarded sales, which were not made in ordinary course of trade in terms of Section 7 of the Ordinance.

45.9 As stated earlier (paragraph 45.1 supra) Nanhai also exported investigated product, which it had purchased from other producers whose information on sales of the like product in their domestic market is not available with the Commission. According to the information provided by Nanhai, it purchased ***** SQM of glazed, polished and border/design tiles of different sizes of the investigated product from other producers (whose information is not available with the Commission). The Commission has used the best information available in terms of Section 32 of the Ordinance to determine normal value for the investigated product whose corresponding domestic sales were submitted by Nanhai.

45.10 In determination of normal value for the investigated product whose corresponding domestic sales were not available, normal value is determined on the basis of domestic sales of other producers of comparable type and size available with the Commission. In this situation, weighted average price of the relevant type and size of the like product is applied for the purposes of normal value.

Export Price

45.11 Export price for Nanhai is determined on the basis of the information provided by it on its export sales of the investigated product to Pakistan during POI (provided in Attachment C-3 of the questionnaire response).

45.12 According to the information, Nanhai purchased investigated product from different un-related Chinese producers and exported to Pakistan at a price considered appropriate by it during POI. It exported design/border tiles, ceramic (glazed) and porcelain (polished) types in different sizes (ranging between 100x100mm to 600x600mm) of the investigated product to Pakistan during POI. Its total exports of the investigated product to Pakistan during POI were ***** SQM. All export sales to Pakistan, during POI, were to un-related customers. The Commission has determined export price separately for different types and sizes.

45.13 To arrive at the ex-factory level, Nanhai reported adjustments on account of handling cost, inland freight, ocean freight and bank charges (commission). During on-the-spot investigation conducted at its premises (paragraph 30.4 supra), it was found that it is a separate entity than the producer of the investigated product. It had incurred following further expenses on export sales of the investigated product during POI. These expenses have also been adjusted in export price to arrive at ex-factory level:

- i. administrative expenses; and
- ii. operating (office) expenses

Furthermore, Nanhai's profit earned on export sales of the investigated product has also been adjusted to arrive at ex-factory level.

45.14 During on-the-spot investigation at the premises of Nanhai, it was found that the value of the investigated product reported in response to the Questionnaire has been adjusted for 13 percent of VAT, as 13 percent VAT was refunded by the Government of China on export sales of Tiles. The investigating team verified refund of VAT from the relevant documents and found that VAT refund rate is 13 percent on exports while VAT at the rate of 17 percent of the sales price was levied on sales of Tiles in Chinese domestic market. The export price has, therefore, been adjusted at the rate of 4 percent of net value on account of VAT to reach at ex-factory level.

45.15 Thus export price at ex-factory level is worked out by deducting values reported for the above-mentioned adjustments from the gross value of the sales transactions.

46. Determination of Dumping for Guangzhou Metal and Minerals Import & Export Company ("Guangzhou"):

Normal Value

46.1 In the preliminary determination in original investigation, individual dumping margin for Guangzhou was not determined on the basis that it did not supply information on domestic sales for any of the producer from whom it had purchased investigated product. It was provided an opportunity to supply information on domestic sales and other relevant information (costs etc) for the producers from whom it had purchased investigated product during POI. Guangzhou informed the Commission that none of the producer, from whom it had purchased investigated product during the POI, was willing to supply requisite information.

46.2 During on-the-spot investigation conducted at its premises, Guangzhou informed the investigators that it purchased investigated product from many producers including Zungui, Shimanli and Oumei, which was subsequently exported to Pakistan during POI. However, it did not identify which type and size of the investigated product was purchased from which producer. Although it did not supply information on domestic sales of any producer in response to the questionnaire, however, the Commission received information on domestic sales of Zungui, Shimanli and Oumei, through other exporters (Junging and J&M).

46.3 Normal value for the investigated product which Guangzhou exported to Pakistan is determined on the basis the best information available in terms of Section 32 of the Ordinance. In this regard first of all domestic sales of Zungui, Shimanli and Oumei were considered and if sales of comparable type and size of the like product was available from domestic sales of these producers, normal value has been determined on the basis of those sales. In cases where these producers did not had domestic sales for comparable type and size of the like product, normal value is determined on the basis of domestic sales of other producers of comparable type and size. In this situation, weighted average price of the relevant type and size of the like product is applied for the purposes of normal value.

46.4 Section 7 of the Ordinance requires the Commission to determine whether domestic sales of the producers were made in ordinary course of trade in domestic market. In determination of normal value, the Commission has disregarded sales, which were not in the ordinary course of trade in terms of Section 7 of the Ordinance. Details of sales by these three producers in their domestic market are given at paragraphs 46 and 47 supra.

Export Price

49.5 Export price for Guangzhou is determined on the basis of information provided by it on its export sales of the investigated product to Pakistan during POI (provided in Attachment C-3 of the questionnaire response).

46.6 According to the information, during POI, Guangzhou purchased investigated product from many un-related Chinese producers of the investigated product, which was exported to Pakistan at a price considered appropriate by it. It exported ceramic (glazed) and porcelain (polished) types of the investigated product in different sizes (200x300, 250x330, 396x396, 500x500 and 600x600) to Pakistan during POI. Its total exports of the investigated product to Pakistan during POI were ***** SQM. All export sales to Pakistan, during POI, were to un-related customer. The Commission has determined export price separately for different types and sizes.

46.7 To arrive at the ex-factory level, Guangzhou reported adjustments on account of handling cost, inland freight and ocean freight. During on-the-spot investigation (paragraph 30.4 supra), it was found that it is a separate entity than the producer of the investigated product and it had incurred following further expenses on export sales of the investigated product during the POI. These expenses have also been adjusted in export price to arrive at ex-factory level:

- i. administrative expenses;
- ii. operating (office) expenses; and
- iii. financial expenses

Furthermore, Guangzhou's profit earned on export sales of the investigated product has also been adjusted to arrive at ex-factory level.

46.8 During on-the-spot investigation, it was found that value of the investigated product reported in response to the Questionnaire has been adjusted for 13 percent of VAT, as 13 percent VAT was refunded by the Government of China on export sales of Tiles. The investigating team verified the refund of VAT from the relevant documents and found that VAT refund rate was 13 percent on exports while VAT at the rate of 17 percent of the sales price was levied on sales of Tiles in Chinese domestic market. The export price has, therefore, been adjusted at the rate of 4 percent of net value on account of VAT to reach at ex-factory level.

46.9 Thus the export price at ex-factory level is worked out by deducting values reported for the above-mentioned adjustments from the gross value of sales transactions.

47. Determination of Dumping for New Zhongyuan Ceramics Import & Export Co.

47.1 New Zhongyuan provided information on its export sales of the investigated product in response to the questionnaire. During on-the-spot investigation conducted at its premises it failed to provide relevant documents (i.e. commercial invoices, LC etc), which were asked by the investigators to verify information supplied by it. New Zhongyuan was informed that the Commission will only take into account this information in this investigation if it is verifiable.

47.2 New Zhongyuan contested and supplied further documents (Unify invoice etc.) to prove its claim. Investigation of those documents revealed that unify invoice is prepared for VAT refund purposes usually two to four weeks after export shipment is made. Source documents to prepare unify invoice is the commercial invoice, packing list, shipping invoice etc. But New

Zhongyuan did not supply verifiable commercial invoices, sea freight invoices and other relevant documents.

47.3 The Commission determined individual dumping margin for New Zhongyuan in preliminary determination on the basis of information submitted by it and provided it another opportunity to provide relevant documents. New Zhongyuan's representatives held a meeting with officers of the Commission on February 3, 2007 at office of the Commission on this issue. However, they were unable to prove their claim from the documents submitted as, source documents (commercial invoices, freight invoices, LC, packing list etc) were not provided to the Commission.

47.4 Since the information submitted by New Zhongyuan on its export sales of the investigated product was not verifiable, the Commission disregarded that information. The Commission considered using best information available in terms of Section 32 of the Ordinance to construct export price for New Zhongyuan. For this purpose information on export price obtained from PRAL was considered. The Commission was unable to determine export price on the basis of PRAL's information due to the following reasons:

- i. It does not contain detailed description of the product. Especially details of types and sizes of the products are not available in that information.
- ii. Time lag between export and import of the investigated product.
- iii. Under-invoiced declared import value of the investigated product.

47.5 Other source upon which that the Commission could have relied upon for this purpose was the information provided by the importers. As stated in paragraph 25.5 supra, none of the importers responded to the Commission. Therefore, the Commission could not determine export price for New Zhongyuan. As export price for New Zhongyuan is not determined, therefore, normal value for exports of the investigated product exported by New Zhongyuan during POI is not determined. Resultantly, individual dumping margin for New Zhongyuan has been not determined.

48. Determination of Dumping for Foshan San De Bo Ceramic Co. Ltd.

48.1 The Commission decided to limit this investigation to five exporters on the basis of the largest percentage of volume of the exports from China in accordance with Section 14(2) of the Ordinance (paragraph 40.5 supra). However, on request of Foshan San De Bo Ceramic Co. Ltd.

("San De Bo"), the Commission decided to determine individual dumping margin for it (paragraph 40.6 supra). In preliminary determination, the Commission determined its individual dumping margin on the basis of information submitted by it and provided another opportunity to provide missing information and evidence for the purposes of verification of the information.

48.2 In response to the questionnaire San De Bo provided information on its export sales of the investigated product. On-the-spot investigation was not conducted at its premises to verify the information. San De Bo was requested to supply information in a specified format and necessary documents for purposes of the verification of the information provided in response to the questionnaire.

48.3 San De Bo supplied some documents (Unify invoice etc.) in support of the information submitted for exports of the investigated product. Investigation of those documents revealed that unify invoice was prepared for VAT refund purposes usually two to four weeks after export shipment was made. Source documents to prepare unify invoice is the commercial invoice, packing list, shipping invoice etc. But San De Bo did not supply verifiable commercial invoices and other relevant documents.

48.4 San De Bo's representatives held a meeting with officers of the Commission on February 3, 2007 on this issue. However, they failed to prove their claim from the documents submitted, as source documents (commercial invoices, freight invoices, LC, packing list etc) were not provided.

48.5 Since the information on export sales was not verifiable, the Commission disregarded that information for the purposes of this investigation. The Commission considered using best information available in terms of Section 32 of the Ordinance to construct export price for San De Bo. For the purposes, information on export price obtained from PRAL was considered. The Commission was unable to determine export price on the basis of PRAL's information due to the following reasons:

- i. It does not contain detailed description of the product. Especially details of types and sizes of the products are not available in that information.
- ii. Time lag between export/sale by San De Bo and import into Pakistan of the investigated product.
- iii. Under-invoiced declared import value of the investigated product.

48.6 Other source upon which that the Commission could have relied upon for this purpose, was the information provided by the importers. As stated in paragraph 25.5 supra, none of the importers responded to the Commission. Therefore, the Commission could not determine export price for San De Bo. As export price for San De Bo is not determined, therefore, normal value for exports of the investigated product exported by San De Bo during POI is not determined. Resultantly, individual dumping margin for San De Bo has been not determined.

49. Determination of Dumping for Foshan Lungo Ceramic Co.

49.1 The Commission decided to limit this investigation to five exporters on the basis of the largest percentage of volume of the exports from China in accordance with Section 14(2) of the Ordinance (paragraph 40.5 supra). However, on request of Foshan Lungo Ceramic Co. Ltd. ("Lungo"), the Commission decided to determine individual dumping margin for it (paragraph 40.6 supra). In preliminary determination, the Commission determined its individual dumping margin on the basis of information submitted by it and provided another opportunity to provide missing information and evidence for the purposes of verification of the information.

49.2 In response to the questionnaire Lungo provided information on its export sales of the investigated product. On-the-spot investigation was not conducted at its premises to verify the information. Lungo was requested to supply information in a specified format and necessary documents for the purposes of verification of the information provided in response to the questionnaire.

49.3 Lungo supplied some documents (Unify invoice etc.) in support of the information submitted for exports of the investigated product. Investigation of those documents revealed that unify invoices were prepared for VAT refund purposes usually two to four weeks after export shipments were made. Source documents to prepare unify invoice is the commercial invoice, packing list shipping invoice etc. But Lungo did not supply verifiable commercial invoices and other relevant documents.

49.4 Lungo's representatives held a meeting with officers of the Commission on February 3, 2007 on this issue. However, they failed to prove their claim from the documents submitted. Source documents (commercial invoices, freight invoices, LC, packing list etc) were not submitted to the Commission.

49.5 Since the information on export sales was not verifiable, the Commission has disregarded that information. The Commission considered best information available in terms of Section 32 of the Ordinance to construct export price for Lungo. For this purpose, information

on export price obtained from PRAL was considered. The Commission was unable to determine export price on the basis of PRAL's information due to the following reasons:

- i. It does not contain detailed description of the product. Especially details of types and sizes of the products are not available in that information.
- ii. Time lag between export/sale by Lungo and import into Pakistan of the investigated product.
- iii. Under-invoiced declared import value of the investigated product.

49.6 Other source upon which that the Commission could have relied upon for this purpose, was the information provided by the importers. As stated in paragraph 25.5 supra, none of the importers responded to the Commission. Therefore, the Commission could not determine export price for Lungo. As export price for Lungo is not determined, therefore, normal value for exports of the investigated product exported by Lungo during POI is not determined. Resultantly, individual dumping margin for Lungo has been not determined.

50. Determination of Dumping for Foshan Everlasting Enterprise Co., Ltd.

50.1 The Commission decided to limit this investigation to five exporters on the basis of the largest percentage of volume of the exports from China in accordance with Section 14(2) of the Ordinance (paragraph 40.5 supra). However, on request of Foshan Everlasting Enterprise Co., Ltd ("Everlasting"), the Commission decided to determine individual dumping margin for it (paragraph 40.6 supra). In preliminary determination, the Commission determined its individual dumping margin on the basis of information submitted by it and provided another opportunity to provide missing information and evidence for the purposes of verification of the information.

50.2 Everlasting was requested to provide information on its export sales of the investigated product on transaction-by-transaction basis in a specified format in response to the questionnaire. Since on-the-Spot investigation was not conducted at the premises of Everlasting. It was requested to supply necessary documents for the purposes of verification of the information. Everlasting supplied some documents in this regard. Examination of those documents revealed that Everlasting had not supplied information as per the specified format of the questionnaire. It reported different types (glazed tiles and design/borders) of the investigated product under one transaction. It was not possible to separate different types of the investigated product reported in a single transaction. Thus, the Commission was unable to

determine export price for different types/models on the basis of information provided by Everlasting for its export sales of the investigated product during POI.

50.3 Since the information on export sales provided by Everlasting was not usable, the Commission has disregarded the same and considered relying on the best information available in terms of Section 32 of the Ordinance to construct export price for it. For this purpose information obtained from PRAL was considered. The Commission was unable to determine export price on the basis of PRAL's information due to the following reasons:

- i. It does not contain detailed description of the product. Especially details of types and sizes of the products are not available in that information.
- ii. Time lag between export/sale by Everlasting and import into Pakistan of the investigated product.
- iii. Under-invoiced declared import value of the investigated product.

50.4 Other source upon which that the Commission could have relied upon for this purpose, was the information provided by the importers. As stated in paragraph 25.5 supra, none of the importers responded to the Commission. Therefore, the Commission could not determine export price for Everlasting. As export price for Everlasting is not determined, therefore, normal value for exports of the investigated product exported by Everlasting during POI is not determined. Resultantly, individual dumping margin for Everlasting has been not determined.

51. Determination of Dumping for China National Machinery & Equipment Import and Export Corporation Ltd.

51.1 The Commission decided to limit this investigation to five exporters on the basis of the largest percentage of volume of the exports from China in accordance with Section 14(2) of the Ordinance (paragraph 40.5 supra). However, on request of China National Machinery & Equipment Import and Export Corporation Ltd., Ltd ("China National Machinery"), the Commission decided to determine individual dumping margin for it (paragraph 40.6 supra). In preliminary determination, the Commission determined its individual dumping margin on the basis of information submitted by it and provided another opportunity to provide missing information and evidence for the purposes of verification of the information.

51.2 China National Machinery supplied information on its exports of the investigated product, which was deficient in certain respects. Deficiencies were conveyed to China National

Machinery but it did not supply the requisite information. As on-the-spot investigation was not conducted at the premises of China National Machinery, it was requested to supply deficient information and necessary documents for the purposes of verification of the information supplied in response to the questionnaire. China National Machinery supplied some documents in this regard but the Commission's examination of those documents revealed that the information supplied by it on export sales was not verifiable.

51.3 Since the information on export sales provided by Everlasting was not usable, the Commission has disregarded the same and considered relying on the best information available in terms of Section 32 of the Ordinance to construct export price for it. For this purpose information obtained from PRAL was considered. The Commission was unable to determine export price on the basis of PRAL's information due to the following reasons:

- i. It does not contain detailed description of the product. Especially details of types and sizes of the products are not available in that information.
- ii. Time lag between export/sale by Everlasting and import into Pakistan of the investigated product.
- iii. Under-invoiced declared import value of the investigated product.

51.4 Other source upon which that the Commission could have relied upon for this purpose, was the information provided by the importers. As stated in paragraph 25.5 supra, none of the importers responded to the Commission. Therefore, the Commission could not determine export price for China National Machinery. As export price for China National Machinery is not determined, therefore, normal value for exports of the investigated product exported by China National Machinery during POI is not determined. Resultantly, individual dumping margin for China National Machinery has been not determined.

52. Determination of Dumping for Other Chinese Exporters/Producers

The Commission considered information obtained from PRAL to determine export price for other Chinese exporters/producers who did not cooperate with the Commission in providing information or evidence. This was the only information available with the Commission on export sales of the investigated product by the non-cooperating exporters. However, the Commission could not determine export price for these exporters as different types and sizes of the investigated product could not be determined from that information. Therefore, the Commission has determined that the highest individual dumping margin

determined for cooperating exporter (ghaunzhou) is a representative dumping margin for non-cooperating exporters/foreign producers of the investigated product.

53. Dumping Margin

53.1 The Ordinance defines “dumping margin” in relation to a product as “*the amount by which its normal value exceeds its export price*”. In terms of Section 14(1) of the Ordinance the Commission shall determine an individual dumping margin for each known exporter or producer of an investigated product. However, Section 14(2) provides that if the Commission is satisfied that the number of exporters, producers or importers, or types of products involved is so large as to make it impracticable to determine individual dumping margin for each known exporter or producer concerned of the investigated product, the Commission may limit its examination to a reasonable number of interested parties or investigated products by using samples which are statistically valid on the basis of information available to the Commission at the time of selection, or to the largest percentage of volume of exports from the country in question which can reasonably be investigated.

53.2 The Commission has investigated all exporters who responded to the questionnaire. However, individual dumping margins have been determined for those exporters who supplied verifiable necessary information and the antidumping duty for those exporters has been established on the basis of individual dumping margins. However, a residual dumping margin and antidumping duty rate for all other exporters, who did not cooperate or whose information was either deficient or not verifiable, is determined in terms of Section 32 of the Ordinance.

53.3 Section 12 of the Ordinance provides three methods for fair comparison of normal value and export price in order to establish dumping margin. The Commission has established dumping margin by comparing weighted average normal value with weighted average price of all comparable export transactions.

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

53.5 Taking into account all requirements set out above, the dumping margins have been determined as follows:

Table-VI

Final Determination and Levy of Antidumping Duty on Dumped Imports of Tiles, which Includes Ceramic, Porcelain, Vitrified, Granite Wall and Floor Tiles in Glazed/Unglazed, Polished/Unpolished Finish, Originating In and/or Exported From the People's Republic of China

Dumping Margins

Exporter Name	Percentage of Export price	Percentage of C&F Price
Junging	21.50	14.85
Nanghai	30.45	21.08
J&M	33.92	16.46
Guangzhou	54.73	23.65
All Others	54.73	23.65

54. Negligible Volume of Dumped Imports

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

54.2 In this regard, data and information available with the Commission on volume of dumped imports of the investigated product during POI (from January 01 2005 to December 31, 2005) is given in the table below:

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

Imports from:	Imports in:	
	Absolute quantity (SQM)	% of total imports
China (dumped)	9555368.75	87.49%
Other sources	1366730.07	12.51%
Grand Total	10922098.82	

Source: Cooperating Exporters and PRAL

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

C. INJURY TO DOMESTIC INDUSTRY

55. Determination of Injury

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

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

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

55.2 Section 15 of the Ordinance further provides that:

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

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

56. Domestic Industry

56.1 During POI, domestic industry manufacturing domestic like product was consisting of six units with an installed production capacity of 19.03 SQM per annum. However, on the basis of information and analysis, for the purposes of this investigation, following two units are considered as the “domestic industry” in terms of Section 2(d) of the Ordinance for the purposes of this investigation (paragraph 18.4 supra):

- i. Master Tiles and Ceramic Industries Ltd., Gujranwala (Applicant); and
- ii. Karam Ceramics Ltd., Karachi.

56.2 The injury analysis carried out in following paragraphs is based on the information gathered by the Commission for this investigation of the Applicant and Karam Ceramics Ltd. Karam Ceramics was asked to provide information regarding its unit for injury analysis of the

domestic industry, which it did not. The publically available information of Karam Ceramics Ltd., i.e. annual reports of Karam Ceramics for the FY 2004 and FY 2005 were obtained, in order to carry out the injury analysis of the domestic industry. Karam Ceramics manufactured Tiles and sanitary ware during the POI and the annual reports contain consolidated accounts. However, the annual reports for FY 2004 and FY 2005 showed that Karam Ceramics produced small quantity of sanitary ware during the POI. The installed capacity of sanitary ware plant was 3000 MT, whereas, the production during FY 2003 was 671 MT, in FY 2004 it was 80 MT and in FY 2005 it was 35 MT. Karam Ceramics closed its sanitary ware plant and it was disposed off during the second half of FY 2005. Separate information is available only for installed capacity and production. The accounts are consolidated and overall position of profit and loss, and cash flow of Karam Ceramics has been analyzed in the following paragraphs to determine material injury to domestic industry of Tiles.

57. Volume of Dumped Imports

Facts

57.1 In order to ascertain the volume of dumped imports of the investigated product, the Commission obtained import data from PRAL, the cooperating exporters and the Applicant. As stated earlier in paragraph 25.5 the importers were also requested to provide information on imports, to which they did not respond.

57.2 With regard to the volume of dumped imports, in terms of Section 15(2) of the Ordinance, the Commission considered whether there has been a significant increase in dumped imports, either in absolute terms or relative to the production of the domestic like product in Pakistan. The following table shows imports of the investigated product and production of the domestic like product during the POI:

Table-VIII

Period	Dumped Imports of IP		Production of domestic like product
	Absolute Quantity	% age of domestic production	
FY 2003	17.78	17.78%	100.00
FY 2004	52.38	36.03%	145.40
FY 2005	100.34	59.26%	169.32
Jul-Dec 2005	75.78	90.52%	83.71

Note: Actual figures have been indexed with respect to domestic production in FY 2003 by taking it equal to 100 to keep confidentiality.

Analysis

57.3 The above table shows that the imports of the investigated product increased in absolute terms by 194.65 percent in FY 2004, 91.55 percent in FY 2005 and 51.04 percent between July to December 2005 on annualized basis. The production of domestic like product in Pakistan increased by 45.40 percent in FY 2004, (as the Applicant enhanced its installed production

capacity by putting up a new plant of 5,000,000 SQM Tiles which started production in October 2003), 16.45 percent in FY 2005 and decreased by 1.12 percent during the period from July to December 2005 on annualized basis. Thus imports in absolute terms of the investigated product increased more rapidly as compared to the increase in production of the domestic like product in Pakistan.

57.4 Imports of the investigated product also increased relative to the domestic production throughout the POI. In relative terms, dumped imports were 17.78 percent of domestic production in FY 2003, 36.03 percent in FY 2004, 59.25 percent in FY 2005 and 90.52 percent during the period from July to December 2005 on annualized basis.

Conclusion

57.5 On the basis of the above analysis, the Commission has concluded that the dumped imports increased in absolute as well as relative to domestic production throughout the POI and the domestic industry suffered material injury on account of volume of dumped imports.

58. Price Effects

58.1 The effect of dumped imports on the sales price of domestic like product in Pakistan has been examined to establish whether there has been significant price undercutting (the extent to which the price of the imported product is lower than the price of the domestic producers), price depression (the extent to which the domestic producers experienced a decrease in its selling prices over time), and price suppression (the extent to which increases in the cost of production could not be recovered in selling price by the domestic producers). In this final determination, the analysis of effect of dumped imports on the sales price of domestic like product in Pakistan is constrained to be limited to the Applicant, because the information regarding sales prices of other producers were not available with the Commission. The production of the Applicant accounts for 28.62 percent of total domestic production in Pakistan, hence any inference drawn from the Applicant data would be considered as of domestic industry as a whole.

58.2 Price undercutting

Facts

58.2.1 Comparison of weighted average ex-factory price of the domestic like product with the weighted average landed cost of the investigated product and the price undercutting during the POI is given in the following table:

Table-IX

Period	Average ex-factory price of domestic like product*	Average landed cost of investigated product**	Price under-cutting	
			Absolute Rs./SQM	%age
FY 2003	100.00	94.40	5.60	5.59%
FY 2004	87.29	79.98	7.31	8.37%
FY 2005	83.74	84.29		--

Final Determination and Levy of Antidumping Duty on Dumped Imports of Tiles, which Includes Ceramic, Porcelain, Vitrified, Granite Wall and Floor Tiles in Glazed/Unglazed, Polished/Unpolished Finish, Originating In and/or Exported From the People's Republic of China

Jul-Dec 2005	91.38	87.00	4.38	4.79%
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* Exclusive of sales tax

** Based on assessed value and exclusive of sales tax

Note: Actual figures have been indexed with respect to average ex-factory price of the domestic like product in FY 2003 by taking it equal to 100 to keep confidentiality.

Analysis

58.2.2 It appears from the above table that the weighted average landed cost of the investigated product was lower than the weighted average ex-factory price of the domestic like product in the range of 4.79 percent/SQM to 8.37 percent/SQM during the POI, except in FY 2005. Therefore, the dumped imports of the investigated product undercut prices of the domestic like product during POI.

Conclusion

58.2.3 On the basis of the above, the Commission has concluded that the domestic industry suffered material injury on account of price undercutting due to dumped imports.

58.3 Price Depression**Facts**

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

Table-X

Period	Weighted Average ex-factory price of domestic like product	Price depression	
		Absolute Rs./SQM	Percentage
FY 2003	100.00	--	--
FY 2004	87.29	12.71	12.71
FY 2005	83.74	3.55	4.06
Jul. - Dec.2005	91.38	--	--

Note: Actual figures have been indexed with respect to average ex-factory price of the domestic like product in FY 2003 by taking it equal to 100 to keep confidentiality.

Analysis

58.3.2 The weighted average ex-factory price of domestic like product decreased by Rs. 33.79/SQM in the FY 2004 and Rs. 9.45/SQM in FY 2005 on account of unfair competition from dumped imports.

Conclusion

58.3.3 On the basis of the above analysis, the Commission has concluded that the domestic industry experienced significant price depression during FY 2004 and FY 2005. The domestic industry, therefore, suffered injury on account of price depression during FY 2004 and FY 2005.

58.4 Price Suppression

Facts

58.4.1 The following table shows the weighted average cost of production ("COP") and the weighted average ex-factory sales price of the domestic like product during the POI:

Table-XI (Rs./SQM)

Period	Price Suppression		
	Increase/ (decrease) in COP	Increase/ (decrease) in price	Price suppression
FY 2003	-	--	--
FY 2004	(9.68)	(33.79)	24.11
FY 2005	7.11	(9.45)	16.56
Jul. to Dec. 05	30.59	20.32	10.27

Analysis

58.4.2 The above table shows that the weighted average cost to make and sell of domestic like product decreased by Rs.9.68/SQM in FY 2004, increased by Rs.7.11/SQM in FY 2005 and Rs.30.59/SQM during the period from July to December 2005. Weighted average ex-factory price of the domestic like product decreased by Rs.33.79/SQM in FY 2004, by Rs.9.45/SQM in FY 2005 and increased by Rs.20.32/SQM during the period from July to December 2005. The increase in cost to make and sell was more than the increase in price of the domestic like product in FY 2005 and in July to December 2005.

Conclusion

58.4.3 On the basis of the above analysis, the Commission has concluded that the domestic industry suffered material injury on account of price suppression during the POI.

59. Market Share

Facts

59.1 The total domestic demand for Ceramic Tiles in Pakistan is met through local production and imports. To establish the size of Pakistan market, the production of domestic like product in Pakistan, imports of the investigated product and imports from other countries have been used and the figures for the POI are as follows:

Table-XII

Period	Domestic producers share		Imports from	
	Domestic Industry*	Other domestic units**	Dumped Source (China)	Other Sources

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FY 2003	32%	44%	13%	11%
FY 2004	33%	36%	25%	6%
FY 2005	28%	27%	33%	12%
Jul-Dec 2005	24%	23%	43%	10%

* Applicant plus Karam Ceramics Ltd.

** The units who are themselves importers of the investigated product and have been excluded from the definition of domestic industry, information provided by the Applicant.

Analysis

59.2 The above table shows that the total domestic market of Ceramic Tiles has grown more than doubled during the POI. The market share of the domestic industry was 32 percent in FY 2003, it decreased from 32 percent in FY 2004 to 28 percent in FY 2005 and to 23 percent during the period from July to December 2005. Whereas the market share of dumped imports increased from 13 percent in FY2003 to 25 percent in FY 2004, and further increased to 33 percent in FY 2005. During the period from July to December 2005 the market share of dumped imports increased to 43 percent. Market share of imports from other sources remained in the range of 6 to 12 percent during the POI.

Conclusion

59.3 On the basis of the above analysis, the Commission has concluded that the domestic industry suffered a significant loss of market share during the POI due to increased imports of investigated product from China. The market share of imports from non-dumped sources remained in the range of 6 to 12 percent during the POI. It is therefore, concluded that the domestic industry suffered loss in market share mainly due to imports from dumped sources.

60. Production and Capacity Utilization

Applicant

60.1 The Applicant set up its first plant with installed capacity of 1.50million SQM ceramic wall and floor tiles per annum and started production of Tiles in the year 1995. It started setting up another plant to manufacture ceramic, porcelain and granite tiles in 2000 of installed capacity of 5.0million SQM Tiles and the new plant started production in October 2003. The Applicant increased the installed capacity of its first plant to 2.5million SQM Tiles from January 2004. Three fourth of new plant's capacity (i.e. 3.30 million SQM, for the period from October 2003 to June 2004) was allocated to year FY 2004 and fifty percent out of new installed capacity of 1.0 million SQM Tiles, (i.e.500,000 SQM), of first plant was allocated to FY 2004. In FY 2005 the total installed capacity of the Applicant was 7.50 million SQM Tiles per annum. Details of capacity utilized during the POI are given in the table below:

Table-XIII

Period	Capacity Utilization
FY 2003	67.51%

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FY 2004	54.12%
FY 2005	47.47%
Jul-Dec 2005	45.60%

Analysis

60.2 Investigation of the Commission has revealed that production of the Applicant increased throughout the POI, (as its new plant with installed capacity of producing 5,000,000 SQM Tiles started production in October 2003). However, with increase in installed capacity, the production did not increase with the same pace and the capacity utilization level decreased from 67.5 percent in FY 2003 to 54.89 percent in FY 2004. The capacity utilization decreased further from 54.12 percent to 47.47 percent in FY 2005 and during the period from July to December 2005 capacity utilization was 45.60 percent.

Karam Ceramics

60.3 Capacity utilization by Karam Ceramics during POI is given in the table below:

Table-XIV

Period	Capacity Utilization
FY 2003	114.16%
FY 2004	127.34%
FY 2005	156.96%
Jul-Dec 2005	157.17%

Source: Annual reports for FY 2004 and FY 2005.

Analysis

60.4 The installed capacity of Karam Ceramics remained the same during the POI, however, due to increase in its production every financial year, its capacity utilization increased from 114.6 percent in FY 2003 to 127.34 percent in FY 2004 and further increased to 156.96 percent in FY 2005.

60.5 The table below shows consolidated installed capacity and capacity utilization of the domestic industry.

Table-XV

Period	Installed Capacity (SQM)	Capacity Utilization
FY 2003	3,260,000	92.70%
FY 2004	7,135,000	72.19%
FY 2005	9,260,000	68.28%
Jul-Dec 2005	4,630,000	66.77%

Conclusion

60.6 On the basis of the above analysis, the Commission has concluded that the domestic industry has suffered injury on account of capacity utilization mainly due to dumped imports through out the POI.

61. Effect on Sales

Facts

61.1 The Applicant's sales made during the POI are given in table below:

Table-XVI

Period	Sales
FY 2003	100.00
FY 2004	196.91
FY 2005	323.80
Jul-Dec 2005	143.58

Note: Actual figures have been indexed with respect to sales in FY 2003 by taking it equal to 100 to keep confidentiality.

Analysis

61.2 The above table shows that the Applicant's sales increased during the POI. However, keeping in view the fact that Applicant increased its installed production capacity from 1.5 million SQM Tiles to 7.5 million SQM Tiles (by 6.0 million SQM) in FY 2004, its sales did not increased correspondingly. Had there been no dumped imports of the investigated product, the sales volume of the Applicant would have been much higher, as it is operating at less than fifty percent of installed capacity for the latest one and half year of the POI.

Conclusions

61.3 On the basis of above analysis the Commission has concluded that the Applicant has not been able to achieve the desired level of sales due to dumped imports.

62. Effects on Inventories

Facts

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

Table-XVII

Period	Opening Inventory	Closing Inventory	Change in Inventory
FY 2003	100.00	66.95	--
FY 2004	66.95	180.53	113.58
FY 2005	180.53	128.38	(52.14)
Jul-Dec 2005	128.38	130.61	2.23

Note: Actual figures have been indexed with respect to opening inventory in FY 2003 by taking it equal to 100 to keep confidentiality

Analysis

62.2 The Applicant enhanced installed capacity in FY 2004 and consequently increased production. The sales of the Applicant also increased but not at a corresponding rate. The inventory level of the domestic like product increased in FY 2004 it decreased in FY 2005 and again increased during the period from July to December 2005.

Conclusion

62.3 The Commission has concluded that the domestic industry suffered material injury on account of increase in inventories during the POI except for FY 2005, mainly owing to increase in the volume of dumped imports.

63. Profit and Loss

Facts

63.1 The Applicant provided Profit and Loss Statement of its unit, whereas the overall profit and loss figures for Karam Ceramics have been taken from its annual reports for FY 2004 and FY 2005 containing consolidated for Tiles and sanitary ware. The table below shows the profit and loss figures of the Applicant and Karam Ceramics for the POI:

Table-XVIII

	Profit/(Loss) of the Applicant		Net Profit of Karam Ceramics
	Gross Profit	Net Profit/(Loss)	
FY 2003	100.00	58.07	100.00
FY 2004	150.52	52.90	85.39
FY 2005	165.97	(9.97)	170.86
Jul-Dec 2005	84.76	(28.45)	N.A

Note: Actual figures have been indexed with respect to profits in FY 2003 by taking it equal to 100 to keep confidentiality

Analysis

63.2 The Applicant earned net profits in FY 2003 and FY 2004. However, it suffered loss in FY 2005 and the loss during the period from July to December 2005 increased. The Applicant enhanced its plant capacity keeping in view the growing demand for Tiles, however, due to dumped imports from China the Applicant was not able to increase its production and sales. Since the cost of raw material is substantially low in the production of Tiles and value addition is very high, the Applicant would have earned profit by increasing its production and sales up to the planned level, had there been no dumped imports of Tiles from China.

63.3 Karam Ceramics earned profits in FY 2003, its profit decreased in FY 2004. However, in FY 2005 the profit of Karam Ceramics increased. Profit/Loss figures for the period from July to December 2005 were not available with the Commission.

63.4 The table below shows consolidated profit position of the domestic industry:

Table-XIX

	Net Profit/(Loss)
FY 2003	100.00
FY 2004	88.54
FY 2005	66.80
Jul-Dec 2005	(27.11)*

* only for Applicant Industry

Note: Actual figures have been indexed with respect to profit in FY 2003 by taking it equal to 100 to keep confidentiality

Conclusion:

63.5 On the basis of available facts, the Commission has concluded that the domestic industry suffered material injury on account of decline in profit in FY 2004 and in FY 2005 and during the period from July to December 2005.

63.6 Karam Ceramics profit decreased by 15.61 percent in FY 2004 and then increased by 100 percent in FY 2005, thus Karam Ceramics did not suffer material injury during the POI, except for decrease in profit during FY 2004.

64. **Cash Flow**

Facts

64.1 The Applicant has submitted the following information regarding its cash flow positions during POI and overall cash flow of Karam Ceramics taken from annual reports for FY 2004 and FY 2005:

Table-XX

Year	Cash Flow from operations of Applicant	Overall Cash Flow from operations of Karam Ceramics
FY 2003	(100.00)	100.00
FY 2004	39.39	(10.84)
FY 2005	71.05	98.86
Jul-Dec 2005	5.81	N.A

Note: Actual figures have been indexed with respect to Cash flows in FY 2003 by taking it equal to 100 to keep confidentiality

Analysis

64.2 The above table shows that cash generated from operations by the Applicant was negative in FY 2003, however, in FY 2004 the cash flow from operations was positive and in FY 2005 the cash flow position of the Applicant further improved. However, its cash flow from operations decreased during the period from July to December 2005.

64.3 The above table also shows that cash generated from operations of Karam Ceramics was positive in FY2003, which fell to negative in FY 2005. However, in FY2005 cash generated from operations increased. Cash flow from operations for the period from July to December 2005 is not available with the Commission.

Conclusion

64.4 On the basis of the above, the Commission has concluded that the domestic industry suffered material injury on account of cash flow during the period from July to December 2005 only.

65. **Employment, Productivity and Wages**

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65.1 Following is the information regarding employment, productivity and wages of the Applicant during POI:

Table-XXI

	No. of Employees	Wages	Productivity
FY 2003	100.00	6524279	264.30
FY 2004	188.37	8891928	403.07
FY 2005	199.68	13041674	465.27
Jul-Dec 2005	209.37	7485171	426.01

Note: Actual figures have been indexed with respect to no. of employees in FY 2003 by taking it equal to 100 to keep confidentiality

Analysis

65.2 The above table shows that the number of employees increased during POI. During the same period wages on production of tiles per SQM decreased. The productivity per worker increased during the period from FY 2003 to FY 2005, however, it decreased during the period from July to December 2005.

Conclusion

65.3 The domestic industry suffered injury on account of productivity during the period from July to December 2005 only.

66. **Return on Investment**

Facts

66.1 The Applicant has stated that during the FY 2004 new investment was made in this industry to cater to the needs of expanding domestic market. Following table shows Applicant's return on investment during POI:

Table-XXII

Year	Return on Investment
FY 2003	14.51%
FY 2004	7.58%
FY 2005	6.29%
FY 2006 (1 st Half)	1.72%

Analysis

66.2 The return on investment decreased through out the POI due to decrease in profits in FY 2004 and losses in FY 2005 and during the period from July to December 2005. Nonetheless, the Applicant was able to pay the annual financial charges on its loans.

Conclusion

66.3 On the basis of the above, the Commission has concluded that the domestic industry suffered material injury on account of the reduction in return on investment during POI, which affected its ability to invest.

67. **Ability to raise capital or investments**

Facts/analysis

67.1 The Applicant earned profit during FY 2003 and FY 2004 however, it incurred losses in FY 2005 and during the period from July to December 2005 its losses increased. Thus the financial position of the Applicant deteriorated during the POI but it did not face difficulty in raising capital during FY 2003 and FY 2004 for setting up its new plant. The Applicant invested in setting up of new plant with a significantly higher capacity than its old plant due to the growing demand for Tiles, however, it could not fully profit from this investment on account of sharp increase in the volume of dumped imports.

Conclusions

67.2 The Commission has concluded that the Applicant did not suffer material injury in respect of its ability to raise capital or investment during POI.

68. **Growth**

Facts/Analysis

68.1 The total demand for Tiles grew during the POI, as the total domestic market for Tiles grew by 50.66% in FY 2004, 43.63% in FY 2005. However, it decreased by 15.94% during the period from July to December 2005. The Applicant increased its installed production capacity from 1.50 million SQM Tiles to 7.50 million SQM Tiles in FY 2004.

Conclusion

68.2 On the basis of above facts, it is concluded that the Applicant did not suffer material injury on account of growth, however, this growth is not being utilized fully as major portion of domestic market is taken by dumped imports.

69. **Summing up of Material Injury**

69.1 Over the POI, the domestic demand for Tiles increased from 9.87 million SQM in FY 2003 to 22.45 million SQM in FY 2005, an increase of over 10 million SQM. The domestic demand on the basis of half yearly data is expected to reach a higher level in FY 2006. Even though the Applicant increased the volume and the total value of its sales, it was unable to fully profit from this increased demand as by far the bulk of this increase in demand was taken by the dumped imports. The market share of dumped imports increased from 13 percent in FY 2003 to 43 percent during the period from July to December 2005 and the market share of the domestic industry decreased from 32 percent in FY 2003 to 24 percent during the period from July to December 2005.

69.2 The Applicant, foreseeing the growth in the domestic market for Tiles, had installed a new plant with a significantly higher capacity than the old one. However, the Applicant could not utilize the larger production capacity on account of the sharp increase in the volume of dumped imports. Capacity utilization of the Applicant suffered and fell from 67.51 percent in FY 2003 to 45.60 percent during the period from July to December 2005. Additional employees had also been put in place to operate the new larger production facility. But as the plant operated well below full capacity for the POI, productivity suffered, hence raising the cost of production.

69.3 Importantly, on account of price undercutting, the Applicant could not increase its prices to accommodate the rising cost of production in FY 2005 and during the period from July to December 2005, and, therefore, the Applicant's profitability suffered. The Applicant's profits decreased in FY 2004, and it suffered losses in FY 2005 as well as during the period from July to December 2005. This fall in profitability directly affected the return on investment, which fell from 14.51 percent in FY 2003 to 6.29 percent in FY 2005.

69.4 The landed cost of investigated product undercut the ex-factory sales price of domestic industry through out the POI except for FY 2005. The Applicant also reduced its ex-factory sales price during FY 2003, FY 2004 and FY 2005 in an unsuccessful effort to maintain market share. During FY 2005 and the period from July to December 2005 the percentage of price undercutting fell and the Applicant increased its ex-factory price by Rs.20.32/SQM to partially offset the increase in its cost of production during that part of POI.

69.5 Change in inventories presents a mixed picture. Inventories built-up as imports from dumped sources increased. However, as domestic prices were adjusted downwards in FY 2004 and FY 2005 due to price depression, inventories fell to a more reasonable level.

69.6 It is, therefore, concluded that the domestic industry suffered material injury during POI due to dumped imports as evident, *inter alia*, in the reduced market share, low capacity utilization, falling productivity, reduced profit and subsequent losses and a fall in return on investment.

70. **Other Factors**

70.1 In accordance with Section 18(2) of the Ordinance, the Commission also examined factors, other than dumped imports, 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 injury caused by dumped imports.

70.2 The investigation of the Commission revealed that there were imports from sources other than dumped source during the POI that may also have caused injury to the domestic industry. However, injury caused by imports from other sources cannot be considered as

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significant as its volume was far less than the volume of dumped imports. Following table shows the volume of imports from other sources and from dumped sources during POI:

Table-XXIII (SQM)

Period	Imports from		Total Imports
	Dumped Source	Other Sources	
FY 2003	1,306,251(52%)	1,215,076(48%)	2,521,327
FY 2004	3,848,875(81%)	901,745 (19%)	4,750,620
FY 2005	7,372,444(74%)	2,635,187(26%)	10,007,631
Jul-Dec 2005	5,567,535 (81%)	1,295,032 (19%)	6,862,567

70.3 Other factors mentioned in Section 18(3) of the Ordinance were also analyzed and it was found that:

- i. There was no contraction in demand for Tiles in Pakistan during the POI;
- ii. There was no change in trade restrictive practices and competition between foreign producers, and domestic producers; and
- iii. There has been no considerable change in technology.

D. CONCLUSIONS

71. The conclusions, after re-appraisal and re-appreciation of the evidence and information collected/received during original investigation and taking into account all considerations including the issues raised by the petitioners in various writ petitions in superior Courts for this investigation, are as follows:

- i. The Commission has made this final determination in compliance of the orders the Honorable Islamabad High Court dated January 17, 2012.
- ii. All procedural requirements under the Ordinance have been met in fresh proceedings.
- iii. The Commission has taken into account all information and evidence collected in original investigation and views/comments of interested parties received in these proceedings.
- v. Application was filed on behalf of domestic industry under Section 20 of the Ordinance.

- vi. The Applicant represents major proportion of the production of domestic like product during POI and fulfilled requirements of Section 24 Of the Ordinance;
- vii. Investigated product and the domestic like product are alike products;
- viii. During POI, the investigated product was exported to Pakistan by the exporters/producers from China at prices below its normal value;
- ix. The Commission has made fresh determination of dumping of the investigated product from China and material injury to domestic industry for POI in accordance with provisions of the Ordinance.
- x. In these proceedings individual dumping margins have been determined for four Chinese exporters who provided necessary verifiable information. Residual antidumping duty rate for all other exporters, who did not cooperate, has been determined in accordance Section 32 of the Ordinance
- xi. Volume of dumped imports of the investigated product and the dumping margins established are above the negligible and *de minimis* levels respectively;
- xii. Domestic industry suffered material injury during POI on account of, volume of dumped imports, price undercutting, price depression, price suppression, loss in market share, decline in profit, negative effects on production and capacity utilization, and increase in inventories (in terms of Sections 15 and 17 of the Ordinance);
- xiii. There was a causal relationship between dumped imports and the material injury suffered by the domestic industry during POI; and
- xiv. Earlier the Commission made preliminary determination on November 30, 2006 and final determination under Section 39 of the Ordinance on March 24, 2007 and imposed anti-dumping duties ranging from 14.85 percent to 23.65 percent for a period of five years with effect from November 30, 2006. The antidumping duties remained in-forced till October 28, 2009. On October 29, 2009 the Supreme Court of Pakistan set a side orders of the Commission (paragraph 7 supra) and directed to proceed a fresh in the matter expeditiously, preferably within a period of eight weeks. However, the Commission was unable to dispose off the matter expeditiously due to litigation in High Courts (paragraphs 8 to 15 supra)

E. Conclusion of Afresh Proceedings and Imposition of Antidumping Duties

72. In terms of Section 50 of the Ordinance when the Commission in an investigation has established the existence of dumping of the investigated product, material injury to the domestic industry, and causation, it shall impose antidumping duty on dumped imports of the investigated product equal to dumping margin.

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73. Individual dumping margins have been determined for exporters/foreign producers of the investigated product who cooperated and supplied information necessary for the purposes of this investigation and rate of definitive antidumping duty for these exporters is determined on the basis of their individual dumping margins (paragraphs 37 to 53 supra).

74. A residual dumping margin and antidumping duty rate for all other exporters from the Exporting Country, who did not cooperate, is determined on the basis of best available information in terms of Section 32 of the Ordinance.

75. The Commission initiated original investigation on March 27, 2006 under Section 23 of the Ordinance, made preliminary determination on November 30, 2006 and final determination under Section 39 of the Ordinance on March 24, 2007 and imposed following anti-dumping duties for a period of five years with effect from November 30, 2006:

Table -XXIV

Exporter Name	Antidumping Duty Rate (%)
Junging	14.85
Nanghai	21.08
J&M	16.46
Guangzhou	23.65
All Others	23.65

76. Antidumping duties imposed on dumped imports of the investigated product remained in force up till October 28, 2009. On October 29, 2009 the Supreme Court of Pakistan set a side order of the Commission (paragraph 7 supra), therefore, antidumping duties imposed dumped imports of the investigated product were suspended and from October 29, 2009 there was no antidumping duty imposed on investigated product due to litigation in superior Courts.

77. In view of the above facts, analysis and conclusions the Commission has imposed definitive antidumping duties given in the following table on the dumped imports of the investigated product imported from China for a period of five years with effect from November 30, 2006:

Table -XXV

Exporter Name	Antidumping Duty Rate (%)
Junging	14.85
Nanghai	21.08
J&M	16.46
Guangzhou	23.65
All Others	23.65

78. As stated in paragraph 76 supra the same rate of antidumping duties remained in-force on imports of the investigated product from November 30, 2006 to October 28, 2009, therefore, Commission has confirmed imposition of antidumping duties for the period from November 30, 2006 to October 28, 2009 and has imposed antidumping duties for remaining period from October 29, 2009 to November 29, 2011.

79. The definitive antidumping duty rates are determined on C&F value in *ad val.* terms. Definitive antidumping duties at C&F value are equivalent to the final dumping margins determined at ex-factory price level. The dumped investigated product is classified under PCT heading Nos. 6907.1000, 6907.9000, 6908.1000 and 6908.9000.

80. Tiles imported from sources, other than China shall not be subject to definitive antidumping duties.

81. In accordance with Section 51 of the Ordinance, the definitive antidumping duties shall take the form of *ad valorm* duty and be held in a non-lapsable personal ledger account established and maintained by the Commission for the purpose. Release of the dumped investigated product for free circulation in Pakistan shall be subject to imposition of such antidumping duties.

82. Definitive antidumping duties levied would be in addition to other taxes and duties leviable on import of the investigated product under any other law.

83. The definitive antidumping duties would be collected in the same manner as customs duty is collected under the Customs Act, 1969 (IV of 1969) and would be deposited in Commission's Non-lapsable PLD account No. 187 with Federal Treasury Office, Islamabad.

84. In terms of Section 58(1) of the Ordinance any definitive antidumping duty shall be terminated on a date not later than five years from the date of its imposition. However, in terms of Section 58(3) of the Ordinance a definitive antidumping duty shall not expire if the Commission determines in a review initiated on request of the domestic industry before date of expiry of the duty that it would be likely to lead to continuation or recurrence of dumping and injury. For this purpose the Commission is required to publish a notice of impending expiry of antidumping duty not later than ninety days preceding the date of expiry of the antidumping duty.

85. The Commission has imposed definitive antidumping duties in this case with effect from November 30, 2006 to November 29, 2011 (Paragraph 78 supra). The five-year period of duty has ended on November 30, 2011 in accordance with Section 58(1) of the Ordinance. Therefore, the Commission could not publish notice of impending expiry of antidumping duty under Section 58(2) of the Ordinance in this case, which leads that the domestic industry could not file an application for review under Section 58(3) of the Ordinance. However, if the domestic industry is still facing injury from the investigated product it can file a new application under the Ordinance.

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(Zamir Ahmed)
Member
May 8, 2012

(Niamat ullah Khan)
Member
May 8, 2012

(Prince Abbas Khan)
Chairman
May 8, 2012

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Annexure - I

List of Participants of the Hearing

Annexure - II

List of Chinese Producers of Wall and Floor Tiles

- i. Foshan New Zhongyuan Ceramics Co. Ltd, Shanshui District;
- ii. Heyuan Wanfeng Ceramics Co. Ltd., Heyuan City;
- iii. Qingyuan Southern Building Materials and Sanitary Ware Co. Ltd., Yuantan Town;
- iv. Shunde Yuezhong Branch of Guangdong New Zhongyuan Ceramics Co. Ltd., Lunjiao;
- v. Foshan Center Ceramics Company Limited;
- vi. Foshan Zungi Ceramic Co. Ltd.;
- vii. Foshan Guangdong Shimanli Ceramic Co. Ltd.;
- viii. Fujaan Minqing oumei Ceramic co. Ltd.;
- ix. Foshan JianXing Ceramic Co., Ltd and
- x. Huangu Ceramic co. Ltd.