



**Government of Pakistan
National Tariff Commission**

REPORT

ON

**PRELIMINARY DETERMINATION AND LEVY
OF PROVISIONAL ANTIDUMPING DUTY ON
IMPORT OF WALL/FLOOR TILES IN GLAZED/
UNGLAZED, POLISHED/UNPOLISHED FINISH
ORIGINATING IN AND/OR EXPORTED FROM
PEOPLE'S REPUBLIC OF CHINA**

ADC No. 11/2006/NTC/CT

April 03, 2014

**Preliminary Determination and levy of Provisional Antidumping Duty on Import of Ceramic/
Porcelain/Vitrified/Granite Wall and Floor Tiles into Pakistan Originating in and/or Exported from China**

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The National Tariff Commission (herein after referred to as the “Commission”) having regard to the Anti-Dumping Duties Ordinance, 2000 (LXV of 2000) (herein after referred to as the “Ordinance”) and the Anti-Dumping Duties Rules, 2001 (herein after referred to as the “Rules”) relating to investigation and determination of dumping of goods into the Islamic Republic of Pakistan (“Pakistan”), material injury to the domestic industry caused by such imports, and imposition of antidumping duties to offset the impact of such injurious dumping, and to ensure fair competition thereof and to the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (herein after referred to as the “Agreement on Antidumping”) is conducting an investigation and has made preliminary determination in this investigation under the above mentioned Ordinance and Rules.

A. BACKGROUND

2. The Commission received a written application on February 23, 2006 from M/s. Master Tiles & Ceramic Industries Limited, G.T Road Gujranwala (the “Applicant”), a domestic producer of Tiles, which includes ceramic, porcelain/vitrified/granite wall and floor tiles in glazed/unglazed, polished/unpolished finish, (hereinafter referred to as “Tiles”) on behalf of the domestic industry. The Applicant alleged that exporters/foreign producers from the People’s Republic of China (hereinafter referred to as “China”) were involved in dumping of Tiles into Pakistan, which has caused injury to the domestic industry. Examination of the application showed that it met requirements of Section 20 of the Ordinance and Rule 3 of the Rules. Therefore, the Commission conducted an antidumping investigation on Tiles originating in and/or exported from China in the year 2006-07 under the Ordinance and the Rules. The Commission initiated that investigation on March 27, 2006, made preliminary determination on November 28, 2006 and final determination on March 24, 2007 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
Guangzhou Metal and Minerals Import & Export Co.	23.65
All Others	23.65

3. The Commission’s initiation of investigation, preliminary determination and final determination were challenged by different importers through various writ

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petitions in the Lahore High Court, Rawalpindi Bench, which were subsequently transferred to Islamabad High Court, Islamabad. 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.”

4. Importers of Tiles challenged decision of the Islamabad High Court in the Supreme Court of Pakistan through various Civil Petitions in September 2009. 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.”

5. 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 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). The Commission held a hearing on December 15, 2009 in these proceedings and made preliminary determination on February 20, 2010.

6. 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:

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

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“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”.

7. 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).

8. The Commission’s initiation of fresh proceedings in this case was again challenged by various importers in the Honourable Islamabad High Court on July 20, 2011. The Honorable Islamabad High Court on January 17, 2012 dismissed writ petitions dismissed 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 judgment/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 judgment/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 cannot 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.”

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.

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“..... 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.”

9. In light of the decision of the Hon'ble Islamabad High Court dated January 17, 2012 the Commission re-appraised and re-appreciated the evidence and information collected/received during original investigation of this case and made final determination on May 8, 2012 and issued a notice, which was published in Official Gazette⁵ and two widely circulated national newspapers⁶ (one in English language and one in Urdu Language). The Commission imposed following definitive antidumping duties on the dumped imports of the investigated product imported from China with effect from November 30, 2006 for a period of five years:

Table -II

Exporter Name	Antidumping 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

10. As the same rate of antidumping duties remained in-forced on imports of the investigated product from November 30, 2006 to October 28, 2009, therefore, Commission confirmed that imposition of antidumping duties for the period from November 30, 2006 to October 28, 2009 and imposed antidumping duties for remaining period from October 29, 2009 to November 29, 2011.

11. Final determination of the Commission in this case was challenged in the Appellate Tribunal through appeal nos. 6 to 10 of 2012. In its decision dated October 1, 2012 the Appellate Tribunal set aside Commission's final determination and the case was remitted to the Commission to proceed from the stage of order dated June 24, 2011 (initiation of the investigation). The Appellate Tribunal has passed the following order:

⁵ Official Gazette of Pakistan (Extraordinary) part III dated November 30, 2006.

⁶ The daily Business Recorder and Assas of 30 November 2006 issue.

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“The case is being remitted to the commission to proceed from the stage of order of fresh initiation of investigation dated 24-06-2011 for taking further proceedings in accordance with provisions of the Ordinance as indicated above. Whatever data and material would be considered by the commission except the one about which confidentiality is claimed would be allowed to be examined by all the interested parties and in case according to any of such parties any material which is not relevant, objection may be raised and the commission shall consider the and dispose them of by speaking findings in the final determination, against which the aggrieved party may seek remedy provided by law

“For the foregoing reasons these appeals are accepted. The final determination made by NTC on 08-05-2012 issued on 11-05-2012 is set aside, and the case is remitted to the NTC to proceed from the stage of order dated 24-06-2011 and complete the proceedings by making compliance with the provisions of ordinance as indicated above and dispose of the application afresh.”

B. PROCEDURE

12. The procedure set out in the following paragraphs has been followed to complete proceedings of this investigation.

13. In pursuance of the judgment of the Anti-Dumping Appellate Tribunal (paragraph 11 supra), the Commission resumed proceedings of the investigation on October 24, 2012 and issued a notice, which was published in Official Gazette⁷ and two widely circulated national newspapers⁸ (one in English language and one in Urdu Language). Notice of resumption of the investigation was also sent to the Embassy of China and other interested parties including exporters/foreign producers from China, domestic producers and importers of Tiles on October 24, 2012.

14. In accordance with Section 37 of the Ordinance the Commission was required to make preliminary determination in this investigation within one hundred and eighty days of the resumption of proceedings on October 24, 2012. However, some importers challenged resumption of the proceedings in Islamabad High Court on December 11, 2012 vide writ petition no. 4181/2012. The honourable Islamabad High Court issued an injunctive order on December 11, 2012. Resultantly the Commission suspended proceeding of the investigation. The Islamabad High Court dismissed petitions on November 21, 2013 and issued following judgment on November 30, 2011:

⁷ Official Gazette of Pakistan (Extraordinary) part III dated October 24, 2012.

⁸ The daily ‘Business Recorder’ and the daily ‘Jang’ of October 24, 2012 issue.

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“Contention of the learned counsel for the petitioners is not correct. The matter had already been decided by the Hon’ble Supreme Court of Pakistan as well as Peshawar High Court. The power of appeal includes the power of remand as well. Therefore, the order passed by the Tribunal is legal and does not require any interference. Finding no force in this petition, the same is hereby dismissed with cost.”

15. After order of the Islamabad High Court the Commission has resumed proceedings of the investigation on December 10, 2013 and time lines for the investigation have been calculated by deducting period for which injunctive order was in place.

16. An importer, M/s Warraich Traders, Lahore has filed a writ petition No. W.P. 4468/14 in Lahore High Court on February 27, 2014. The Lahore High Court has passed a restraining order to the effect of final determination.

17. **Period of Investigation**

17.1 To comply with provisions of the Ordinance as per directions of the Appellate Tribunal (paragraph 11 supra) the Commission has up dated period of investigation (hereinafter referred to as the “POI”) in accordance with Section 36 of the Ordinance and has requested all interested parties including the Applicant, exporters/foreign producers and importers to furnish data/information as per the POI.

17.2 In terms of Section 36 of the Ordinance, period of investigation is:

“a) 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.

b) 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 so deems appropriate in view of the available information regarding domestic industry and an investigated product”.

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17.3 For determination of dumping and injury, the POI for this investigation is fixed as follows:

For dumping determination: From October 01, 2011 to September 30, 2012

For injury determination: From October 01, 2009 to September 30, 2012

18. **Applicant's Views**

As stated earlier (paragraph 17.1 supra) the Applicant was requested to provide necessary information as per the defined POI, which it did on December 1, 2012. In addition to the requisite information the Applicant has, *inter alia*, raised the following issues regarding alleged dumping of Tiles from China 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 are exporting Tiles to Pakistan at dumped prices; and
- iii. Exports of Tiles by Chinese exporters/producers to Pakistan at dumped prices has caused and is causing material injury to the domestic industry producing Tiles mainly through:
 - a) Increase in the volume of alleged dumped imports;
 - b) price undercutting;
 - c) loss of market share by the domestic industry;
 - d) decline in production and output;
 - e) decline in capacity utilization;
 - f) decline in profits and return on investment of the domestic industry;
 - g) Inverse effects on employment, wages and salaries;
 - h) Inverse effects on ability to raise capital; and
 - i) Inverse effects on growth;

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19. The Domestic Industry

19.1 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”.

19.2 Tiles industry in the country producing like product comprises of the following seven units, namely:

- i. Master Tiles and Ceramics Industries (the Applicant);
- ii. Shabbir Tiles and Ceramics Limited (Stile);
- iii. Karam Ceramics Limited (Karam);
- iv. Emco Industries Limited (Emco);
- v. Swat Ceramics (Pvt) Limited (Swat);
- vi. Sonex Tiles & Ceramics Industries (Sonex); and
- vii. Frontier Ceramics Limited (Forte).

19.3 Master Tiles and Ceramics Industries is the Applicant for this investigation and all other units have supported this investigation.

19.4 The Commission is also conducting another investigation on alleged dumping of Tiles from Spain, UAE, Malaysia and Iran. In that investigation Master Tiles and Ceramics Industries Ltd., and Shabbir Tiles and Ceramics Limited are Applicants and all other units in the industry have supported the application.

20. Standing of the Applicant

20.1 Section 24 of the Ordinance sets out principles for standing of an application. Section 24(1) of the Ordinance states that:

“.... 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

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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.”

20.2 The application was filed by the Applicant, which is the second major producer of Tiles in Pakistan. All other units in the industry have supported the application in this case. The Applicant has submitted letters of support from other units. Standing of the application is determined on the basis of the information provided by the Applicant and Shabbir Tiles and Ceramics Limited. Following table shows production of Tiles by the units in the domestic industry during October 2011 to September 2012 (the POI for dumping) and their status with regard to the application:

Table – III
Standing of the Application

S.No	Unit Name	Share in total production	Supporting/ Opposing/ Indifferent
i.	Master Tiles & Ceramics Ltd	19.45%	Applicant
ii.	Shabbir Tiles & Ceramics Ltd	38.86%	Supporting
iii.	Karam Ceramics Ltd.	14.20%	Supporting
iv.	Emco Industries Ltd.	14.09%	Supporting
v.	Sonex Tiles & Ceramics Ltd	4.53%	Supporting
vi.	Swat Ceramics Ltd.	4.41%	Supporting
vii.	Frontier (Forte) Ceramics	4.45%	Supporting
	Total	100.00%	

20.3 The above table shows that the Applicant represents 19.45 percent of the total domestic production. Further, all other units in the industry are supporting the application. Therefore, on the basis of the foregoing information the Commission has determined that the application is made by the domestic industry as it fulfills requirements of Section 24 of the Ordinance.

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21. Investigated Product and Domestic Like Product

21.1 Section 2 of the Ordinance defines the “investigated product”, and the “domestic 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”.

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

21.2.1 Investigated Product

The investigated product is Tiles, which includes ceramic, porcelain/vitrified/ granite wall and floor tiles, excluding border 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, 6908.9010 and 6908.9090.

21.2.2 Domestic Like Product

The domestic like product is Tiles, which includes ceramic, porcelain/vitrified/ granite wall and floor tiles, excluding border tiles, in glazed/unglazed, polished/unpolished finish, produced by the domestic industry. Domestic like product has the same usages as of the investigated product. It is also classified under the same PCT headings as is classified the investigated product.

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21.2.3 Like Product

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

- i. production process for each of the two is similar;
- ii. both employed same/similar inputs in production process;
- iii. uses of the both are identical and both are interchangeable in use;
- iv. both the products are classified under the same PCT sub-headings;
- v. both compete directly with each other in domestic market; and
- vi. both the products are stocked and sold by the same traders through the same distribution and sales network.

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

22. Exporters/Foreign Producers involved in Alleged Dumping of Tiles

28.1 The Applicant in its submissions has identified nineteen exporters/foreign producers involved in alleged dumping of the investigated product from China. The Applicant has also stated that there may be other exporters/foreign producers of investigated product involved in dumping that are not known to them and has requested for imposition of antidumping duty on all imports of the investigated product originating in and/or exported from China.

22.2 Upon resumption of investigation proceedings copy of the notice was sent to 48 exporters/foreign producers from China on October 24, 2012 directly whose complete addresses were available with the Commission. For the exporters/foreign producers whose addresses were not available with the Commission, a copy of the Notice of resumption of proceedings 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.

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23. Information/Data Gathering

23.1 The Commission sent exporters' questionnaire, on October 24, 2012, directly to 48 Chinese exporters/foreign producers whose complete addresses were available with the Commission for submission of data and information. A copy of the questionnaire was also sent to the embassy of China on October 24, 2012, with a request to forward it to other exporters/foreign producers who were not known or whose addresses were not available with the Commission. The exporters/foreign producers were asked to respond within 37 days of the dispatch of the questionnaire i.e. latest by December 01, 2012.

23.2 The following five exporters/foreign producers responded to the Commission's request for information on the exporter's questionnaire:

- i. Huida Sanitary Ware Co.,Ltd.
- ii. Foshan Eagle Brand Ceramic Trade Co. Ltd. ("EBT")
- iii. Foshan Junjing Industrial Co., Limited
- iv. Foshan Mainland Imp. & Exp. Co., Limited.
- v. Fuzhou Highway Import & Export Co., Ltd (Fuzhou)

23.3 Out of five, four exporters requested for an extension in time period for submission of information of two weeks i.e. till December 10, 2012. The Commission acceded to the request after taking into account the due cause shown by these exporters in their requests and granted ten days extension in time period for submission of information on exporter's questionnaire. Filled-in exporter's questionnaires received from above mentioned exporters. Upon examination of the questionnaire response certain deficiencies were found in the information supplied. These deficiencies were communicated to the concerned exporters and were requested to supply the deficient information. Details of responses to the exporter's questionnaire of each exporter/ foreign producer are set out in paragraph 30 infra.

23.4 No other exporters/foreign producer responded to the Commission's request for information. The Commission issued another letter on December 10, 2012 to non-responding exporters/foreign producers in order to inform that if they are unable to provide the requisite data/information within seven days, the Commission will reach to the preliminary/final determination on the basis of best information

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available in accordance with Section 32 of the Ordinance. As proceedings of this investigation remained suspended due to injunctive order of the Islamabad High Court from December 11, 2012 to November 21, 2013 (paragraphs 20 and 21 supra), after resumption of the proceedings on December 10, 2013 the Commission provided another opportunity to exporters/foreign producers to submit requisite information latest by January 13, 2014. However, no exporter/foreign producer responded other than the exporters mentioned at paragraph 29.3 supra.

23.5 On October 24, 2012 questionnaires were sent to Pakistani importers of Tiles known to the Commission and were asked to respond to the Commission within 37 days of the dispatch of the questionnaires. None of the Pakistani importers responded. The Commission issued another letter on December 10, 2013 to all importers in order to inform that if they are unable to provide the requisite information/data within seven days the Commission will reach at preliminary and/or final determination on the best information available in accordance with Section 32 of the Ordinance.

23.6 The Commission sent questionnaires to domestic producers other than the Applicant on October 24, 2012 and requested to submit the requisite information within 37 days of the dispatch of the questionnaire. None of the other producers responded to the Commission. Reminders to other producers were sent on December 10, 2013 and were informed that in case of non-response best available information will be used to reach preliminary and/or final determination in this regard. However, no response from other producers has received. As stated earlier (paragraph 19.4 supra) the Commission is also conducting another anti-dumping investigation on Tiles in which Master Tiles & Ceramic Industries Limited and Shabbir Tiles & Ceramics Limited are applicants. POI for that investigation is overlapping with the POI of this investigation. As the information of Shabbir Tiles & Ceramics Limited is also available with the Commission for the POI, the same is also used for preliminary determination with appropriate adjustments according to POI of this investigation in addition to the information submitted by the Applicant for itself and for other units.

23.7 The Commission has an access to the import statistics data base of Pakistan Revenue Automation Limited ("PRAL"), the data processing arm of the Central Board of Revenue, Government of Pakistan. For the purpose of this preliminary determination the Commission has also used import data obtained from PRAL in

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addition to the information provided by the Applicant, the other domestic producers, and exporters/foreign producers of the investigated product.

23.8 Thus the Commission has sought from all available sources the relevant data and information deemed necessary for the purposes of this investigation to reach at preliminary determination of dumping and injury caused therefrom. In terms of Sections 23, 32(4) and 35 of the Ordinance and Rule 12 of the Rules, the Commission, during the course of the investigation, satisfied itself as to the accuracy of information supplied by the interested parties to the extent possible for the purposes of this preliminary determination (paragraph 31 infra).

24. Questionnaire Response by the Exporters/Foreign Producers

24.1 Foshan Eagle Brand Ceramic Trade Co. Ltd. ("EBT")

24.1.1 Questionnaire response from Eagle Brand Group ("EBT"), China was received at the Commission on November 26, 2012. According to the information provided in response to the questionnaire, EBT was involved in the exports of Tiles to Pakistan as well as to other countries during POI. EBT is a trading company and is not involved in production of Tiles. The Tiles which it exported to Pakistan during POI were purchased mainly from its two related producers i.e. Foshan Shiwan Eagle Brand Ceramic Co. Ltd. ("FEB") and Eagle Brand Ceramics Industrial (Heyun) Co. Ltd. ("HEB"). It has submitted information on domestic sales and cost to make & sell of these producers.

24.1.2 The information submitted by EBT in response to the questionnaire was analyzed at the Commission and certain deficiencies were identified. Accordingly, those deficiencies were communicated to EBT vide Commission's letter dated December 12, 2013. The EBT was asked to provide the deficient information/data no later than December 23, 2013. EBT responded to the deficiencies on December 20, 2014. However, its response was still deficient in certain areas.

24.1.3 The information provided by EBT is used to determine individual dumping margin for it, however, the best information available is used for deficient/missing information (paragraph 37 infra).

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24.2 Huida Sanitary Ware Co. Ltd. (“Huida”)

24.2.1 Questionnaire response from Huida was received at the Commission on December 20, 2013. According to the information provided in response to the questionnaire, Huida was involved in the exports of Tiles to Pakistan as well as to other countries during POI. Huida is a trading company and is not involved in production of Tiles. During the POI it sold Tiles in domestic as well as in international market. The Tiles which it exported to Pakistan during POI were purchased from its related producer i.e. Tangshan Huida Ceramic Group Huiqun Co., Ltd. It has submitted information on cost to make & sell etc. of its related producer.

24.2.2 The questionnaire response submitted by Huida was analyzed at the Commission and found deficient in many respect. Accordingly, those deficiencies were communicated to Huida Sanitary vide Commission’s letter dated January 02, 2014 (after vacation of stay order of the Islamabad High Court).

24.2.3 Huida was asked to provide the deficient information/data not later than January 13, 2014. However, Huida requested for extension in time for submission of deficient data/information by January 20, 2014. However, the time period for submission of information was extended up to January 20, 2014. Its response received in the Commission on January 20, 2014.

24.2.4 The information provided by Huida is used to determine individual dumping margin for it (paragraph 36 infra).

24.3 Foshan Mainland Imp. & Exp. Co. Limited (“Foshan Mainland”)

24.3.1 Questionnaire response from Foshan Mainland was received at the Commission on November 28, 2012. According to the information provided in response to the questionnaire, Foshan Mainland was involved in the exports of Tiles to Pakistan as well as to other countries during POI. Foshan Mainland is a trading company and is not involved in production of Tiles. During the POI it exported Tiles and other products from China. It was not involved in domestic sales of Tiles during POI. The Tiles which it exported to Pakistan during POI were purchased from many

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producer, however, information for domestic sales and cost to make & sell of Tiles of any producer from whom it has purchased Tiles for exports is not provided.

24.3.2 The information submitted by Foshan Mainland in response to the questionnaire was analyzed at the Commission and certain deficiencies were identified. Accordingly, those deficiencies were communicated to Foshan Mainland vide Commission's letter dated December 12, 2013. Foshan Mainland was asked to provide the deficient information/data no later than December 23, 2013.

24.3.3 Foshan Mainland did not respond to the Commission letter. Another letter was sent to Foshan Mainland on January 08, 2014 (after resumption of the investigation) to inform that if Foshan Mainland is unable to provide the requisite data by January 13, 2014 the Commission will determine dumping for it on the basis of best information available in accordance with Section 32 of the Ordinance.

24.3.4 The information provided by Foshan Mainland is used to determine individual dumping margin for it, however, the best information available is used for deficient/missing information (paragraph 39 infra).

24.4 Foshan Junjing Industrial Co. Limited ("Junjing")

24.4.1 Questionnaire response from Junjing was received at the Commission on December 03, 2012. According to the information provided in response to the questionnaire, Junjing was involved in the exports of Tiles to Pakistan as well as to other countries during POI. Junjing is a trading company and is not involved in production of Tiles. During the POI it exported Tiles and other products from China. It was not involved in domestic sales of Tiles during POI. The Tiles which it exported to Pakistan during POI were purchased from many producer, however, information for domestic sales and cost to make & sell of Tiles of any producer from whom it has purchased Tiles for exports is not provided.

24.4.2 The information submitted by Junjing in response to the questionnaire was analyzed at the Commission and certain deficiencies were identified. Accordingly, those deficiencies were communicated to Junjing vide Commission's letter dated December 13, 2013. Junjing was asked to provide the deficient information/data not later than December 23, 2013, which it did. However, its response did not contain all requisite information. Junjing was informed through a letter dated January 8,

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2014 that if it did not provide the requisite information/data by January 13, 2014 the Commission will determine dumping for it on the basis of best information available in accordance with Section 32 of the Ordinance.

24.4.3 The information provided by Junjing is used to determine individual dumping margin for it, however, the best information available is used for deficient/missing information (paragraph 38 infra).

24.5 Fuzhou Highway Import & Export Co., Ltd (“Fuzhou”)

24.5.1 Questionnaire response from Fuzhou was received in the Commission on December 19, 2013. According to the information provided in response to the questionnaire, Fuzhou was involved in the exports of Tiles to Pakistan as well as to other countries during POI. Fuzhou is a trading company and is not involved in production of Tiles. During the POI it exported Tiles and other products from China. It was not involved in domestic sales of Tiles during POI. The Tiles which it exported to Pakistan during POI were purchased from many producer, however, information for domestic sales and cost to make & sell of Tiles of any producer from whom it has purchased Tiles for exports is not provided.

24.5.2 The information submitted by Fuzhou in response to the questionnaire was analyzed at the Commission and certain deficiencies were identified. Accordingly, those deficiencies were communicated to Fuzhou vide Commission’s letter dated January 02, 2014. Fuzhou was asked to provide the deficient information/data not later than January 13, 2014. Fuzhou did not respond to Commission’s letter. Fuzhou was informed through a letter dated January 16, 2014 that if it did not provide requisite information/data by January 26, 2014 the Commission will determine dumping for it on the basis of best information available in accordance with Section 32 of the Ordinance. Fuzhou did not respond Commission’s letter and has not provided missing information. As missing information is vital for determination of individual dumping margin, therefore, the Commission is unable to determine individual dumping margin for Fuzhou in this preliminary determination.

25. Verification of data/information

25.1 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

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accuracy of the information and verify/examine the accuracy of the information supplied by the interested parties.

25.2 As stated earlier (paragraph 19.4) the Commission is also conducting another investigation on alleged dumping of Tiles from Spain, Iran, Malaysia, and UAE. POI of that investigation is overlapping with the POI of this investigation. Officers of the Commission has conducted on-the-spot investigations on 21-23 October 2013 and 11-13 December 2013 at the premises of the Applicant and Shabbir Tiles & Ceramics Limited respectively to verify information/data provided by them and to obtain further information and evidences. Information/data verified in those on-the-spot investigations is used for injury determination in this investigation.

25.3 On-the-spot investigations at premises of the exporters/foreign producers to verify information submitted by them will be conducted after Preliminary determination.

26. Public File

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

27. Confidentiality

27.1 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.

27.2 The Applicant, the exporters/foreign producers of the investigated product and other interested parties has requested to keep certain information confidential in accordance with Section 31 of the Ordinance. This information is relating to sales, sale prices, cost to make and sell, inventories, production, profit/(loss), return on investment, cash flow, investment, salaries & wages, number of employees and capacity etc., as its disclosure would cause adverse effects upon them.

27.3 Pursuant to requests made by the Applicant, exporters/foreign producers and other interested parties to treat certain information as confidential, the Commission

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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 a competitor, or because its disclosure would have a significant adverse effect upon the interested parties providing such information. However, in terms of Sub-Section (5) of Section 31, non-confidential summaries of all confidential information, which provides reasonable understanding of the substance submitted in confidence, were obtained from the interested parties and have been placed in public file.

28. Written Submission by Interested Parties

All interested parties were invited to make their views/comments known to the Commission and to submit information and documents (if any) in accordance with Rule 9 of the Rules. The Commission received written submissions/comments from M/s Muhammad Trading Karachi. Views/comments of the above-mentioned interested party have been considered in making this preliminary determination. The comments germane to this investigation under the Ordinance are reproduced in Column A and the Commission's response thereto are set out in Column B below:

Column –A (Comments)	Column – B (Commission's Response)
<p><i>“That Notification ADC No. 11/2006/NTC/ CT dated 24-10-2012 issued pursuant to Tribunal’s Judgment dated 1.10.2012, in appeal No. 8 of 2012 has added new “HS Codes 6908.9010 and 6908.9090” which were never subjected to levy of Antidumping duty by an Notifications issued in the past ever since the year 2006 till now, except the present Notification of dated 24-10-2012.”</i></p> <p><i>“Since the present notification of 24.10.2012 is a continuation of ongoing proceedings from the year 2006, addition of new HS codes 6908.1010 and 6908.9090 at this stage, is clearly illegal.”</i></p>	<p>The Commission has issued notification on in accordance with judgment of the Appellate Tribunal under the Ordinance. The investigation is on the investigated product i.e. Tiles and not on PCT codes. PCT codes are reported to identify the product. The investigated product is clearly defined in notification dated 24-10-2012, which is identical to the investigated product defined original investigation.</p>

29. Hearing

Interested parties were invited to request for hearing (if so wishes) with in thirty days of the publication of the notice of resumption of this investigation. However, no request for hearing from any interested party was received.

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C. DETERMINATION OF DUMPING

30. **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”.

31. **Normal Value**

31.1 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”.

31.2 However, 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.”.

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31.3 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.”

32. **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”.

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33. Dumping Determination

33.1 As stated earlier (paragraph 22 supra) the Applicant identified nineteen exporters/foreign producers from China involved in alleged dumping of the investigated product. The Commission sent questionnaires to forty eight exporters/foreign producers whose complete addresses were available with the Commission (paragraph 23.1 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.

33.2 The following five exporters/foreign producers responded to the Commission's request for information on the exporter's questionnaire:

- i. Huida Sanitary Ware Co.,Ltd. ("Huida")
- ii. Foshan Eagle Brand Ceramic Trade Co. Ltd. ("EBT")
- iii. Foshan Junjing Industrial Co., Limited ("Junjing")
- iv. Foshan Mainland Import & Export Co., Limited ("Foshan Mainland")
- v. Fuzhou Highway Import & Export Co., Ltd ("Fuzhou")

33.3 Information supplied by the above-mentioned exporters in response to the questionnaires was either deficient/partial/incomplete. The Commission provided ample opportunities to these exporters to provide necessary requisite information and documents (paragraphs 23.2 to 23.4 and 24 supra). However, these exporters were unable to provide complete requisite information.

33.4 In this investigation the Commission has determined individual dumping margins for the above-mentioned exporters who responded to the Commission's request for information. Dumping margins for these exporters have been determined on the basis of information provided by them and, for missing data, the best information available is used in accordance with Section 32 of the Ordinance.

33.5 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 requisite information or did not provide any information to the Commission in this investigation (paragraphs 41 infra).

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34. Determination of Normal Value

The Commission received information on domestic sales and cost to make & sell etc. of following three Chinese exporters/producers of Tiles (submitted by EBT and Huida along with their response to the questionnaire):

- i. Huida Sanitary Ware Co.,Ltd. (“Huida”)
- ii. Tangshan Huida Ceramic Group Huiqun (“Huiqun”)
- iii. Foshan Shiwan Eagle Brand Ceramic Co., Ltd. (“FEB”)

Normal value in this investigation has been determined on the basis of the information provided by these exporters/foreign producers.

35. Determination of Export Price

The Commission received information on export sales of the investigated product from five exporters/foreign producers (paragraph 34.2 supra) in response to the questionnaires. Export price for the exporters whose individual dumping margins are calculated in this preliminary determination has been determined on the basis of the information provided by them. Export price for all other exporters who did not provide requisite information is determined on the basis of the information obtained from PRAL. This is the only information available with the Commission on exports of the investigated product of the other exporters.

36. Determination of Dumping for Huida Sanitary Ware Co., Ltd.

36.1 Huida is a trading company. It was involved in exports and domestic sales of Tiles as well as other products during POI. It purchased investigated product (Tiles) from its related company Tangshan Huida Ceramic Group Huiqun Co., Ltd, (“Huiqun”), which was subsequently exported to Pakistan. It has supplied information on cost to make & sell and other operating information of Huiqun.

Normal Value

36.2 Normal value for Huida is determined on the basis of its sales of Tiles (of comparable types with exported Tiles) in domestic market during POI (provided in

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Attachment D-3 of the questionnaire response). According to the information provided by Huida, all its domestic sales were to unrelated customers.

36.4 Huida sold *****⁹ square meters (“SQM”) of tiles of different types and sizes in its domestic market during POI, including the types which were same/ similar to the exported to Pakistan. 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 Huida during the POI. Normal value for the purposes of this investigation is determined of comparable types only.

36.5 According to the information provided by Huida it 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). All expenses from ex-factory level, including transportation etc., were borne by the buyer.

36.6 Huida sold ***** SQM of tiles of comparable types in its domestic market during POI. Normal value for these types has been determined on the basis of sales price. Huida claimed adjustment in normal value on account of credit cost only, which has been accepted by the Commission and sales price is adjusted for credit cost.

36.7 Section 7 of the Ordinance requires the Commission to determine whether domestic sales were made in the ordinary course of trade. In determination of normal value for the comparable types sales which were not in ordinary course of trade in terms of Section 7 of the Ordinance have been disregarded.

Export Price

36.8 Export price for Huida 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).

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

⁹ Actual figures have been omitted to maintain confidentiality

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36.14 Huida exported investigated product on FOB basis. To arrive at the ex-factory level, Huida reported adjustments on account inland freight, domestic bank charges, port incidental charges and refundable value added tax ("VAT") (@ 9%) in export price, which are accepted for determination of export price. Huida did not report credit cost in its submission. As it has claimed credit cost for domestic sales on the basis of accounts receivable, therefore credit cost is also determined for export sales by using 25 days delivery time and the interest rate that is applied for domestic sales.

37. Determination of Dumping for Foshan Eagle Brand Ceramic Trade Co. Ltd.

37.1 Foshan Eagle Brand Ceramic Trade Co. Ltd. ("EBT") is a trading company. During POI it was involved in exports of different products including Tiles to Pakistan as well as other countries. It did not sell tiles in its domestic market during POI. According to the information supplied by EBT it purchased investigated product which was exported to Pakistan from its two related companies i.e. Foshan Shiwan Eagle Brand Ceramic Co., Ltd. ("FEB") and Eagle Brand Ceramics Industrial (Heyuan) Co., Ltd. ("HEB") and another company namely Guangdong Tianbi Ceramics CO., Ltd. It has submitted information on domestic sales, cost to make & sell and other relevant information for FEB and HEB for the purposes of determination of normal value.

Normal Value

37.2 FEB and HEB sold different types of tiles including the types which were exported by EBT in their domestic market during the POI. EBT has exported only one transaction of the investigated product during the POI on 11 June 2012. It exported polished tiles of 600x1200, 600x600 and 800x800 types of the investigated product during POI. Therefore, normal value is determined only for these types sold on 11 June 2012.

37.3 Analysis of the information showed that HEB's all sales of the comparable types on 11 June 2012 were to related customers. Therefore, HEB's information is not used to determine normal value for EBT. Therefore, normal value in this preliminary determination for EBT has been determined on the basis of the domestic sales price of FEB.

37.4 FEB sold ***** SQM of comparable tiles in its domestic market during POI. 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. However, it sold *** SQM tiles of the comparable types in ordinary course of trade on the same date i.e. 11 June 2012. These sales are in sufficient quantities to determine normal value in terms of Section 6(2) of the

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Ordinance, as those are more than 5 percent of the export sales of the investigated product exported by EBT. All these sales were to unrelated customers. .

37.6 FEB 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 credit. All expenses from ex-factory level, including transportation etc., were borne by the customers.

37.7 To arrive at comparable level, FEB has claimed adjustments on account of credit cost, technical expense and advertising expense. The Commission has accepted these adjustments and the normal value at ex-factory level is worked out by deducting values reported for these adjustments from the gross value of sales transactions.

Export Price

37.8 Export price for EBT 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).

37.9 According to the information, during POI, EBT exported 1,878 SQM of investigated product (polished tiles of 600x1200, 600x600 and 800x800 sizes) through a single transaction on 11 June 2012 to an un-related customer. Export price is determined separately for each size.

37.10 EBT exported investigated product at FOB basis. To arrive at the ex-factory level, EBT reported adjustments on account of handling cost, inland freight and bank charges. EBT did not report credit cost in its submission. As it has claimed credit cost for domestic sales on the basis of accounts receivable, therefore credit cost is also determined for export sales by using 25 days delivery time and the interest rate that is applied for domestic sales. As EBT is a trading company its selling and admn. expenses are also part of export price. Therefore, to reach at ex-works level export price is also adjusted for selling and admin expenses of EBT.

38. Determination of Dumping for Foshan Junjing Industrial Co., Ltd.

38.1 Foshan Junjing Industrial Company Limited ("Junjing") is a trading company. It was involved export of the investigated product and other products to Pakistan as well as to other countries during POI. During POI it was the biggest exporter of the investigated product amongst cooperating exporters. As per information supplied by Junjing it purchased investigated product from many Chinese producers (more than eighty), which was subsequently exported to Pakistan during POI. However, it did not provide information of any producer to determine normal value. It has explained that Junjing tried its best to pursue producers from whom it purchased the

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investigated product to cooperate in providing information but none of them was willing to do so.

Normal Value

38.2 As stated above Junjing did not provide information necessary to determine normal value for any producer from whom it purchased investigated product, therefore, normal value for Junjing is determined on the basis of best information available with the Commission. Normal value for Junjing is constructed on the information provided by Huida on its cost of sales plus admin, selling & general costs, financial expenses and profit during the POI. The Commission is of the view that it is the best available information for this purpose as it has provided information on cost to make and sell of its related producer as well as its own cost of sales, operating expenses and profit during the POI.

Export Price

38.3 Export price for Junjing 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).

38.4 According to the information, Junjing purchased investigated product from more than eighty different un-related Chinese producers and exported to Pakistan during POI. It exported different types and sizes of the investigated product to Pakistan, which can be divided into polished tiles, glazed tiles and borders. As borders are not investigated product of this investigation, therefore, export price is determined for polished and glazed tiles. As stated above normal value for Junjing is constructed on the basis of cost to make & sell, therefore, a single export price is calculated for its exports of polished and glazed tiles for the purposes of comparison of normal value and export price.

38.5 Junjing exported ***** SQM (polished and glazed Tiles) of the investigated product to Pakistan during POI. All export sales to Pakistan, during POI, were to un-related customers. The Commission has determined weighted average export price for all types and sizes.

38.6 Junjing exported investigated product at FOB and CIF basis To arrive at the ex-factory level, Junjing has reported adjustments on account of inland freight, ocean freight, bank charges, Junjing selling, general & admin expense, Junjing profit and VAT refund. Junjing did not report credit cost in its submission. As payment terms were L/C at sight and T/T, therefore credit cost is also determined for export sales with L/C at sight payment terms by using 25 days delivery time. Thus the export price of Junjing at ex-factory level is determined by deducting values worked out for the above-mentioned adjustments from the gross value of the sales transactions.

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39. Determination of Dumping for Foshan Mainland Import & Export Co. Ltd.

39.1 Foshan Mainland Import & Export Co. Ltd. ("Foshan Mainland") is a trading company. It was involved in export of the investigated product and other products to Pakistan as well as to other countries during POI. As per information supplied by Foshan Mainland it purchased investigated product from many Chinese producers, which was subsequently exported to Pakistan during POI. However, it did not provide information of any producer to determine normal value.

Normal Value

39.2 As stated above Foshan Mainland did not provide information necessary to determine normal value for any producer from whom it purchased investigated product, therefore, normal value for Foshan Mainland is determined on the basis of best information available with the Commission. Normal value for Foshan Mainland is constructed on the information provided by Huida on its cost of sales plus admin, selling & general costs, financial expenses and profit during the POI. The Commission is of the view that it is the best available information for this purpose as it has provided information on cost to make and sell of its related producer as well as its own cost of sales, operating expenses and profit during the POI.

Export Price

39.3 Export price for Foshan Mainland 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).

39.4 Foshan Mainland exported ***** SQM of the investigated product to Pakistan during POI. All export sales to Pakistan, during POI, were to un-related customers. The Commission has determined weighted average export price for all types/sizes.

39.5 Foshan Mainland exported investigated product at CFR basis with payment terms of 90 days. However, it did not report any adjustment in CFR price to arrive at the ex-factory level. Therefore, the Commission has used best information available to adjust CFR export price to arrive at ex-works level. For this purpose information provided by Junjing, the biggest exporter amongst the cooperating exporters, is used. Junjing has reported adjustments on account of inland freight, ocean freight, bank charges, Junjing selling, general & admin expense, Junjing profit and VAT refund. Thus the export price of Foshan Mainland at ex-factory level is determined by deducting values worked out for the above-mentioned adjustments from the gross value of the sales transactions.

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40 Determination of Dumping for Fuzhou Highway Import & Export Co., Ltd.

As stated earlier (paragraph 24.5 supra) Fuzhou Highway Import & Export Co., Ltd. ("Fuzhou") has not provided vital information which is necessary to determine individual dumping margin. Therefore, individual dumping margin for Fuzhou is not in this preliminary determination.

41. Determination of Dumping for Other Chinese Exporters/Producers

Normal Value

41.1 Normal value for other Chinese exporters/producers who did not cooperate with the Commission in providing information is determined on the basis of best information available in accordance with Section 32 of the Ordinance.

41.2 For the purposes of determination of normal value for other Chinese exporters/foreign producers, the information provided by Huida on its cost of sales plus admin, selling & general costs, financial expenses and profit during the POI. The Commission is of the view that it is the best available information for this purpose as it has provided information on cost to make and sell of its related producer as well as its own cost of sales, operating expenses and profit during the POI.

Export Price

41.3 Export price for other Chinese exporters who did not cooperate with the Commission in providing information has been determined on the basis of best information available in accordance with Section 32 of the Ordinance. Information obtained from PRAL is used for the purposes of determination of export price for non-cooperating exporters from China. This is the only information available with the Commission on export sales of the investigated product by the non-cooperating Chinese exporters.

41.4 Values in PRAL's information are reported at C&F level. C&F export price has been adjusted to the ex-factory level. For this purpose information provided by Junjing, the biggest exporter amongst the cooperating exporters, on ocean freight and inland freight is used. Export price is also adjusted for VAT refund @ 9 percent. Thus the export price for other non-cooperating Chinese exporters at ex-factory level is determined by deducting values worked out for the above-mentioned adjustments from the gross export price.

42. Dumping Margin

42.1 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
(32/53)

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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.

42.2 The Commission has investigated all exporters who responded to the questionnaire. However, a residual dumping margin and antidumping duty rate for all other exporters, who did not cooperate in information providing is determined in terms of Section 32 of the Ordinance.

42.3 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.

42.4 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”*.

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

**Table – IV
Dumping Margins**

Exporter Name	% of Export price	% of C&F Price
Huida Sanitary Ware Co.,Ltd.	-1.99%	-1.68%
Foshan Eagle Brand Ceramic Trade Co. Ltd.	32.89%	26.11%
Foshan Junjing Industrial Co., Limited	38.44%	19.56%
Foshan Mainland Import & Export Co., Ltd.	19.07%	14.27%
All Others – Non-Cooperating	43.79%	40.49%

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43. Negligible Dumping Margin or Volume of Imports

43.1 In terms of Section 41(2) of the Ordinance, the Commission shall immediately terminate an investigation if it determines that dumping margin is negligible or volume of imports or injury is negligible.

43.2 In accordance with Section 41(3) of the Ordinance dumping margin shall be considered negligible if it is less than two percent of the export price; and volume of imports shall normally be regarded as negligible if dumped imports of an investigated product from the subject country is less than 3 percent of total imports of the like product.

43.3 Dumping margins worked out for Chinese exporters/foreign producers of the investigated product are well above the negligible threshold of two percent (paragraph 48(5) supra). As regards dumped imports of the investigated product, information/data obtained from PRAL and provided by the exporters from China has been analyzed. The data reveals that, during POI for dumping, imports from China were well above *de minimis* threshold of 3 percent as shown in the table below.

Table – V
Volume of Imports during POI

Imports from	% of total imports
China	75.32%
Other sources	24.68%
Total	100.00%

D. INJURY TO DOMESTIC INDUSTRY

44. Determination of Injury

44.1 Section 15 of the Ordinance sets out the principles for determination of material injury to the domestic industry and provides as follows:

“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;*

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- c. *consequent impact of dumped imports on domestic producers of such products...*”

44.2 Material injury to the domestic industry is analysed in the following paragraphs.

45. **Domestic Industry**

45.1 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”.

45.2 Tiles industry in the country producing like product comprises of the following seven units, namely:

- i. Master Tiles and Ceramics Industries (the Applicant);
- ii. Shabbir Tiles and Ceramics Limited (Stile);
- iii. Karam Ceramics Limited (Karam);
- iv. Emco Industries Limited (Emco);
- v. Swat Ceramics (Pvt) Limited (Swat);
- vi. Sonex Tiles & Ceramics Industries (Sonex); and
- vii. Frontier Ceramics Limited (Forte).

45.3 Master Tiles and Ceramics Industries is the Applicant for this investigation. The Commission is also conducting another investigation on alleged dumping of Tiles from Spain, UAE, Malaysia and Iran. In that investigation Master Tiles and Ceramics Industries Ltd., and Shabbir Tiles and Ceramics Limited are applicants and have submitted necessary information on injury to the domestic industry. Master Tiles & Ceramic Industries and Shabbir Tiles and Ceramics Limited are major producers of Tiles in the country and account for 58.31 percent of the domestic production of Tiles Paragraph 26.2 supra). POI of the investigation on Spain, UAE, Malaysia and Iran is overlapping with the POI of this investigation. Information/data submitted and/or obtained in that investigation is also used for injury determination, with appropriate adjustments according to POI of this investigation, in addition to the information/data submitted and/or obtained in this investigation.

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45.4 The Commission has data/information of the major portion (58 percent) of the domestic industry. Injury to domestic industry has been inferred from the analysis of these two units data/information.

46. **Volume of Dumped Imports**

Facts

46.1 In order to ascertain the volume of dumped imports of the investigated product, the Commission obtained import data from PRAL. As stated earlier the importers were also requested to provide information on imports, to which they did not respond.

46.2 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 POI:

Table – VI
Volume of Dumped Imports and Domestic Production

Period*	Dumped Imports of IP		Domestic Production#
	Absolute Quantity	% age of domestic production	
2009-10	100.00	24.91	401.46
2010-11	147.33	35.84	411.01
2011-12	182.11	46.09	395.16

Note: To maintain confidentiality actual figures have indexed with respect to volume of dumped imports in 2009-10 by taking it equal to 100.00

* From October to September # Domestic production of all units

Sources: PRAL and the Applicant and Shabbir Tiles

Analysis

46.3 The above table shows that the imports of the investigated product increased in absolute terms during the POI by 47.33% in 2010-11 and 23.61% in 2011-12 reflecting significant increase in volume of dumped imports in absolute terms.

46.4 The production of domestic like product in Pakistan increased by 2.38 percent in 2010-11 and decreased by 3.86 percent in the year 2011-12. This implies that the imports of investigated product also increased relative to the domestic production throughout the POI. In relative terms, dumped imports were 24.91

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percent of domestic production in 2009-10, which increased to 35.84 percent in 2010-11 and 46.09 percent in the year 2011-12.

Conclusion

46.5 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.

47. Price Effects

47.1 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).

47.2. Price Undercutting

Facts

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

**Table – VII
Price Undercutting**

Period	Ex-factory price of domestic like product	Landed cost of investigated product	Price under-cutting	
			Absolute	%age
2009-10	100.00	86.80	13.20	13.20%
2010-11	110.15	91.88	18.27	16.59%
2011-12	122.84	100.76	22.08	17.98%

Note: Actual figures have indexed with respect to ex-factory price of domestic like product in 2009-10 by taking it equal to 100.00

*Period: from October to September.

Sources: PRAL, Applicant and Shabbir Tiles

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Analysis

47.2.2 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 during the POI. The prices of investigated product undercut the prices of domestic like product in the range of 13.20 percent to 17.98 percent.

Conclusion

47.2.3 On the basis of the above facts and analysis the Commission has concluded that the prices of the investigated product undercut the prices of domestic like product during the POI. Therefore, the domestic industry suffered material injury on account of price undercutting due to dumped imports.

47.3 **Price Depression**

Facts

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

**Table – VIII
Price Depression**

Period	Ex-factory price of domestic like product	Price depression
2009-10	100.00	--
2010-11	110.15	--
2011-12	122.84	--

Note: Actual figures have indexed with respect to ex-factory price of domestic like product in 2009-10 by taking it equal to 100.00

*Period is from October to September

Source: Applicant and Shabbir Tiles

Analysis

47.3.2 The weighted average ex-factory price of domestic like product increased throughout the POI.

Conclusion

47.3.3 On the basis of the above information and analysis, the Commission has concluded that the domestic industry did not experience any price depression during POI, therefore, it did not suffer injury on account of price depression.

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47.4 Price Suppression

Facts

47.4.1 The following table shows weighted average cost to make & sell and weighted average ex-factory sales price of the domestic like product during the POI:

**Table – IX
Price Suppression**

Period	Cost to make & sell of domestic like product	Ex-factory price of domestic like product	Price Suppression		
			Increase in COP	Increase in price	Price Suppression
2009-10	100.00	100.95			--
2010-11	107.11	111.04	7.11	10.08	--
2011-12	119.38	123.95	12.27	12.91	--

Note: Actual figures have indexed with respect to cost to make & sell of domestic like product in 2009-10 by taking it equal to 100.00

*Period: From October to September. Source: Applicant and Shabbir Tiles

Analysis

47.4.2 The above table shows that the weighted average cost to make and sell of domestic like product increased by 7 percent and 12 percent in the years 2010-11 and 2011-12 respectively. Weighted average ex-factory price of the domestic like product increased by 10 percent and 13 percent during the same period. Thus increase in weighted average price was more than the increase in weighted average cost to make & sell. Therefore, the domestic industry was able to recover increased costs through subsequent increased weighted average price.

Conclusion

47.4.3 On the basis of the above information and analysis, the Commission has concluded that the domestic industry did not suffer material injury on account of price suppression during the POI.

48. Effects on Market Share

Facts

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

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**Table – X
Market Share**

Description	2009-10		2010-11		2011-12	
	SQM	% share	SQM	% share	SQM	% share
Domestic Industry's Sales						
Applicant	13.19	13.19%	14.29	12.77%	14.07	12.07%
Shabbir Tiles	31.61	31.61%	30.57	27.32%	28.12	24.11%
Other Units*	28.71	28.71%	30.40	27.17%	30.16	25.86%
Sub-total	73.51	73.51%	75.26	67.26%	72.36	62.04%
Imports from:						
China (Dumped)	18.31	18.31%	26.98	24.11%	33.35	28.59%
Other Sources	8.18	8.18%	9.66	8.63%	10.93	9.37%
Sub-total	26.49	26.49%	36.64	32.74%	44.27	37.96%
Grand Total	100.00	100.00%	111.90	100.00%	116.63	100.00%

Note: Actual figures have indexed with respect to total market of Tiles in 2009-10 by taking it equal to 100.00

*Production assumed to be sold. Year: From October to September

Sources: Applicant, Shabbir Tiles and PRAL

Analysis

48.2 The above table shows that the domestic market of Tiles increased by 11.90 percent and 6.83 percent in the years 2010-11 and 2011-12 respectively. However, market share of the domestic industry which was 73.51 percent in 2009-10, decreased to 67.26 percent in 2010-11 and to 62.04 percent in the year 2011-12.

48.3 Market share of dumped imports increased from 18.58 percent in 2009-10 to 24.11 percent in 2010-11 and further increased to 28.59 percent in 2011-12. Market share of imports from other sources remained in the range of 8 to 9 percent during the POI.

Conclusion

48.4 On the basis of the above information and analysis, the Commission has concluded that the domestic industry suffered significant loss of market share during the POI due to increased dumped imports of investigated product from China. It is therefore, concluded that the domestic industry suffered material injury on account of loss in market due to dumped imports.

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49 **Effects on Sales**

Facts

49.1 Domestic Industry's (the Applicant and Shabbir Tiles) sales of the like product during the POI is given in table below:

**Table – XI
Domestic Industry's Sales**

Period	Quantity sold
2009-10	100.00
2010-11	97.20
2011-12	96.38

Note: Actual figures have indexed with respect to quantity sold in 2009-10 by taking it equal to 100.00

*Period: from October to September

Sources: Applicant and Shabbir Tiles

Analysis

49.2 The above table shows that sales of the domestic like product decreased by 2.80 percent in the year 2010-11 and 0.85 percent during the year 2011-12 (the POI for dumping).

49.3 Analysis of the market share (paragraph 48 supra) has shown that the domestic market of Tiles increased around five percent annually during the POI. Entire increase in market demand was filled by the dumped imports as share of dumped imports increased significantly during POI. In increasing market sales of the domestic industry should have been increased, but sales of the domestic industry decreased during POI. This shows that the dumped imports of the investigated product affected negatively to the sales of the domestic like product.

Conclusions

49.4 On the basis of above information and analysis the Commission has concluded that the domestic industry suffered material injury on account of sales due to dumped imports of the investigated product.

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

Facts

50.1 Details of production of the domestic like product and the capacity utilization of the domestic industry (by the Applicant and Shabbir Tiles) during the POI are given in the table below:

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**Table – XII
Production and Capacity Utilization**

Period	Installed Capacity	Quantity Produced	Capacity Utilization
2009-10	150.44	100.00	66.47%
2010-11	150.44	100.13	66.56%
2011-12	150.44	94.19	62.61%

Note: Actual figures have indexed with respect to quantity produced in 2009-10 by taking it equal to 100.00

*Period: from October to September, Source: Applicant & Shabbir

Analysis

50.2 It may be noted from the table above that the installed capacity of the domestic industry remained constant throughout the POI. Production of the domestic like product decreased during the POI for dumping, resultantly capacity utilization level also decreased from 66.56 percent in the year 2010-11 to 62.61 percent in the year 2011-12.

Conclusion

50.3 On the basis of the above information and analysis, the Commission has concluded that the domestic industry suffered material injury on account of production and capacity utilization during the POI.

51. **Effects on Inventories**

Facts

51.1 The information relating to inventories of the domestic like product of Master Tiles & Ceramic Industries and Shabbir Tiles & Ceramics Ltd. during the POI is given in the table below:

**Table – XIII
Effect on Inventories**

Period	Opening Inventory	Closing Inventory
2009-10	100.00	91.12
2010-11	91.12	105.71
2011-12	105.71	69.85

Note: Actual figures have indexed with respect to opening inventory in 2009-10 by taking it equal to 100.00

*Period: from October to September Source: Applicant and Shabbir

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Analysis

51.2 The above table shows that production of the domestic like product decreased during POI resultantly closing inventory level also decreased during POI.

Conclusion

51.3 On the basis of the above information the Commission has concluded that the domestic industry did not suffer material injury on account of inventories of the domestic like product.

52. Effects on Profit and Loss

Facts

52.1 The table below shows profit and loss figures of the Applicant and Shabbir Tiles & Ceramics Ltd. for the POI:

**Table – XIV
Profit/ (Loss)**

Period	Net Profit
2009-10	(100.00)
2010-11	57.82
2011-12	168.50

Note: Actual figures have indexed with respect to loss in 2009-10 by taking it equal to 100.00

*Period: from October to September

Source: Applicant and Shabbir Tiles

Analysis

52.2 The domestic industry suffered loss of in 2009-10, whereas earned net profit during 2010-11 and 2011-12 respectively.

Conclusion:

52.3 On the basis of above facts, the Commission has concluded that the domestic industry did not suffer material injury on account of decline in profit during the POI.

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53. Effects on Cash Flow

Facts

53.1 Following was cash inflow/outflow from operating activities of the Applicant and Shabbir Tiles and Ceramics Ltd. during POI:

**Table – XV
Cash flows from Operations**

Period	Net cash flows from operations
2009-10	(100.00)
2010-11	494.25
2011-12	874.53

Note: Actual figures have indexed with respect to net cash flow in 2009-10 by taking it equal to 100.00

*Period: from October to September, Source: Applicant

Analysis

53.2 The above table shows that inflow position of the domestic industry improved during POI.

Conclusions

53.3 On the basis of the above, the Commission has concluded that the domestic industry did not suffer material injury on account of cash flow during the POI.

54. Effects on Employment, Productivity and Wages

54.1 Following is the information on employment, productivity and wages of the Applicant and Shabbir Tiles and Creamics Ltd. for the POI:

**Table – XVI
Employment, Productivity and Wages**

Period	No. of Employees	Productivity per worker	Salaries & Wages per SQM
2009-10	100.00	119.86	0.95
2010-11	101.58	118.13	1.13
2011-12	102.13	110.54	1.35

Note: Actual figures have indexed with respect to no. of employees in 2009-10 by taking it equal to 100.00

*Period: from October to September, Source: Applicant & Shabbir Tiles

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Analysis

54.2 The above table shows that the number of employees increased during POI. During the same period salaries and wages also increased whereas, the productivity per worker decreased in the year 2011-12.

Conclusion

54.3 On the basis of the above facts and analysis the Commission has concluded that the domestic industry suffered material injury on account of productivity during the POI.

55. **Effects on Return on Investment**

Facts

55.1 Information on return on investment of the Applicant and Shabbir Tiles and Ceramics Ltd. is given in the table below:

**Table – XVII
Return on Investment**

Period	Return on Investment (%)
2009-10	2.92
2010-11	8.18
2011-12	6.66

* Period: from October to September Source: Applicant

Analysis

55.2 The return on investment was 2.92 percent in 2009-10 increased to 8.18 percent in 2010-11, however it decreased to 6.66 percent in 2011-12 (the POI for dumping).

Conclusions

55.3 On the basis of the above, the Commission has concluded that the domestic industry suffered material injury on account of return on investment.

56. **Growth and Investment**

Fact/Analysis

56.1 The domestic industry claimed that it started to plan for expansion soon after imposition of duty in the year 2007 and a huge investment to the tune of Rs: 420 million was made in the year 2008-09. However, after withdrawal of anti-dumping

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duty in response to the decisions of the higher/superior courts volume of dumped imports of the investigated product again started to increase. Resultantly, the injurious dumped imports caused material injury to the domestic industry, therefore, no growth was realized in the domestic industry Tiles.

56.2 Domestic demand of Tiles during the year 2011-12 was about 38 million SQM and it is increasing around seven percent annually (paragraph 54 supra). Total installed production capacity of the domestic industry is 35.4 million SQM. Thus there is an opportunity available for expansion/growth of the domestic industry. However, as dumped imports of the investigated product restricted increase in market share and sales of the domestic like product, therefore, domestic industry did not realize growth during POI.

Conclusion

56.2 On the basis of the above, the Commission has concluded that the domestic industry suffered material injury on account of growth during POI.

57. **Summing up of Material Injury**

Facts and analysis in the preceding paragraphs shows that the domestic industry has suffered material injury due to dumped imports of the investigated product during POI on account of:

- i. Significant increase of volume of dumped imports;
- ii. Significant price undercutting;
- iii. Decline in market share;
- iv. Decline in sales;
- v. Decline in production;
- vi. Decline in capacity utilization;
- vii. Decline in productivity;
- viii. Decline in return on investment; and
- ix. Growth and investment.

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E. CAUSATION

58. Section 18 of the Ordinance requires the Commission to satisfy itself that there is a causal relationship between dumped imports of the investigated product and material injury to the domestic industry. Section 18 of the Ordinance states as follows:

*“**Causation.** – (1) The Commission shall satisfy itself that dumped imports are, through the effects of dumping, as provided in sections 15 and 17, causing injury within the meaning of this Ordinance. The consideration of a causal relationship between dumped imports and injury to domestic industry shall be based on an examination by the Commission of all relevant evidence before it.*

“(2) The Commission shall examine any known factors other than dumped imports which are injuring domestic industry and injuries caused by such other factors shall not be attributed by the Commission to the dumped imports.

“(3) Factors which may be relevant for the purposes of an examination by the Commission pursuant to sub-section (2) may include the following, namely: –

- (a) volume and price of imports not sold at dumping prices;*
- (b) contraction in demand or changes in the patterns of consumption;*
- (c) trade restrictive practices of and competition between foreign and domestic producers;*
- (d) developments in technology; and*
- (e) export performance and productivity of domestic industry.”*

59. Causation is analyzed and determined in following paragraphs in light of the Section 18 of the Ordinance.

60. Other Factors

60.1 In accordance with Section 18(2) and 18(3) of the Ordinance, the Commission has examined following 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:

- i. volume and price of imports not sold at dumping prices;
- ii. contraction in demand or changes in the patterns of consumption;

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- iii. trade restrictive practices and competition between foreign and domestic producers;
- iv. developments in technology; and
- v. export performance and productivity of domestic industry.

60.2 Volume and Landed Cost of Imported Tiles During POI:

60.2.1 Information on volume and landed cost of imported Tiles, and weighted average ex-factory price of the domestically produced Tiles during POI were as follows:

Table – XVIII
Volume and prices of imports

Period	Dumped Source (China)		Other Sources		Ex-factory domestic price
	Quantity	Landed Cost	Quantity	Landed Cost	
2009-10	223.96	82.21	100.00	100.00	94.71
2010-11	329.95	87.02	118.17	104.57	104.33
2011-12	407.86	95.43	133.63	106.49	116.35

Note: Actual figures have indexed with respect to volume of imports and landed cost of imports from other sources in 2009-10 by taking them equal to 100.00

Period: From October to September, Sources: PRAL and Applicant

60.2.2 Analysis of the information in the above table shows that:

- i. Volume of dumped imports of the investigated product increased by 82 percent from 2009-10 to 2011-12., whereas increase in imports of Tiles from countries other than China was 34 percent from 2009-10 to 2011-12.
- ii. Weighted average landed cost of dumped imports of the investigated product from China was significantly lower than the landed cost of Tiles imported from other sources and weighted average ex-factory price of the domestic like product throughout the POI.
- iii. Landed cost of imports of Tiles from sources from other than China was also lower than the weighted average ex-factory price of the

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domestic like product during POI of dumping. However, it was above the landed cost of dumped imports of the investigated product.

60.2.3 On the basis of the above information and analysis the Commission has concluded that main cause of material injury to the domestic industry on account of volume of imports of Tiles and prices during POI was due to dumped imports of the investigated product. However, domestic industry also suffered some injury due to imports of Tiles from other sources during 2011-12. The Commission is also investigating alleged dumping of Tiles from Malaysia, Spain, Iran and UEA (other sources) on request of the domestic industry.

60.3 Contraction in Demand or Change in Consumption Pattern

60.3.1 Investigation of the Commission has shown that there was no contraction in demand or change in consumption pattern of Tiles in Pakistan during POI. Following table shows domestic demand/consumption of Tiles during POI:

**Table – XIX
Demand/Consumption of Tiles**

Period	Demand/Consumption
2009-10	100.00
2010-11	110.79
2011-12	118.35

Note: Actual figures have indexed with respect to demand/consumption of Tiles in 2009-10 by taking them equal to 100.00

Period: From October to September Sources: PRAL & Applicant

60.3.2 Analysis of the above table shows that there was a consistent pattern in domestic demand/consumption of Tiles during POI. The domestic demand/consumption of Tiles increased by 10.79 percent and 6.83 percent in the years 2010-11 and 2011-12 respectively.

60.4 Investigation of the Commission has revealed that there was no trade restrictive practice or restriction in competition between foreign and domestic producers of Tiles. The investigation has shown that both the investigated product and domestic like product are produced with same/similar inputs and production process. Both products are interchangeable in use and are used for same purposes, and both the products are stocked and sold by the same traders through the same distribution and sales network.

60.5 Investigation of the Commission has also shown that there was no significant change in technology for production of Tiles during POI.

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60.6 Investigation has also shown that there was no significant change in export pattern of the domestic industry during POI. Quantity exported by the domestic industry during POI was as follows:

**Table – XX
Exports of Tiles by Domestic Industry**

Period	Quantity exported
2009-10	100.00
2010-11	118.38
2011-12	102.66

Note: Actual figures have indexed with respect to quantity exported in 2009-10 by taking them equal to 100.00

Period: From October to September

Source: Applicant and Shabbir Tiles

61. Causal Relationship Between Dumped Imports and Material Injury to the Domestic Industry

Examination of the volume of dumped imports and its prices shows a causal relationship between dumped imports of the investigated product and material injury to the domestic industry during the POI, as volume of dumped imports increased significantly at dumped prices which simultaneously adversely affected production, capacity utilization, sales, market share, price, productivity, return on investment and Growth and investment. Following table shows simultaneous effect of dumped imports on domestic industry:

**Table – XXI
Causal Relationship**

S.No	Description	2009-10	2010-11	2011-12
i.	Increase in dumped imports	--	47.33%	23.61%
ii.	Increase/(decrease) in domestic production	--	0.13%	-5.94%
iii.	Market share of dumped imports	18.58%	24.11%	28.59%
iv.	Market share of domestic like product	73.51%	67.26%	62.04%
v.	Domestic industry's capacity utilization	66.47%	66.56%	62.61%
vi.	Price undercutting	13.19%	16.59%	17.97%
Vii	Return on investment	2.92%	8.18%	6.66%

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F. CONCLUSIONS

62. The conclusions, after taking into account all considerations for this preliminary determination, are as follows:

- i. this investigation is being conducted in pursuance of the judgment of the Appellate Tribunal. The Commission resumed proceedings of the investigation on October 24, 2012;
- ii. the application was filed on behalf of domestic industry as the Applicant represented major proportion of the production of domestic like product during POI;
- iii. the investigated product and the domestic like product are alike products;
- iv. during POI, the investigated product was exported to Pakistan by the exporters/foreign producers from China at prices below its normal value;
- v. the volume of dumped imports of the investigated product and the dumping margins established for the exporters/producers of the investigated product from China are above the negligible and *de minimis* levels respectively;
- vi. the dumping margins expressed as a percentage of weighted average adjusted export price at ex-factory level is ranging between -1.99 percent to 43.79 percent for exporters/foreign producers of the investigated product from China;
- vii. the domestic industry suffered material injury during POI on account of significant increase in volume of imports, significant price undercutting, decline in market share, decline in sales, decline in production, decline in capacity utilization, decline in productivity, negative effect on return on investment and growth & investment in terms of Section 15 and 17 of the Ordinance; and
- viii. there was a causal relationship between dumped imports of the investigated product and the material injury suffered by the domestic industry during POI.

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G. IMPOSITION OF PROVISIONAL ANTIDUMPING DUTY

63. In view of the analysis and conclusions with regard to dumping, material injury, and causation, imposition of provisional antidumping duty on dumped imports of the investigated product is needed to prevent injury being caused to the domestic industry during the course of this investigation in accordance with Section 43 of the Ordinance.

64. Individual dumping margins have been determined for the exporters/foreign producers of the investigated product who supplied information necessary for this investigation and the provisional rate for antidumping duty for these exporters/foreign producers is determined on the basis of individual dumping margins.

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

66. In terms of Section 43 of the Ordinance, provisional antidumping duties given in the following table are hereby imposed on dumped imports of the investigated product importable from China for a period of four months effective from April 5, 2014. The provisional antidumping duty rates are determined on C&F value in *ad val.* terms. Provisional antidumping duties at C&F value are equivalent to the preliminary dumping margins determined at ex-factory price level. The dumped investigated product is classified under PCT heading Nos. 6907.1000, 6907.9000, 6908.1000, 6908.9010 and 6908.9090.

**Table-XXII
Provisional Antidumping Duty Rates**

Exporter Name	% of C&F Price
Huida Sanitary Ware Co.,Ltd.	Nil (0%)
Foshan Mainland Import & Export Co., Ltd.	14.27%
Foshan Junjing Industrial Co., Limited	19.56%
Foshan Eagle Brand Ceramic Trade Co. Ltd.	26.11%
All Others – Non-Cooperating	40.49%

67. Tiles imported from sources, other than China shall not be subject to this provisional antidumping duties.

68. In accordance with Section 51 of the Ordinance, the provisional antidumping duty 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 investigated product for free circulation in Pakistan shall be subject to imposition of such antidumping duty.

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

70. The provisional 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.

71. This report is being signed by all three members of the Commission in compliance of the directions of Honorable Supreme Court of Pakistan.

(Shah Jhan Shah)
Member
April 03, 2014

(Niamatullah Khan)
Member
April 03, 2014

(Prince Abbas Khan)
Chairman
April 03, 2014