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**Government of Pakistan
National Tariff Commission**

REPORT

ON

FINAL DETERMINATION AND LEVY OF
DEFINITIVE ANTIDUMPING DUTY ON
GLACIAL ACETIC ACID ORIGINATING IN
AND/OR EXPORTED FROM CHINESE TAIPEI
(TAIWAN) TO PAKISTAN

(NON-CONFIDENTIAL)

JUNE 17 , 2004

*Final Determination and Levy of Definitive Antidumping Duty on
Glacial Acetic Acid Originating in and/or Exported from Chinese Taipei (Taiwan) to Pakistan*

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

A. PROCEDURE

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

1. Receipt of Application

The Commission received a written application from Wah Nobel Acetates Limited, G.T. Road, Wah Cantt. (hereinafter referred to as the “Applicant”), a domestic producer of Glacial Acetic Acid of minimum concentration of 99 percent (hereinafter referred to as the “GAA”), on behalf of the domestic industry, on July 04, 2003 alleging that GAA produced in Chinese Taipei (Taiwan), Republic of China, is exported to Pakistan at dumped prices (hereinafter referred to as the “investigated product”). Since the Government of Chinese Taipei (Taiwan) has no representative office in Pakistan, the Permanent Mission of Chinese Taipei (Taiwan) to the World Trade Organization (“WTO”) was notified on July 21, 2003 through the Permanent Mission of Pakistan to the WTO in Geneva of the receipt of the application in accordance with the requirements of Section 21 of the Ordinance.

2. Evaluation and Examination of the Application

The examination of the application showed that it met the requirements of Section 20 of the Ordinance as it contained sufficient evidence of dumping of the investigated product and injury to the domestic industry resulting therefrom. The requirements of Rule 3 of the Rules which relate to the submission of information prescribed therein were also

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met. The application also fulfilled the requirements of Section 24 of the Ordinance, as the Applicant is the only domestic producer of GAA, and it represents 100 percent of the total production of the domestic like product produced by the domestic industry.

3. Foreign Producer/ Exporter of the Investigated Product

The Applicant identified M/s Chang Chun Petrochemical Company Limited, 301 Songkiang Road, 7th Floor, Taipei-104, Taiwan as the producer and exporter (hereinafter referred to as the “Exporter”) of the investigated product.

4. Applicant’s Views

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

- i. the investigated product and GAA produced domestically are ‘like products’;
- ii. the Exporter is exporting the investigated product to Pakistan at dumped prices; and
- iii. dumping of the investigated product is causing material injury to the domestic industry, mainly through:
 - price undercutting;
 - price depression;
 - price suppression;
 - decline in market share;
 - decline in sales;
 - decline in production and utilization of production capacity;
 - inventory accumulation of the domestic like product;
 - losses;
 - negative effect on cash flow; and
 - negative effect on investment and growth.

5. Initiation of Investigation

5.1 The Commission, upon examining the accuracy and adequacy of the evidence provided in the application, established that there is sufficient evidence of dumping and

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injury to justify initiation of an investigation. Consequently, the Commission decided to initiate an investigation on September 01, 2003. In terms of Section 27 of the Ordinance, the Commission issued a notice (“notice of initiation”), which was published in the Official Gazette of Pakistan¹ and in two widely circulated national newspapers² (one English language and one Urdu Language). The investigation concerning imports into Pakistan of the investigated product {classified under PCT³ heading No. 2915.2100 contained in the First Schedule to the Customs Act, 1969 (IV of 1969)} originating in and/or exported from Chinese Taipei (Taiwan) was thus initiated on September 03, 2003.

5.2 The Commission sent the notice of initiation on September 03, 2003 to the Permanent Mission of Chinese Taipei (Taiwan) to the WTO in Geneva through the Permanent Mission of Pakistan to the WTO in Geneva. Notice of initiation was also sent to the Exporter, the known Pakistani importers and the Applicant on September 03, 2003 in accordance with the requirements of Section 27 of the Ordinance.

5.3 In addition, on September 3, 2003, the Commission sent a non-confidential version of the application to the Exporter and to the Permanent Mission of Chinese Taipei (Taiwan) to the WTO in Geneva through the Permanent Mission of Pakistan to the WTO in Geneva. The Commission also sent questionnaires for submission of data and information (hereinafter referred to as the “Questionnaire(s)”), on September 3, 2003 to the Exporter with a copy to the Permanent Mission of Chinese Taipei (Taiwan) to the WTO in Geneva and requested the Exporter to respond to the Commission within 37 days of the dispatch of the Questionnaires. On September 09, 2003, Questionnaires were sent to Pakistani importers known to the Commission and these importers were requested to respond to the Commission within 37 days of the dispatch of the Questionnaires.

5.4 The Exporter responded to the Commission and submitted information/data in response to the Questionnaire on October 8, 2003. The response of the Exporter was found deficient in certain respects. Those deficiencies were conveyed to the Exporter through Commission’s letter of October 9, 2003. The deficiencies were removed by the Exporter within the given time period. The Commission accepted the information/data submitted by the Exporter for the purposes of this investigation.

5.5 The Commission maintains a database of import statistics, on quarterly basis, obtained from Pakistan Revenue Automation Limited (“PRAL”), the data processing arm of the Central Board of Revenue, Government of Pakistan. The Commission has used

¹ The official Gazette of Pakistan (Extraordinary) dated September 02, 2003

² ‘Business Recorder’ and the ‘Express’ of September 03, 2003 issue.

³ PCT is the abbreviation for Pakistan Customs Tariff.

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import data obtained from PRAL in addition to the information provided by the Applicant, the Exporter, and the importers/industrial users of the investigated product.

5.6 Thus the Commission has sought, from all available sources, the relevant data and information deemed necessary for the purposes of determination of dumping and injury caused therefrom. In terms of Rule 12 of the Rules, the Commission, during the course of an investigation, satisfied itself as to the accuracy of information supplied by the interested parties for the purposes of this final determination. In this connection, on-the-spot investigations were conducted at the premises of the Applicant from September 29 to October 1, 2003, and at the premises of the Exporter from 09 to 12 December 2003, in order to verify the information provided by both the Parties and to obtain any further information.

5.7 The Commission, in accordance with Rule 7 of the Rules, established and maintained a public file at its offices. This file remained available to the interested parties for review and copying from Monday to Thursday between 1100 hrs to 1300 hrs throughout the investigation. This file contains non-confidential versions of the application, responses to Questionnaires, submissions, notices, correspondence and other documents that the Commission deemed appropriate for disclosure to the interested parties. In terms of Section 31 of the Ordinance, any information which is marked confidential by the interested parties in their submissions and considered confidential by the Commission, was kept confidential during the investigation and will be kept confidential after the investigation.

6. Period of Investigation

6.1 In terms of Section 36 of the Ordinance:

- i. for the purposes of investigation of dumping, period of investigation (hereinafter referred to as the "POI") 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; and
- ii. for the purposes of investigation of injury, the POI shall normally cover thirty-six months.

However, the Commission may select a shorter or longer period if it deems it appropriate in view of the available information regarding domestic industry and investigated product.

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6.2 The periods of investigation selected for dumping and injury, were therefore, respectively, as follows:

Investigation of dumping from July 01, 2002 to June 30, 2003;

Investigation of injury from July 01, 2000 to June 30, 2003.

7. Investigated Product, Like Product, Domestic Like Product

7.1 Section 2 of the Ordinance defines the “investigated product” to mean a product which is subject to an antidumping investigation as described in the notice of initiation of the investigation. The “like product” is defined to mean 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 the characteristics closely resembling to those of the investigated product. The “domestic like product” means the domestically produced product, which is a like product to an investigated product.

7.2 For the purposes of this investigation and given the definitions set out above, these products are identified as follows:

i. Investigated Product

The investigated product is Glacial Acetic Acid of minimum concentration of 99 percent, produced and/or exported by the Exporter. It is classified under PCT heading No. 2915.2100.

ii. Domestic Like Product

The domestic like product is Glacial Acetic Acid of minimum concentration of 99 percent produced by the domestic industry. It has the same specifications as the investigated product and is classified under the same PCT heading as the investigated product.

7.3 In order to establish whether the investigated product and the domestic like product are like products, as contended by the Applicant, the Commission considered all the relevant information received from various sources including the Exporter, the Applicant, PRAL, and is noted as follows:

i. GAA is a clear and colour-less liquid having pungent and vinegary odour with burning taste. It is an industrial raw material. Major uses of GAA are

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in the manufacture of cellulose acetate fibre, pureterephthalic acid (“PTA”), ester solvents, dyes, metal salts, pharmaceuticals and textile processing.

- ii. The Exporter uses Vinyl Acetate Monomer as basic raw material to produce the investigated product. The Applicant uses methyl alcohol as basic raw material to produce domestic like product. The resulting product (GAA) manufactured from either of the aforesaid basic raw materials has the same specifications, physical characteristics and tariff classification. The difference in the basic raw materials used in the manufacturing of GAA, therefore, does not affect the chemical composition and uses of resultant product.
- iii. Both, the domestic like product and the investigated product have identical uses in the manufacture of cellulose acetate fibre, PTA, ester solvents, dyes and metal salts, as well as in textile processing and pharmaceuticals production.
- iv. The investigated product and the domestic like product are classified under the same PCT heading No.2915.2100 in the First Schedule to the Customs Act, 1969 (IV of 1969).

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

8. Negligible volume of Imports

In terms of Section 41(3) of the Ordinance, the volume of imports shall normally be regarded as negligible if the volume of imports of an investigated product is found to account for less than three percent of total imports of the like product. In this regard, data and information received from PRAL reveals that the volume of imports of the investigated product from the Exporter accounts for about twenty-eight percent (28%) of the total imports of GAA into Pakistan during the POI which is above the negligible volume of imports of three percent.

9. Submissions by the Exporter

9.1 In response to notice of initiation and Commission’s letters of September 03, 2003 (see paragraph 5.3 above), the Commission received on October 8, 2003, a partially

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filled Questionnaire from the Exporter. The information submitted by the Exporter was examined and it was found deficient in following respects:

- i. Quantity and value of sales for the first two quarters (January to June) of the year 2003.
- ii. Information on cost to make and sell against S. Nos. 12 to 24 of Appendix 2 of the Questionnaire.
- iii. Non-confidential summaries of the confidential information on: (a) export sales to Pakistan, (b) Pakistani customers, (c) domestic sales of GAA, (d) Chinese Taipei (Taiwanese) customers, (e) production process, (f) inputs used in production of GAA, (g) cost of production, (h) inventories, and (i) quantity and value of total sales.

9.2 As stated above (paragraph 5.4) the deficiencies were conveyed to the Exporter and were removed by the Exporter through letter dated October 15, 2003 (received on October 21, 2003). The Commission accepted the information/data submitted by the Exporter for the purposes of this investigation and the final determination for dumping is based on that information. The information was also verified during subsequent 'on-the-spot investigation/verification' conducted at the premises of the Exporter.

10. Submissions by the Importers/Industrial Users

The Commission sent Questionnaires to sixteen importers of the investigated product (identified by the Applicant in the application) as well as the representative of the Exporter who identified himself in response to the notice of initiation on September 09, 2003. The Commission received partially filled Questionnaires from five importers, namely (i) M. Hanif Industries on October 8, 2003, (ii) Mohammad Farooq Textile Mills Ltd., on October 10, 2003, (iii) D.S.I. Corporation (Pvt.) Ltd., on October 11, 2003 (iv) Habib Chemicals on November 08, 2003, and (v) Rafique & Company on November 08, 2003. The representative of the Exporter, namely Olympia Enterprises (Pvt.) Ltd. and one importer, namely Akbari Stores (Pvt.) Ltd., did not respond to the Questionnaire but submitted comments/views on September 11, 2003 and November 3, 2003 respectively. Extracts germane to this investigation from the views/comments received from both the parties namely Olympia Enterprises (Pvt) Ltd. and Akbari Stores (Pvt) Ltd. are set out below:

Olympia Enterprises (Pvt.) Ltd.

- i. "Price being offered by our principals M/s. Chang Chun Petrochemical Co. Ltd., Taiwan is equivalent or even higher than other countries which

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shows that Chang Chun is not dumping their material at low prices causing material injury to the domestic industry, mainly, by way of price undercutting, price depression, price suppression, loss in market share, loss in capacity utilization, inventory build ups of domestic like production, negative cash flow on its operations etc compare to other countries exporting GAA to Pakistan and alleging dumping is not correct”.

- ii. “Wah Nobel Acetate Ltd (Applicant) inform that 100 percent of domestic market is covered by their line of production which is around or maximum 5000 MT which is not correct as Pakistan Market for GAA is more than 22,000 MT (Year 2002-2003) whereas Wah Nobel Acetate Ltd (applicant) only covered less then 25% (percentage) of total imports of GAA in Pakistan and balance 75% (percentage) is being covered by imported Material from various Countries”.

Akbari Stores (Pvt) Ltd.

- i. “The application lodged by M/s. Wah Nobel Acetates, Wah Cantt, is absolutely baseless, as we are importing Glacial Acetic Acid from Taiwan as well as Korea as per prices prevailing in International Market for a very long time”.
- ii. “The Government of Pakistan has allowed this item as ‘free Importable and as such the allegation of dumping of this item by us is not understood”.

11. Preliminary Determination

The Commission made its preliminary determination in this case on February 24, 2004 and in terms of Section 37 of the Ordinance, the Commission issued a notice of preliminary determination (“notice of preliminary determination”) which was published in the official Gazette of Pakistan⁴ and in two widely circulated national newspapers⁵ (one English language and one Urdu Language) notifying the imposition of provisional antidumping duty on the investigated product @ 13.77 percent ad val of C&F price importable from the Exporter, for a period of four months effective from February 25, 2004. The Commission, besides sending the notice of preliminary determination to the Permanent Mission of Chinese Taipei (Taiwan) to the WTO through the Permanent Mission of Pakistan to the WTO in Geneva, also sent the notice of preliminary

⁴ The official Gazette of Pakistan (Extraordinary) of February 25, 2004 issue.

⁵ ‘Dawn’ and ‘Express’ of February 25, 2004 issue.

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determination to the Exporter, the known Pakistani importers, and the Applicant in accordance with the requirements of Section 37(4) of the Ordinance. The findings of the Commission in the preliminary determination were as follows:

- i. the application was lodged by the domestic industry producing like product;
- ii. the investigated product and the domestic like product are like products;
- iii. during the POI, the investigated product was exported to Pakistan by the Exporter, at prices below its normal value;
- iv. the volume of dumped imports of investigated product and the dumping margins established on the basis of the analysis, are above the de-minimis level;
- v. the domestic industry suffered material injury during the POI;
- vi. material injury to domestic industry was mainly due to dumped imports of the investigated product; and
- vii. the dumping margin expressed as a percentage of weighted average C&F export price works out to be 13.77 percent for the Exporter of the investigated product.

12 Comments/written Submissions on Preliminary Determination

The Commission did not receive any comment/written submission from any interested party on the preliminary determination made by the Commission in this investigation.

13. Hearing

The Commission is required to hold a hearing in accordance with Rule 14 of the Rules if any interested party requests for it within 30 days of the publication of the notice of preliminary determination. No interested party requested the Commission for hearing in this investigation.

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14. Disclosure of Essential Facts

14.1 In terms of Rule 14(8) of the Rules, the Commission disclosed the essential facts, and in this context dispatched Statement of Essential Facts (hereinafter referred to as the “SEF”) on May 17, 2004 to all interested parties including the Applicant, the Exporter, the importers/industrial users and to the Permanent Mission of Chinese Taipei (Taiwan) to the WTO in Geneva.

14.2 Under Rule 14(9) of the Rules, the interested parties were required to submit their comments (if any) on the information disclosed in SEF, in writing, not later than fifteen days of such disclosure. None of the interested party submitted written comments on the SEF within the stipulated time period. However, after the expiry of the stipulated time period one importer (who has identified itself as an industrial user of the investigated product) namely M. Hanif Industries submitted its views on SEF on June 5, 2004. Extracts from views germane to this investigation are set out below:

- i. “Concentration of domestic product GAA is less as compared to exported product. Concentration of any chemical brings differ consequences during the chemical reaction.
 - a) If concentration of any product will be low it will not bring desired results during the consumption. Concentration of domestic product is low so we are not getting desired result during the processing of fabrics.
 - b) Due to low concentration of domestic product consumption of product becomes double. So cost of the product increase.

That’s why more industrialist for keeping their cost competitive in export market they use exported GAA”.

- ii. “Pungent smell of domestic product is very sharp as compare to exported product. This sharp smell produce hazards effects on lungs during the processing. Labors feel deficiency of oxygen due to high pungent smell. While pungent smell of exported product is very assuage so labors easily perform their work in conducive atmosphere. This is the main cause industrialist try to use exported GAA for keeping good health to their labor”.

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14.3 The Commission upon review of the aforementioned comments/views of the importer (M. Hanif Industries) found that the same are not correct. The Commission determined during the investigation that the domestic like product and the investigated product are like products (paragraph 7 supra). Furthermore, both the domestic like product and the investigated product are of similar concentration. The fact was also verified by the Commission during on-the-spot investigations conducted at the premises of the Applicant as well as at the premises of the Exporter.

15. Price Undertaking

15.1 In terms of Section 46 of the Ordinance an exporter/foreign producer may offer a voluntary price undertaking after preliminary determination to revise its export price or to cease exports of the investigated product to Pakistan so that the injurious effect of dumping is eliminated.

15.2 On April 15, 2004 the Commission received an offer from the Exporter to revise the prices of investigated product meant for exports to Pakistan.

15.3 Pursuant to the Section 47(2) of the Ordinance, the decision to accept or reject a price undertaking rests with the Commission. The Commission, upon review of the proposed price undertaking and issues ancillary thereto, decided not to accept the offer. One reason was that the Applicant, upon review of the proposed price undertaking placed in the public file, requested the Commission not to accept it since it may not provide adequate protection in situations of price fluctuations in the international market. The Exporter was accordingly informed on May 26, 2004 of Commission's decision not to accept price undertaking and the reason thereof.

15.4 In accordance with Section 47(3) of the Ordinance, the Exporter was required to submit, not later than seven days from the submission of such reasons by the Commission, its written response (if any) on the reasons given by the Commission which led it to consider acceptance of the price undertaking as inappropriate. The Commission did not receive any written response from the Exporter within the stipulated time period or thereafter.

16. Examination of the Materials with the Commission

Responses to the Questionnaires, and other submissions filed before the Commission by the Applicant, the Exporter and the importers; data and information obtained during on-the-spot investigations; and data obtained from PRAL have been

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examined, analyzed, and, wherever appropriate, have been considered in making this final determination.

B. DUMPING

17. Determination of Dumping

17.1 In terms of Section 4 of the Ordinance “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”.

17.2 In terms of Section 5 of the Ordinance “normal value” means “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”. Whereas, the “export price” is defined in terms of 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”.

18. Normal Value

18.1 As stated earlier, the Commission sent a Questionnaire to the Exporter to gather information including data relating to the sales in its domestic market. The Exporter provided the information/data pertaining to its sales of GAA in its domestic market during POI. Normal value for the purposes of this final determination is, therefore, based on the information/data provided by the Exporter.

18.2 During the POI, the Exporter, in its domestic market, sold 99.89 percent of the total sales of GAA to un-related parties while only 0.11 percent was sold to related parties. Sales at loss (below cost sales) were about 8 percent of total sales.

18.3 During the POI the Exporter sold GAA in its domestic market in four different forms i.e. (i) in bulk by lorry tanks, without packing, (ii) in 30 kilograms (“Kg”) new high-density polyethylene (“HDP”) cans, (iii) in 30 Kg re-cycled HDP cans and (iv) in 200 Kg new HDP drums. Whereas, the Exporter exported the Investigated Product to Pakistan in 30 Kg new HDP cans only.

18.4 During the POI around 87 percent sales were in bulk by lorry tanks (without packing) while around 9 percent, around 3 percent and around 1 percent sales were in; 30 Kg new HDP cans, 30 Kg re-cycled HDP cans and 200 Kg new HDP drums, respectively.

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18.5 The unit price of the GAA sold by the Exporter in its domestic market, in different packing was not uniform even after excluding the packing costs. A “like with like” comparison of export sales and domestic sales transactions, i.e., of export price and the normal value was sought. Thus, the Commission determined normal value on the basis of the Exporter’s domestic sales of GAA made in 30 Kg new HDP cans only. Exporter’s sales in 30 Kg new HDP cans were in sufficient quantities and also met the condition of 5% as laid down in Section 6(2) of the Ordinance.

18.6 During the POI, out of the total sales made in 30 Kg new HDP cans (comparable with export sales to Pakistan) by the Exporter in its domestic market, around 99 percent sales were made to un-related parties while only around 01 percent sales were made to related parties. Below cost (at losses) sales were around 0.06 percent. The analysis revealed that the sales made to related parties were not in the ordinary course of trade, because prices charged from related parties were considerably below the prices charged from other parties. Thus, the Commission disregarded sales to related parties in determination of the normal value.

18.7 The Exporter claimed adjustments in normal value on account of credit cost and discount. These claims were considered and the normal value was adjusted accordingly. To arrive at the level of ex-factory price, the inland freight was also deducted from the sales price. After making these adjustments, weighted average adjusted normal value has been calculated at ex-factory level.

19. Export Price

19.1 To determine the export price charged by the Exporter from Pakistani importers during the POI, the Commission used the information provided by the Exporter in its response to the Questionnaire.

19.2 According to the information/data provided by the Exporter, the Exporter exported **** metric tonne (“MT”) of the investigated product to Pakistan during the POI. This was packed in 30 Kg new HDP cans. All sales were made to un-related parties.

19.3 The Exporter sold the investigated product to Pakistani importers on the basis of C&F price with the payment in the form of letter of credit (“LC”) at-sight.

19.4 To arrive at the level of ex-factory export price, the Exporter reported adjustments on account of: (i) indenter’s commission (ii) credit cost (iii) bank charges (iv) ocean freight (v) inland freight (vi) harbour construction tax (vii) trade promotion fee, and (viii) custom brokerage fee. These adjustments were considered and the export price was

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adjusted accordingly. After making these adjustments, weighted average adjusted export price has been calculated at ex-factory level.

20. Dumping Margin

20.1 Section 12 of the Ordinance provides three methods for fair comparison of normal value and export price in order to establish the dumping margin. The Commission used the first method and established the dumping margin by comparing “weighted average normal value” with “weighted average export price” at ex-factory level.

20.2 The Ordinance defines “dumping margin” in relation to a product to mean “the amount by which its normal value exceeds its export price”. 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”.

20.3 In terms of Section 14 of the Ordinance the Commission shall determine an individual dumping margin for each known exporter or producer of an investigated product. In this case, since there is only one foreign producer/exporter, the dumping margin has been calculated for the said Exporter.

20.4 Taking into account all the requirements set out above and making appropriate adjustments the dumping margin has been calculated by comparing weighted average adjusted ex-factory normal value with weighted average adjusted ex-factory export price. The dumping margin as percentage of export price works out to be 15.76 percent, while dumping margin as percentage of C&F export price works out to be 13.77 percent.

C. INJURY TO THE DOMESTIC INDUSTRY

21. Determination of Injury

21.1 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;

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

Section 15 further provides that these factors are not exhaustive and the Commission may take into account such other factors as it considers relevant for determination of injury. The Commission has taken into account all known and relevant factors in order to determine whether the domestic industry suffered material injury during the POI.

21.2 Material injury to the domestic industry has been analyzed in the following paragraphs in accordance with Part VI of the Ordinance.

22. The Domestic Industry

22.1 In terms of Section 2(d) of the Ordinance, domestic industry is defined to mean 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.”

22.2 The Applicant, being the only producer of GAA in Pakistan, represents the entire domestic industry (i.e. represents 100 percent of the domestic production) of GAA. It started commercial production in the year 1999.

23. Volume of Dumped Imports

Facts

23.1 In order to ascertain the volume of dumped imports of the investigated product data was obtained from PRAL.

23.2 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 consumption of the like product in Pakistan or the production of the domestic like product by the domestic industry. The following table shows imports of the investigated product from the Exporter and production of the domestic like product by the domestic industry during the POI:

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(MT)

Period	Dumped Imports*	Domestic Production*
2000-01	100.00	100.00
2001-02	150.50	119.83
2002-03	240.25	115.26

* Actual figures are indexed by taking the year 2000-01 as base for the purposes of confidentiality

Analysis

23.3 Volume of dumped imports increased by 50.50 percent in the financial year (“FY”) 2001-02 over the FY 2000-01 while it increased by 59.64 percent in the FY 2002-03 as compared to the dumped imports in FY 2001-02. Thus the total increase of dumped imports in the FY 2002-03 was 140.25 percent as compared to the dumped imports in FY 2000-01.

23.4 The production of the domestic like product increased by 19.83 percent in the FY 2001-02 over the previous FY 2000-01 and it decreased by 3.81 percent in the FY 2002-03 as compared to the production in FY 2001-02.

Conclusion

23.5 On the basis of the above analysis, the Commission concluded that during the POI, the dumped imports increased in, both, absolute and relative terms as compared to the production of domestic like product by the domestic industry. Though the domestic industry was able to benefit from the expanded domestic market and registered a growth of 19.83 percent in FY 2001-02 but the dumped imports captured greater market in FY 2002-03, which forced a reduction in the production of domestic like product by 3.81 percent. Thus the domestic industry suffered material injury on account of increase in volume of dumped imports.

24. Price Effects

24.1 The effect of dumped imports on the prices of domestic like product has been examined in terms of Section 15(3) of the Ordinance, by considering whether there has been significant **price undercutting** (the extent to which the price of the investigated product is lower than the price of domestic like product), **price depression** (the extent to which the domestic industry experiences a decrease in its selling prices), and **price suppression** (the extent to which an increase in the cost of production cannot be recovered by way of an increase in selling price).

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24.2 Price Undercutting

Facts

24.2.1 Data relating to the average ex-factory price of the domestic industry for GAA was obtained from the Applicant, and the landed cost of investigated product was calculated from the import data obtained from PRAL. Comparison of average ex-factory price of the domestic like product with the average landed cost of the investigated product during the POI is given in the following table:

(Rs./MT)			
Period	Average ex-factory price of domestic like product*	Average landed cost of investigated product*	Price undercutting in Percentage
2000-01	100.00	100.00	-
2001-02	110.23	107.06	1.48%
2002-03	100.15	93.44	5.65%

* Actual figures are indexed by taking the year 2000-01 as base.

Analysis

24.2.2 It is clear from the above table that the investigated product undercut the average ex-factory price of domestic like product in the FY 2001-02 and FY 2002-03. In FY 2002-03 the landed cost of dumped imports declined significantly, resulting in increased price undercutting as compared with the previous FY 2001-02.

Conclusion

24.2.3 On the basis of the above, the Commission has concluded that, during the POI, the dumped imports of the investigated product from the Exporter undercut the prices of domestic like product significantly.

24.3 Price Depression

Facts

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

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(Rs./MT)

Period	Average ex-factory price of domestic like product*	Price depression	Memo Average landed cost of investigated product*
2000-01	100.00	-	100.00
2001-02	110.23	-	107.06
2002-03	100.15	9.14%	93.44

* Actual figures are indexed by taking the year 2000-01 as base

Analysis

24.3.2 The above facts show that the domestic industry was able to increase average ex-factory price of domestic like product in the FY 2001-02 because the landed cost of investigated product increased in the same year. However, the domestic industry was forced to reduce the average ex-factory price of domestic like product in the FY 2002-03 to compete with the lower landed cost of the investigated product.

Conclusion

24.3.3 The Commission has concluded on the basis of the analysis that the domestic industry experienced significant price depression in FY 2002-03 mainly due to dumped imports as it was forced to reduce its average ex-factory sales price by approximately 9 percent to compete with the reduced landed cost of the investigated product.

24.4 Price Suppression

Facts

The information submitted by the Applicant showed an increase in cost of production of domestic like product throughout the POI. The ex-factory sales price increased in FY 2001-02 while it decreased in FY 2002-03. The following table shows the average cost of production, average ex-factory sales price and price suppression during the POI:

(Rs./MT)

Period	Average cost of production of domestic like product*	Average ex-factory price of domestic like product*	Price Suppression		
			Increase in cost of production	Increase in price	Price suppression
2000-01	100.00	100.00	-	-	-
2001-02	108.97	110.23	8.97%	10.23%	-
2002-03	115.58	100.15	6.06%	-9.14%	12.88%

* Actual figures are indexed by taking it equal to 100.00 in the year 2000-01

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Analysis

24.4.1 The above table shows that the average cost of production of domestic like product increased by 8.97 percent and by 6.06 percent in FY 2001-02 and 2002-03, respectively. The average ex-factory price increased by 10.23 percent in the FY 2001-02 over the average ex-factory price of FY 2000-01 but it decreased by 9.14 percent in FY 2002-03 over FY 2001-02. Thus, there was no price suppression during the FY 2001-02 as average price of domestic like product increased more than the increase in its average cost of production. However, in FY 2002-03 the domestic industry experienced price suppression of 12.88 percent.

Conclusion

24.4.2 The Commission has concluded that the domestic industry experienced significant price suppression in FY 2002-03 due to dumped imports as it was forced to reduce the average ex-factory sales price of domestic like product to compete with the reduced landed cost of the investigated product, while its average cost of production increased during the same year.

25. Effect on Market Share and Sales

Facts

25.1 In order to ascertain the total volume of imports of GAA from all sources, including the dumped source, data was obtained from PRAL.

25.2 Pakistan PTA Ltd., a company registered in Pakistan is a major user and importer of GAA in Pakistan. The Government of Pakistan has special arrangements with Pakistan PTA Ltd., and it is allowed to import GAA free of customs duty vide SRO. 358 (I)/2002 dated June 15, 2002 for a period of ten years (upto June 30, 2008). During the POI, Pakistan PTA Ltd., imported GAA from sources other than the dumped source. As imports by Pakistan PTA Ltd., are made under a special arrangement, the demand for Pakistan PTA Ltd., and the demand for rest of the country are considered as two distinct and separate markets for GAA to facilitate analysis and for the purposes of this investigation⁶. Therefore, the market for domestic industry is the rest of the country (excluding Pakistan PTA Ltd.). Consequently, while determining injury to domestic industry during the POI, the imports by Pakistan PTA Ltd. have not been taken into account.

⁶ Also see discussion in paragraphs 35.4 and 35.5 below

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25.3 The domestic demand/supply of GAA in Pakistan is met through sales by the domestic industry and imports. The domestic consumption/supply of GAA is ascertained by combining the domestic industry's sales and total imports. For this purpose, data obtained from PRAL and the Applicant is used. The domestic market of GAA during the POI is given in the following table:

Period	Imports from		Sales by Domestic Industry	Total Domestic Market
	Dumped Source	Other Countries		
2000-01	42%	4%	54%	100%
2001-02	51%	3%	46%	100%
2002-03	58%	6%	36%	100%

Analysis

25.4 The above table reveals that there was a growth of about 23 percent in FY 2001-02 and about 42 percent in FY 2002-03 in the market for GAA in Pakistan.

25.5 The Applicant also uses GAA in-house for production of Ethyl Acetate, Butyl Acetate, Propyl Acetate, Sabutol Acetate and polyurethane grade Ethyl Acetate. About 50 percent of the Applicant's production of GAA is used in-house. Thus the actual market share of domestic industry in local market is much lower than the share of dumped imports. Not only was the growth in market demand catered for by the dumped imports, but these imports also replaced to some extent the sales of domestic like product during the POI. The above table shows that the domestic industry was not able to retain its market share. Its market share declined from 54 percent in FY 2001-02 to 46 percent in FY 2002-03 and it further declined to 36 percent in FY 2002-03.

Conclusion

25.6 On the basis of the above analysis, the Commission has concluded that the domestic industry lost market share due to the dumped imports of investigated product as the share of these imports in domestic market increased significantly while share of domestic industry declined considerably during the POI.

26. Effect on Production and Capacity Utilization

Facts

26.1 The installed production capacity of the domestic industry to produce domestic like product, and the capacity utilized by it during POI is given in the table below:

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Period	Installed capacity (MT)*	Capacity utilization
2000-01	100	61.04%
2001-02	100	73.15%
2002-03	100	70.36%

* Actual figures are indexed by taking 2000-01 as base year

Analysis

26.2 It may be noted from the table above that the production of domestic industry increased during the POI. The domestic industry in FY 2001-02 achieved its highest capacity utilization of 73.15 percent. However, capacity utilization declined to 70.36 percent in the FY 2002-03. This was mainly due to increase in imports from dumped sources combined with its reduced landed cost (reference paragraphs 23.2 and 24.2.1 supra).

26.3 As mentioned in paragraph 25.4 supra, though the domestic market for GAA grew in the range of 23 percent to 42 percent during the POI, the capacity utilization of the domestic industry increased modestly from 61.04 percent in FY 2000-01 to 73.15 percent in FY 2001-02 and actually fell to 70.36 percent in FY 2002-03.

Conclusion

26.4 On the basis of the above analysis, the Commission has concluded that the domestic industry was not able to produce upto the level where it ought to have done and, therefore, suffered material injury on account of low production level, and consequently low capacity utilization, due to dumped imports.

27. Effect on Inventories

Facts

27.1 The Applicant provided data relating to accumulation of inventories during the POI. The data for opening and closing inventories of the domestic industry is given in the table below: (MT)

Year	Opening Inventory*	Closing Inventory
2000-01	100.00	5.42
2001-02	5.42	365.65
2002-03	365.65	253.68

* Actual figures are indexed by taking 2000-01 as base year

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Analysis

27.2 The data given in table above shows that inventory level of domestic like product increased significantly in FY 2001-02. The inventory level was reduced during FY 2002-03 due to the reduction in production during the same period (refer paragraph 26.1) but remained high in comparison with FY 2000-01.

Conclusion

27.3 The Commission has concluded that the inventory accumulation of the domestic like product by the domestic industry remained on the higher side during the POI, resulting in injury on this account.

28. Effect on Profits/Loss

Facts

The Applicant is a multi-product industry and its audited accounts show consolidated figures for profit/loss for all the products. However, the Applicant provided a separate Profit and Loss Account Statement relating to the domestic like product. This statement was duly attested by its statutory auditors. The Commission verified this information during the on-the-spot investigation/verification with the record at the premises of the Applicant. The table below shows the Loss figures of the domestic industry for the POI:

Period	Loss (Rs)*
2000-01	100.00
2001-02	79.03
2002 -03	100.50

* Actual figures are indexed by taking 2000-01 as base year

Analysis

28.2 The domestic industry suffered losses during the POI, as is evident from the table above. The amount of losses decreased in FY 2001-02 but it increased in FY 2002-03.

Conclusion

28.3 The Commission has concluded that the domestic industry was materially injured due to dumped imports because it operated at a loss during the POI.

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29. **Effect on Employment, Productivity and Wages**

Facts

29.1 During the POI, there were two types of employees in the domestic industry: firstly, permanent employees (the minimum number required to keep the plant operational), and, secondly, contractual employees (obtained through labour contractors on daily wages). On average around 39 percent, around 41 percent and around 45 percent were permanent employees and, around 61 percent, around 59 percent and around 55 percent were contractual (daily wages) employees during the FY 2000–01, FY 2001-02 and FY 2002-03, respectively.

29.2 The number of employees of the domestic industry remained almost static during the POI. The effect on productivity, salaries and wages of the domestic industry were as follows:

Year	Number of Employees*	Total salaries and wages (RS)*	Domestic production (MT)*	Productivity per worker in MT*	Salaries & wages Rs. per MT*
2000-01	100.00	100.00	100.00	100.00	100.00
2001-02	101.05	92.11	119.83	118.58	76.87
2002-03	102.10	113.89	115.26	112.90	98.81

* Actual figures are indexed by taking 2000-01 as base year

Analysis

29.4 The above table shows that the productivity per worker increased during the FY 2001-02 (due to increase in production) but it decreased in FY 2002-03. Similarly the cost of salaries and wages per MT of GAA decreased in FY 2001-02. However, it increased in FY 2002-03 mainly due to reduction in production coupled with increase in salaries which reflects changes in labour market.

Conclusion

29.5 Based on the above analysis, the Commission has concluded that the domestic industry was materially injured during the POI on account of productivity and payment of salaries and wages, as the cost of salaries and wages per MT increased significantly in FY 2002-03. The negative effect on productivity and wages during the POI was mainly because of dumped imports.

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30. Effect on Investment and Return on Investment

Facts

30.1 As per the information provided by the Applicant, the initial investment made in the domestic industry was Rs. *** million (equity plus long-term loans). The Applicant also provided the figures of net profit/loss (before interest) based on audited accounts for the POI.

30.2 The return on investment was as follows:

Year	Investment at year end (million Rs.)*	Return on investment for the year (before interest)
2000-01	100.00	5.63%
2001-02	95.44	7.76%
2002-03	92.10	5.43%

* Actual figures are indexed by taking 2000-01 as base year

Analysis

30.3 The above table shows that the investment of the Applicant declined during POI due to operational losses. The Applicant earned net profit before interest in the FY 2000-01, 2001-02 and 2002-03. The corresponding return on investment was 5.63 percent, 7.76 percent and 5.43 percent during the same period.

Conclusion

30.4 The Commission concluded that the domestic industry's return on investment declined in FY 2002-03 mainly because of losses incurred due to dumped imports of the investigated product.

31. Effect on Cash Flow

Facts

The Applicant provided the following data relating to cash flow position of the domestic industry during POI:

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Year	Cash flow from operations in Rs.*
2000-01	100.00
2001-02	252.80
2002-03	102.90

* Actual figures are indexed by taking 2000-01 as base year

Analysis

31.2 Examination of the data in the above table shows that the cash flow position of the domestic industry improved in FY 2001-02. However, it deteriorated in FY 2002-03

Conclusion

31.3 The Commission has concluded that there was a negative effect on the cash flow of the domestic industry in FY 2002-03 mainly because of price depression (and consequent losses) suffered by the domestic industry due to dumped imports.

32. Effect on Investment and Growth

Facts/Analysis

32.1 The information provided by the Applicant reveals that no additional investment was made in the GAA plant during the POI. The Applicant had a plan to expand the plant (evidenced by land purchased for the purpose) as the domestic market for GAA is estimated much more than the installed production capacity of the domestic industry and there is an expectation of continuing growth in domestic market of GAA, but that planned investment had to be postponed due to the losses incurred by the domestic industry. There was no growth in the capital expenditure as well as production capacity of the domestic industry during the POI.

Conclusion

32.2 The Commission considered the above facts and found that domestic industry suffered material injury as the domestic industry was unable to make further investment due to dumping of the investigated product. It may also be recalled (paragraph 30 supra) that the initial investment was reduced by the losses incurred on account of dumped imports.

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33. Magnitude of Dumping Margin

As regards the impact on the domestic industry of the magnitude of the dumping margin set out in paragraph 20 above, given the volume and the prices of the imports from the Exporter, this impact cannot be considered to be negligible

34. CONCLUSION ON MATERIAL INJURY ANALYSIS

The Commission has concluded on the basis of above analysis that the domestic industry suffered material injury in terms of Sections 15 and 17 of the Ordinance due to dumped imports of the investigated product during POI, with regard to the following factors:

- i) Increase in volume of dumped imports;
- ii) Price undercutting;
- iii) Price depression;
- iv) Price suppression;
- v) Decline in market share and sales;
- vi) Decline in production and capacity utilization;
- vii) Negative effect on inventories;
- viii) Incurred operational losses;
- ix) Decline in productivity;
- x) Decline in return on investment;
- xi) Negative effect on cash flow;
- xii) Negative effect on growth and investment; and
- xiii) Significant magnitude of dumping margin.

35. Other Factors

35.1 In accordance with Section 18(2) of the Ordinance, the Commission also examined factors, other than dumped imports, which could at the same time cause injury to the domestic industry, in order to ensure that possible injury caused by other factors is not attributed to the injury caused by dumped imports. Factors other than those imputable to dumping of the investigated product, which contributed towards material injury suffered by the domestic industry during the POI, are set out in following paragraphs:

35.2 According to the Applicant there was no factor other than dumped imports that caused and/or is causing injury to the domestic industry. However the Commission's investigation revealed that in the initial years of Applicant's operations, financial charges accounted for a relatively higher proportion of total cost. The Applicant explained that at the time of establishment of this project (in the FY 1997-98) the interest rates were

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around 23 percent in the country and it had obtained loans at the then prevailing interest rates. Subsequently, the Applicant rescheduled the long-term loans, and thereafter, the financial charges have showed a considerable decrease.

35.3 GAA is also being imported from other sources (other than dumped source), but the quantum of imports from other sources was very low. The market share of these imports was 4 percent, 3 percent and 6 percent during the above mentioned periods.

35.4 The Pakistan PTA Ltd., plant that uses GAA came into existence under a special arrangement. The company undertook to invest in that plant provided it was granted certain concessions. One of the concessions was import of GAA free of customs duty only for use in the plant for production of PTA. None of this duty free GAA was available in the domestic market for sale. The plant was set up in 1998, and the concession regarding duty free import of GAA is for 10 years. It is important to note that at the time when the Government made this arrangement there was no production of GAA in the country.

35.5 The domestic producer of GAA therefore visualized a domestic market that excluded Pakistan PTA Ltd. It is for this reason that Pakistan PTA Ltd., imports have not figured in the injury calculations. Arguendo, if these imports were to be included, there could still be a substantial injury on account of dumped imports.

35.6 The Commission has concluded that the share of these other factors in overall material injury caused to the domestic industry is comparatively small.

D. CONCLUSIONS

36. The conclusions after taking into account all considerations for this final determination are as follows:

- i. the application was lodged by the domestic industry producing like product;
- ii. the investigated product and the domestic like product are like products;
- iii. during the POI, the investigated product was exported to Pakistan by the Exporter, at prices below its normal value;

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- iv. the volume of dumped imports of investigated product and the dumping margins established on the basis of the foregoing analysis, are above the de-minimis levels;
- v. the domestic industry suffered material injury during the POI;
- vi. material injury to domestic industry was mainly due to dumped imports of the investigated product; and
- vii. the dumping margin expressed as a percentage of weighted average C&F export price works out to be 13.77 percent for the Exporter of the investigated product.

E. IMPOSITION OF DEFINITIVE ANTIDUMPING DUTY

37. In view of the analysis and conclusions with regard to dumping, material injury, and causation, imposition of definitive antidumping duty on the investigated product is needed to offset injury to the domestic industry by dumped imports.

38. In terms of Section 50 of the Ordinance, a definitive antidumping duty is hereby imposed on the investigated product (Glacial Acetic Acid of minimum concentration of 99 percent) @ 13.77 percent ad val of C&F price importable from the Exporter for a period of five years effective from February 25, 2004. The investigated product is classified under PCT heading No. 2915.2100. The definitive antidumping duty at the rate of 13.77 percent of C&F price is equivalent to the definitive dumping margin determined at ex-factory price level.

39. In accordance with Section 51 of the Ordinance, the definitive antidumping duty shall take the form of *ad valorem* 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.

40. Producers/exporters of glacial acetic acid from Chinese Taipei (Taiwan) other than the Exporter specified in paragraph 3 above would not be subject to this definitive antidumping duty.

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

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42. The definitive antidumping duty 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.

43. The Commission had imposed a provisional antidumping duty on the investigated product @ 13.77 percent ad val of C&F price importable from the Exporter for a period of four months effective from February 25, 2004. In terms of Section 55(2) of the Ordinance, if the definitive antidumping duty is lower than the amount of provisionally determined antidumping duty, the difference shall be refunded by the Commission within forty-five days of the final determination. Since provisional antidumping duty imposed by the Commission on February 25, 2004 and the definitive antidumping duty imposed on June 18, 2004 are equal, no claim for refund of antidumping duty shall be entertained with respect to the import of investigated product.

(Muhammad Ikram Arif)
Member
June 17, 2004

(Faizullah Khilji)
Chairman
June 17, 2004