

(NON-CONFIDENTIAL)



**Government of Pakistan
National Tariff Commission**

REPORT

ON

**FINAL DETERMINATION AND LEVY OF DEFINITIVE
ANTIDUMPING DUTY ON IMPORT OF PVC RESIN
(suspension grade) INTO PAKISTAN ORIGINATING IN
AND/OR EXPORTED FROM THE REPUBLIC OF KOREA
AND THE ISLAMIC REPUBLIC OF IRAN**

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Final Determination and levy of Definitive antidumping duty on import of PVC Resin (suspension grade) into Pakistan Originating in and/or Exported from the Republic of Korea and the Islamic Republic of Iran

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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, and to ensure fair competition thereof and to the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (hereinafter referred to as the "Agreement on Antidumping") 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 Engro Asahi Polymer and Chemicals Limited, First Floor, Bahria Complex 1, 24 M.T. Khan Road, Karachi (hereinafter referred to as the "Applicant"), a domestic producer of PVC Resin (suspension grade) (hereinafter referred to as "PVC Resin"), on behalf of the domestic industry, on June 11, 2004. The Applicant alleged that PVC Resin produced in the Republic of Korea (hereinafter referred to as "Korea") and in the Islamic Republic of Iran (hereinafter referred to as "Iran") is exported to Pakistan at dumped prices (hereinafter referred to as the "investigated product"). The Embassies of Korea and Iran in Islamabad were informed by a note verbale dated June 12, 2004, sent through the Ministry of Foreign Affairs, Pakistan, of the receipt of 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 caused therefrom. The requirements of Rule 3 of the Rules, which relate to the submission of information prescribed therein were also found to have been met. The application also fulfilled the requirements of Section 24 of the Ordinance, as the Applicant happens to be the only domestic producer of PVC Resin, and, as such, represents 100 percent of the total production of PVC Resin produced by the domestic industry.

3. Foreign Producers and Exporters of the Investigated Product

The Applicant identified LG International Corporation, LG Twin Towers, 20, Yoido-dong, Youngdungpo- gu, Seoul 150-721, Korea, and Bandar Imam Petrochemical Company Ltd., No. 310, Kargar Shomali Ave, Tehran, Iran as producers (hereinafter collectively referred to as the “Producers”) and LG International Corporation, LG Twin Towers, 20, Yoido-dong, Youngdungpo- gu, Seoul 150-721, Korea, and Iran Petrochemical Commercial Company, No. 1339, Valiasr Ave., Vanak Sq, Tehran, Iran, as exporters (hereinafter collectively referred to as the “Exporters”) 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 the PVC Resin produced in Pakistan by the domestic industry are like products;
- ii. the Producers and the Exporters are exporting the investigated product to Pakistan at dumped prices; and
- iii. export of the investigated product by the Producers and the Exporters to Pakistan at dumped prices has caused and is causing material injury to the domestic industry, mainly through:
 - a. volume of dumped imports;
 - b. price undercutting;
 - c. price depression;
 - d. price suppression;
 - e. negative effect on sales growth;
 - f. negative effect on inventories;
 - g. negative effect on cash flows;
 - h. negative effect on return on investment;
 - i. negative effect on growth in capacity utilization;
 - j. negative effect on growth/expansion plans;
 - k. negative effect on ability to raise capital; and
 - l. decline in gross profit margin and operating profit.

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 injury to justify initiation of an investigation. Consequently, the Commission decided to initiate an investigation on June 23, 2004. In terms of Section 27 of the Ordinance, the Commission issued a Notice of Initiation, which was published in the Official Gazette of Pakistan¹ and in two widely circulated national newspapers² (one in English language and one in Urdu Language). Investigation concerning imports of the investigated product (classified under Harmonized System (“HS”) Code³ 3904.1000) into Pakistan originating in and/or exported from Korea and Iran was thus initiated on June 25, 2004.

5.2 The Commission informed the Embassies of Korea and Iran in Pakistan (by sending a copy each of the Notice of Initiation via Ministry of Foreign Affairs, Pakistan on June 25, 2004). Copies of Notice of Initiation were also sent to the Exporters and the Producers, the known Pakistani importers and the Applicant on June 25, 2004 in accordance with the requirements of Section 27 of the Ordinance.

5.3 In accordance with Section 28 of the Ordinance, on June 26, 2004, the Commission also sent copies of full text of the written application (non-confidential version) to the Embassies of Korea and Iran in Pakistan and the Producers and the Exporters.

6. Period of Investigation

6.1 In terms of Section 36 of the Ordinance, period of investigation (hereinafter referred to as the “POI”):

- i. “for the purposes of an investigation of dumping, an investigation period shall normally cover twelve months preceding the month of initiation of the investigation for which data is available and in no case the investigation period shall be shorter than six months”.
- ii. “for the purposes of an investigation of injury, the investigation period shall normally cover thirty-six months:

¹ The official Gazette of Pakistan (Extraordinary) dated June 25, 2004

² The ‘Dawn’ and the ‘Express’ of June 25, 2004 issue.

³ In Pakistan the words HS are substituted by the words PCT, which is the abbreviation for Pakistan Customs Tariff.

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Provided that the Commission may at its sole discretion, select a shorter or longer period if it deems so appropriate in view of the available information regarding domestic industry and an investigated product”.

6.2 The POI selected for dumping and injury are, therefore, respectively, as follows:

Investigation of dumping	from January 01, 2003 to March 31, 2004;
Investigation of injury	from January 01, 2001 to March 31, 2004.

7. **Information/Data Gathering**

7.1 The Commission sent questionnaires for submission of data and information by the Producers and the Exporters, on June 26, 2004, and asked them to respond to the Commission within 37 days of the dispatch of the questionnaires. On June 26, 2004 questionnaires were also sent to Pakistani importers known to the Commission and these importers were also requested to respond to the Commission within 37 days of the dispatch of the questionnaires.

7.2 The Korean exporter (LG International Corporation) did not respond to the Commission’s questionnaire. The Commission after expiry of the time period given to the Korean exporter to respond, informed it through a letter dated August 13, 2004 that the Commission is constrained to reach its determination based on the ‘Best Information Available’ in terms of Section 32 of the Ordinance and Article 6.8 of the Agreement on Antidumping and Annex II thereto because of the “non-response”. The embassy of Korea in Pakistan was also informed accordingly. None of the Pakistani importers responded to the questionnaires.

7.3 The Commission received a letter from LG Chem, Ltd., LG Twin Towers, 20, Yoido-dong Youngdungpo-gu, Seoul, Korea (a Korean producer/exporter of PVC Resin) on July 10, 2004. Extracts germane to this investigation from the letter are reproduced here under:

“As for LG Chem, Ltd, during the period of investigation 1st January 2003 to 31st March 2004, there’s not any sales record of PVC Resin(suspension grade) into Pakistan and furthermore there’s no plan to sell in future.

“Therefore, LG Chem, Ltd. hopes to be excluded from this investigation and from any forthcoming penalties. In addition, LG Chem, Ltd. expects no further request of submitting Answer Sheets.”

7.4 The Commission received another letter from LG Chem, Ltd., on July 12, 2004. Extracts germane to this investigation from that letter are reproduced below:

“On your documents of Appendix 5, “Data on quarterly basis for two years before start of dumping”, our LG’s total export quantity is 2,352mt and takes about 54% of total imported quantities into Pakistan during the period of investigation.

“However, that export quantity is totally Paste PVC not Suspension grade. As we already mentioned at our previous Letter d.d on 6th July, there’s not any sales record of Suspension grade PVC into Pakistan and furthermore there’s no plan to sell in future. We just export the Paste PVC not Suspension PVC and Paste PVC has no relationship with current Anti-Dumping against Suspension Grade PVC from South Korea. Furthermore, Local maker, EAPCL is the manufacturer of only Suspension PVC and Local customers using Paste PVC in Pakistan have to totally depend on imported Paste PVC.

“Usually there’s two kinds of PVC, Suspension Grade and Paste Grade. These two grades are totally different in Manufacturing Process, Properties and Application and also all customers are recognizing these two grades as totally different.

“Our LG’s sales volume of Paste PVC into Pakistan during POI is as below.

Your Data on Appendix 5	Our Real Sales volume
2,352mt	3,070mt

* Our Real sales is Paste PVC not Suspension PVC”.

7.5 The Commission examined the claim of LG Chem, Ltd. It was found from Pakistan Customs Department record that there were considerable imports of PVC Resin (suspension grade) of Korean origin from LG International Corporation during the POI. The Commission asked LG Chem, Ltd., through its letter of July 13, 2004 to supply information/data as per the questionnaire pursuant to Article 6.1.1 of the Agreement on Antidumping and in accordance with Section 35 of the Ordinance, within 37 days to enable an examination of the sales made by LG Chem, Ltd. to LG International Corporation, to determine normal value.

7.6 LG Chem, Ltd. did not respond to the Commission's questionnaire. The Commission after expiry of the time period given to respond, informed LG Chem Ltd. through a letter of August 24, 2004 that in case of no response, the Commission would be constrained to make its determination based on the 'Best Information Available' in terms of Section 32 of the Ordinance and Article 6.8 and Annex II of the Agreement on Antidumping. The embassy of Korea in Pakistan was also informed accordingly.

7.7 Advocate of the Iran Petrochemical Commercial Company ("IPCC") met the officers of the Commission on July 31, 2004 at the offices of the Commission and made, *inter alia*, the following points:

- i. IPCC and Bandar Imam Petrochemical Company ("BIPC") both are state-owned companies and are considered one entity under the control of National Petrochemical Company ("NPC"), a subsidiary of Iranian Petroleum Ministry.
- ii. BIPC is a producer of a number of products including PVC Resin while IPCC is responsible for marketing and sales of the products of BIPC and other companies of the NPC. Under Iranian law any correspondence for the marketing and sales or other issues relating to the products of the companies under NPC will only be done by IPCC. So there will be one response to the questionnaire from both the companies (IPCC and BIPC) and that will be from IPCC. The response will contain all the information, which the Commission has sought from both the companies.
- iii. IPCC is responsible for marketing and sale of PVC Resin in its domestic (Iranian) market as well as in export market.
- iv. The Government of Iran fixes sales price for PVC Resin on a quarterly basis for domestic market and during that quarter no further change is made. IPCC is bound to sell (in its domestic market) on the prices fixed by the Government.
- v. All sales data for domestic market (Iran) is in Farsi language and there are a large number of sales transactions during the POI. IPCC has around 10,000 customers in Iran. It is not possible for IPCC to supply all the details of domestic sales in English language on a transaction-by-transaction basis. However, if the Commission desires, these details can be supplied in Farsi language on a CD.
- vi. The Applicant has used a different exchange rate from that actually applied in calculating normal value for Iran. On the basis of exchange rate actually applied, dumping margin works out to less than 2 percent (*de minimis*).

7.8 Advocate of IPCC also sought some clarifications on the questionnaire. The officers of the Commission explained the questionnaire and clarified that as regards the concerns raised with regard to supply of information/data on domestic sales (see paragraph 7.7.v supra), IPCC may submit the following:

- i. Major sales on transaction-by-transaction basis;
- ii. Total quantity sold during the POI and weighted average price of the entire sales;
- iii. The price lists issued by the Government of Iran for each quarter during the POI; and
- iv. Details of all domestic sales on transaction-by-transaction basis in Farsi language on a CD.

IPCC agreed to supply the information/data according to the above proposal.

7.9 IPCC requested for extension in time limit of seven working days to submit information/data in response to the questionnaire through its letter of July 28, 2004. The Commission acceded to the request of IPCC and the time limit for submission of information/data was extended up to August 9, 2004.

7.10 A response to the questionnaire from IPCC was received on August 9, 2004. The information received was analyzed and it was found deficient in respect of the following:

- i. Information/data on exports transactions as per S.No. C 3 of the questionnaire.
- ii. Information/data on all Pakistani customers (importers) as per S.No. C 3 of the questionnaire.
- iii. Information/data on domestic sales as per S.No. D of the questionnaire.
- iv. Information/data on operating statistics as per S.No. E of the questionnaire.
- v. Information/data on cost of production as per S.No. F of the questionnaire.
- vi. Information/data on quantity and value of total sales in Appendix No.1 of the questionnaire.

- vii. Information/data on cost of production in Appendix No. 2 of the questionnaire.
- viii. Catalogues and brochures mentioned at S.No. B 2.4 of the questionnaire were also not found enclosed.

7.11 The Commission conveyed these deficiencies to IPCC through its letter of August 16, 2004 and asked it to supply the requisite information/data latest by August 31, 2004.

7.12 On August 31, 2004 the Commission received Information/data mentioned at sub-paragraphs (i), (ii), and (viii) of paragraph 7.10 supra, while IPCC stated that remaining information/data (mentioned at sub-paragraphs (iii) to (vii) of paragraph 7.10) would be submitted later. IPCC did not furnish the remaining information. However, the information/data, necessary for this investigation, was obtained during on-the-spot investigation conducted at the premises of IPCC (see paragraph 8 infra).

7.13 The Commission accepted the information/data submitted by IPCC for the purposes of this investigation and the final determination for dumping is based on the same. The information was also verified during subsequent 'on-the-spot investigation/verification' conducted at the premises of IPCC and BIPC.

7.14 The Commission maintains a database of import statistics, obtained on quarterly basis, from Pakistan Revenue Automation Limited ("PRAL"), the data processing arm of the Central Board of Revenue, Government of Pakistan. For the purpose of this final determination the Commission has used import data obtained from PRAL in addition to the information provided by the Applicant and IPCC.

7.15 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.

8. On-the-Spot Investigations

8.1 In terms of Sections 32(4) and 35 of the Ordinance and Rule 12 of the Rules, the Commission, during the course of the investigation, is required to satisfy itself as to the accuracy of information supplied by the interested parties upon which its findings are based. In this connection, on-the-spot investigations were conducted at the premises of the Applicant from July 19 to 21, 2004, and at the premises of IPCC and BIPC from September 24 to 29, 2004 in order to verify the information provided respectively by the Applicant and the Iranian exporter/producer, and to obtain further information.

8.2 In accordance with Rule 12(3) of the Rules, the Commission prepared reports on “on-the-spot investigations”, which were made available to the interested parties to which it pertains, in full, and non-confidential versions were also placed in the public file.

9 Public File

9.1 The Commission, in accordance with Rule 7 of the Rules, has established and maintained a public file at its offices. This file remains available to the interested parties for review and copying from Monday to Thursday between 1100 hours to 1300 hours throughout the investigation. This file contains non-confidential versions of the application, submissions, notices, correspondence, preliminary determination, record of hearing, statement of essential facts, and other documents for disclosure to the interested parties.

9.2 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, shall, during and after the investigation, be kept confidential.

10. Investigated Product, Like Product, Domestic Like Product

10.1 Section 2 of the Ordinance defines the “investigated product”, the “like product”, and the “domestic like product” as follows:

Investigated Product:

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

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 to those of the investigated product”.

Domestic Like Product:

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

10.2 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 PVC Resin, produced by the Producers and exported by the Exporters. It is classified under HS Code 3904.1000.

ii. Domestic Like Product

The domestic like product is PVC Resin produced by the domestic industry (the Applicant). It is classified under the same HS Code 3904.1000 as the investigated product.

10.3 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, IPCC, the websites of Korean producer/exporter (LG Chem, Ltd., and LG International Corporation), and PRAL in the following terms:

- i. The basic raw material used in the production of both, the investigated product and the domestic like product, is Vinyl Chloride Monomer ("VCM"), which is a petrochemical.
- ii. Both, the investigated product and the domestic like product are produced with the same manufacturing process.
- iii. Both, the investigated product and the domestic like product have same colour and appearance. It is a fine flowing powder. It is highly compatible with many additives. It is highly stable in storage under normal light and weather conditions. It is least hygroscopic and does not absorb moisture. It is non-inflammable and is considered self-extinguishable. Its properties vary with the additives.
- iv. Both, the investigated product and the domestic like product are substitutable in use. These are mainly used as raw material in the manufacturing of PVC pipes. These are also used in the production of shoes, artificial leather, film, insulation cables, ducts, doors and window profiles, plastic chairs and tables, etc.

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- v. Both, the investigated product and the domestic like product are sold and marketed in 25 kilograms (“Kg”) bags in Pakistan.
- vi. Both, the investigated product and the domestic like product are classified under the same HS Code 3904.1000.

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

11. 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 3 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 accounts for 53.40 percent and 27.87 percent from Korea and Iran respectively of the total imports of PVC Resin during the POI. The total imports of the investigated product from the Exporters were eighty-one percent (81.27%) of the total imports of PVC Resin into Pakistan during the POI. Thus this percentage is above the negligible volume (less than three percent) of imports of the like product.

12. Submissions by the Exporters and the Producers

As stated in paragraphs 7.2 and 7.6 supra, the Commission did not receive any response from the Korean exporter/producer (LG International Corporation and LG Chem, Ltd.). The Iranian exporter/producer (IPCC) responded to the Commission’s questionnaire (paragraphs 7.10 to 7.12 supra) and submitted its views/comments. Extracts germane to this investigation from the submissions of IPCC are reproduced below⁴:

“DUMPING MARGIN:

“Dumping margin of 10.24% claimed by applicant is incorrect and based on false exchange rate of IR 7,960 = US \$1, where is actual exchange rate of Iranian Rial has been around 8,365 per US \$ during POI.

“For the purpose of determining normal value of our PVC Resin in domestic market of Iran, the price of 4,697,000 Iranian Rials per ton is correct but actual exchange rate during POI was 8,365 IR per US dollar,

⁴ The text in parenthesis is cited from the IPCC submission dated July 27, 2004 (received in the Commission on August 9, 2004) and no corrections have been made in respect of spelling errors etc.

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therefore gross price per ton should be around US \$ 561. Inland freight is 2,500,000 Iranian Rials per 20 tons i.e. 125,000 IR per ton which is around US \$ 15 per ton. On this basis adjusted normal value comes to around US \$ 546 per dollar.

“For establishing dumping margin if we accept their adjusted C&F export price that later we should deduct export price from the normal value. So, the dumping margin in the case will be as per Section 12 (1) of Anti-dumping Ordinance 2000.

US \$ 546 - US \$537 = US \$ 9 Per ton

“As percentage of C&F value accepted for purposes of customs valuation in Pakistan, actual dumping margin could be approximately 1.7% which is below the demines of 2%.

“INJURY TO DOMESTIC INDUSTRY

“Our comments on the Injury Factor raised by the applicant industry are as under:

“a. VOLUME OF DUMPER IMPORTS

As admitted by the applicant that the imports from IPCC-Iran were 135 mt & 108 mt respectively in 3rd & 4th qtr 2003 against the import of 891 mt in 2nd qtr of 2003, so there was no increase in the dumped imports rather there was a constant decrease and since 1st qtr 2004 till today there is nil export from IPCC- Iran.

“b. PRICE EFFECTS

“i. PRICE UNDERCUTTING

The applicant has not discussed the landed cost of imports from IPCC-Iran which proves that the price undercutting was done by imports from other sources.

“ii. PRICE SUPPRESSION

The applicant has been selling its product at prices higher than its cost of production throughout the POI and has related its price fixation with the landed cost of imports, hence imports from IPCC have not caused any price suppression.

“iii. PRICE DEPRESSION

In Para 7.16 the applicant has only given comparative import prices of LG Korea which indicates that there was no price depression on account of imports from IPCC.

“3. NAGTIVE EFFECTS ON SALE

The applicant has alleged that there were imports of 4033 ton in 2002 which increased to 4362 ton in 2003, representing an increase of 15% has negatively effected its sales.

“Firstly the increase comes to around **8% and not 15%** . Secondly there were no imports during 2002 from IPCC –Iran hence negative effects if any was not on a/c of increased sales from IPCC during 2003 over last year.

“3. LOSS OF MARKET SHARE

The applicant industries sales during 2003 were higher than its sales during 2002, hence it did not suffer any injury on this account. In addition the imports from Iran during this period were around 1300 tons against total imports of more than 4000 tons, hence most of the imports were sources other than IPCC.

“5. DECLINE IN GROSS PROFIT AND OPERATING PROFITS

Apparently there is slight decrease in overall profitability of the applicant during 2003 as compared to 2002. It is pertinent to mention during this period the applicant has increased its exports tremendously and decrease in profit is because of increased exports at lesser prices than its domestic sale price.

It is learnt that the applicant has increased its domestic prices tremendously from Rs. 56,000/- per ton in 2002 to Rs. 72,000/- per ton in first quarter of 2004, which is part of POI and now the official prices around Rs. 78,100/- and open market is around Rs. 85,000/- per ton. It is also learnt they are overbooked with order for next few months with payment in advance, hence **Monopolizing** the situation.

“ERRATIC INVENTORY MOVEMENT

The applicant has discussed the quarterly changes in the inventory level which for every industry changes from quarter to quarter. If the figures given by the applicant are taken and according to them

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inventory was 5543 MT as on 31-12-2002 and it decreased to 3432 MT as on 31-12-2003. So this erratic movement in inventory if seen on yearly basis was in favour of the applicant.

“RETURN ON INVESTMENT

During 2001 the return on investment as calculated by the applicant was negative 10.33%. In year 2002 the positive return on investment was 10.39% which a tremendous favorable increase. During next i.e. 2003 the return on investment was 9.75% which was marginally less than previous year and its main cause was higher export at lower price which should not be attributed to alleged dumping.

“NEGATIVE EFFECT ON ABILITY TO RAISE CAPITAL

In this part the applicant first discussed his plans which are not in black and white and these cannot be attributed to alleged dumping because the applicant is doing well and its capacity utilization is nearing 100%.

“NEGATIVE EFFECT ON INVESTMENT

The applicant plant is having capacity of 100,000 MT against domestic market of around 75,000 MT/year till 2003. Hence there can be no negative effect on investment plan of the applicant with alleged dumped imports of about 4000 tons from all sources, **which also has now seized”**.

13. Submissions by the Importers/Industrial Users

None of the importers responded to the questionnaire (paragraph 7.2 supra). However, the Commission received comments/views from three parties namely: (i) Artificial Leather & PVC Sheet Mfg. Association, (ii) Noorani Agency, and (iii) Darvesh & Sons. Noorani Agency, and Darvesh & Sons submitted same comments/views. Views/comments received from the above mentioned three parties are set out below:

i. Artificial Leather & PVC Sheet Mfg. Association

“We would like to point out that our Industry is facing lot of problems due to over protection given to M/s. **Engro Asahi Polymer and Chemicals Ltd, Karachi.**

“Our industry is suffering due to high custom duty on our raw material, i.e. PVC Resin (Suspension Grade) which is 25% being the major Raw Material whereas custom duty on the finished product is also 25%.

“Due to over protection we are not in a position to compete with imported PVC Film & Artificial Leather.

“There was 5 years agreement of Engro Asahi with the Government of Pakistan to give protection of 20% in custom duty i.e. on their Raw Material (VCM) duty is 5%, whereas the custom duty on imported PVC Resin (Suspension Grade) is 25%.

“In the recent budget the Government of Pakistan had announced to reduce the custom duty on PVC Resin (Suspension Grade) with effect from 1st January, 2005 (After expiry of the agreement).

“The protection of 20% given to Engro Asahi was quite substantial at the cost of local consumers of PVC Resin (Suspension Grade).

“We are very much surprised to know that after expiry of the agreement between Engro Asahi and the Government of Pakistan, still they will get 15% protection, which is again against the spirit of cascading formula which is as under:-

- Finished product custom duty 25%.
- Intermediate product PVC Resin (Suspension Grade) produced locally custom duty 15%.
- 5% custom duty on Raw Material (VCM) of Intermediate product not produced locally.

“Engro Asahi have already enjoyed over protection for 5 years, but now protection should not be given more than 10%.

“The custom duty on another Polymers i.e. Polyethylene & Polypropylene etc is reduced in the recent budget to 10%.

“PVC Resin (Suspension Grade) is being used in PVC Drainage Pipes, Garden Pipes, Gas Pipes, PVC Film, PVC Flooring, Artificial Leather, Insulation Tape, Shoes, Ducts, Doors, Windows,

Profiles, Plastic Chairs, Tables & Packing Material etc. PVC products are mainly used by Common Man as well as for exports.

“Imported PVC Resin (Suspension Grade) always being sold at the International prices and the custom duty charged by customs on the Scan Price (The valuation of plastic polymers is based on Scan which is publication for plastic polymers prices), so there is no possibility of dumping PVC Resin (Suspension Grade) from South Korea and Iran. According to our information there is not major import of PVC Resin (Suspension Grade) from South Korea & Iran during the last year.

“By imposing ANTI Dumping duty on PVC Resin (Suspension Grade) from South Korea and Iran. Engro Asahi wants to increase their price to that extent as of Anti Dumping duty if imposed.

1. So there is no justification for imposing Anti Dumping duty on the PVC Resin (Suspension Grade) imported from South Korea and Iran.
2. Kindly reduce the duty of PVC Resin (Suspension Grade) from 20% to 15% if not 10% with effect from 1st January 2005”.

ii. Noorani Agency/ Darvesh & Sons

“The initiation of antidumping investigation against PVC Resin (suspension grade) into Pakistan originating from Korea is simply out of place & a meaningless propoganda by local producer of PVC resin M/s. Engro Asahi Chemicals & Polymers (pvt.) Ltd, for reasons as follows:

- “1) Two year back we had made a contract with LG Korea for PVC Resin Suspension Grade at USD 500/MT CFR Karachi L/C at sight . The Platts Polymer Scan price at that time for SE Asia was CFR USD 480/MT - USD 500/MT. Copy of Polymerscan is enclosed.

“Through out the world plastic raw materials including PVC resin is priced according to Weekly Platts Polymer Scan. Polymer scan shows region wise prevailing prices of

plastic resin irrespective of plastic resin producer/exporter. Major contracts are made on the basis of Polymerscan. International market as well as Pakistan market follows the price trends as indicated by Polymerscan. Pakistan follows the price trend for SE Asia region & keeping in view the price indicated by Polymerscan all producers offers the same price to Pakistan. On top of everything, Govt. Of Pakistan duly accepts this business manner. Even assessment of valuation by custom authorities is based on Platts Polymerscan.

“Refusal to accept the Polymerscan price and its price trends raises serious questions about the intentions of local producer. Off course the intentions seems malign.

- “2) Moreover, the quantity of PVC Suspension Grade imported two years back from Korea was very nominal that it even does not qualifies the criteria of minimum quantity considered to be dumped, according to Anti-Dumping Rules & regulations.
- “3) Local producer’s plea that import of PVC Suspension resin from Korea has caused & is causing material losses to domestic industry is baseless. Local producer already enjoys the concession of 25% as import duty on import of PVC resin is 25% . Whereas the raw material of PVC, namely VCM, is imported by the local producer on zero import duty!! Now local producer has selfishly applied to initiate antidumping investigation against PVC resin imported from Korea.
- “4 The plea of local industry that it has incurred losses due to import of PVC is baseless. The actual fear / concern that has haunted the local industry is that from 1st January 2005, the import duty on import of PVC resin will be reduced to 20% from 25%. The local producer in an attempt to curb this concession form local importers has misinformed NTC and has applied to initiate an unjustified investigation”.

14. Preliminary Determination and Levy of Provisional Antidumping Duty

14.1 The Commission made its preliminary determination in this case on October 22, 2004 and in terms of Section 37 of the Ordinance, the Commission issued a notice of preliminary determination, which was published in the official Gazette of Pakistan⁵ and in two widely circulated national newspapers⁶ (one in English language and one in Urdu Language) on October 26, 2004 notifying the imposition of provisional antidumping duty on the investigated product @ 40.18 percent ad val and 31.06 percent ad val of C&F price importable from LG International Corporation, Korea and Iran Petrochemical Commercial Company, Iran, respectively for a period of four months effective from October 26, 2004. The Commission besides sending the notice of preliminary determination to the Embassies of Korea and Iran in Islamabad also sent the notice of preliminary determination to the Producers and the Exporters, the known Pakistani importers, and the Applicant in accordance with the requirements of Section 37(4) of the Ordinance.

14.2 The findings of the Commission in the preliminary determination were as follows:

- i. the Applicant represents the domestic industry being the sole producer of domestic 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 Exporters, at prices below its normal value;
- iv. the volume of dumped imports of the investigated product and the dumping margins established on the basis of the investigation, are above the *de minimis* levels;
- v. the domestic industry suffered injury in the year 2003 on account of volume of dumped imports, price undercutting, loss in market share, and increase in inventories in terms of Section 15 and 17 of the Ordinance; and
- vi. the dumping margin expressed as a percentage of weighted average C&F export price works out 40.18 percent for Korean exporter and 31.06 percent for Iranian exporter.

⁵ The official Gazette of Pakistan (Extraordinary) of October 25, 2004 issue.

⁶ 'Daily Times' and 'Express' of October 26, 2004 issues.

15. Hearing

15.1 In terms of Rule 14 of the Rules, the Commission shall, upon request by an interested party made not later than thirty days after publication of notice of preliminary determination, hold a hearing at which all interested parties may present information and arguments.

15.2 Hearing in this investigation was held on December 21, 2004 upon the request of the IPCC. However, IPCC requested that the hearing be postponed by two weeks. After due consideration the Commission found that it could not accede to IPCC's request in this instance, as the proposed request would jeopardize the overall schedule of investigation. IPCC did not attend the hearing. Only two parties, the Applicant and Interplast (Private) Limited (importer of the investigated product and agent of IPCC in Pakistan) attended the hearing. Submissions of both the parties during the hearing have been considered and are discussed in paragraph 17 infra.

16. Disclosure after Preliminary Determination

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

16.2 IPCC requested the Commission for disclosure meeting. Disclosure meeting with their Legal Advisor was held on January 3, 2005 at the offices of the Commission. The Commission's investigating staff explained the methodology used in calculation of dumping for IPCC. The representative of IPCC obtained copies of the calculations of dumping. The Legal Advisor of IPCC stated that IPCC may respond to the calculations by submitting its views/comments later. However, no views/comments in this respect were received by the Commission.

17 Written Submissions by the Interested Parties on the Preliminary Determination

17.1 The Commission did not receive written submissions/comments from any interested party after the preliminary determination made by the Commission in this investigation. However, Interplast (Private) Limited and the Applicant submitted views/comments during the hearing on preliminary determination of the Commission. Such Comments received and germane to the investigation under the Ordinance are reproduced in Column A below and the Commission's analysis and findings in respect of these comments are set out in Column B as follows:

Column A

Column B

A. Comments of Interplast (Private) Ltd. Findings/Analysis of the Commission

Comment 1

Cumulation of Dumped Imports:

“The Commission has cumulatively assessed the effects of dumped imports from Korea and Iran on the domestic industry. The determination made by the Commission seems unreasonable due to following reasons:

“1. Sub-section (b) of section (16) [of the Ordinance] clearly indicates the presence of both the conditions at the same time i.e

- (i) the conditions of competition between the imports; and
- (ii) the conditions of competition between the imports and a domestic like product.

“2. The commission has only considered one condition (condition of competition between imports of the investigated product and the domestic like product) as par para 20.4 of the “Report on Preliminary Determination and Levy of Provisional Antidumping Duty on Import of PVC Resin” while remained silent about the condition (i) as mentioned above.

“3. Non-consideration of condition (i) above, clearly indicates that the cumulative assessment made by the Commission of the effects of alleged dumped imports is illogical, as it does not meet both the obligatory conditions laid down in sub-section (b) of Section (16) of the Ordinance. Therefore provisional duty levied on account of this cumulative assessment needs to be withdrawn with retrospective effect.

“4. In addition to above, even the conditions of competition between the imports and a domestic like product is not justified, as far as the imports from Iran are concerned. Reason being, there were no imports from Iran in the year 2002 and all imports in the said year were from Korea. Therefore, any increase in imports in the year 2003 over the year 2002 cannot be attributed to Iran, as the year 2003 was the only year of imports from Iran. Hence in the

The Commission has cumulatively assessed the effects of dumped imports from Korea and Iran on the domestic industry after taking into account the conditions of competition between imports, and as between imports and domestic like product.

The Commission has considered both the conditions laid down in Section 16(b) of the Ordinance [(i) competition between imports of the investigated product from both the sources Korea and Iran and (ii) competition between imports of the investigated product and domestic like product]. Paragraphs 20.3 and 20.4 of the report on Preliminary Determination and paragraphs 26.3 and 26.4 infra of this report sets out the Commission’s consideration of these conditions.

The requirements of Section 16 of the Ordinance have, therefore, been duly satisfied.

There were considerable imports of the investigated product from Iran during the POI which was above the negligible volume (paragraph 11 supra).

year 2003 there was no comparative increase in imports from Iran over the year 2002.

“5. Moreover, domestic industry competition can only be linked with the Korean imports. Reason being, imports from Korea are at lower price and in high volumes”.

Comment 2

Volume of dumped imports:

“The Commission has concluded that the dumped imports increased in relative terms as compared with the production of domestic like product in the year 2003 and the applicant suffered material injury on this account. The determination made by the Commission seems unreasonable due to following reasons:

“1. Alleged dumped imports were negligible in the year 2002, which is taken as base year for comparison with the domestic production. Therefore it looks to be a big jump in the year 2003 as compared to 2002. Whereas, on the other hand in absolute terms the increase in production of domestic like product was more than the increase in imports of the investigated product. Moreover, in the year 2002 there were no imports from Iran Petrochemical Commercial Company (IPCC).

“2. The Commission did not consider the fact evident from their own document “Report on Preliminary Determination and Levy of Provisional Antidumping Duty on Import of PVC Resin” that the applicant has high inventory levels in the year 2002. This high level of inventory was due to their mismanagement as there were negligible imports (337 MT) only from Korea, of the investigated product in the year 2002. This inventory level has decreased significantly in the year 2003, when there were some imports from both Korea and Iran. So it is quite evident that lesser production of the applicant in the year 2003 was intentional in order to reduce large inventory levels of year 2002. Therefore higher inventory should not be attributed to the so-called increased volume of alleged dumped imports.

The Commission found that the imports from both the sources i.e. Iran and Korea compete as indeed is implicit in Interplast’s own statement cited below in comment 2(2)

In terms of Section 15(2) of the Ordinance the Commission has to consider whether increase in dumped imports is in relative or in absolute terms in comparison with the production or consumption of domestic like product. By comparing increase in domestic production in relative terms the Commission has fulfilled the requirements of the Ordinance.

Furthermore, volume of dumped imports was not negligible in terms of Section 14(3) of the Ordinance during the POI (Paragraph 11 supra and Paragraph 10 of Preliminary Determination)

The Applicant had comparatively higher inventory level in the year 2002 compared with 2003. But in the year 2003 Applicant produced more than the production in the year 2002, whereas sales of the Applicant in its domestic market during the year 2003 increased at a rate lower than that for the increase in production. In this situation inventory level of domestic industry could plausibly have increased in the year 2003. However, inventory of the domestic industry in fact decreased due to increase in exports (paragraph 31 infra).

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“3. Further the so-called increased volume of alleged dumped imports could not result in material injury to the domestic industry as the total market share of the domestic industry had been reduced by only 4% from 2002 to 2003. This clearly indicates that even so-called high volume of imports couldn't take the significant market share so how can there be injury on this account. In absolute terms the applicant's domestic as well as export sales have increased in the year 2003. The applicant could have taken more market share had they charge reasonable prices for their domestic sales in the year 2003. The applicant actually increased its domestic sales price around 12% and reduced its export sales price in the year 2003. In such circumstances, how can the domestic industry be considered as being materially injured by alleged dumped imports.

The domestic industry faced material injury due to dumped imports as its market share decreased by about 4 percent in the year 2003 (paragraph 29 infra).

“4. Considering the above facts, it is highly unjustified to conclude that the applicant has suffered material injury on account of dumped imports from Iran”.

This has been answered in the foregoing comments and observations.

Comment 3

Price Effects:

“The Commission has concluded that the investigated product undercut the prices of domestic like product in the year 2003, and the applicant suffered material injury on this account. The determination made by the Commission seems unreasonable due to following reasons:

The Commission concluded that the domestic industry suffered material injury by way of price undercutting due to dumped imports during the POI. The Commission considers price undercutting of 7.86 percent and 14.91 percent in the years 2002 and 2003 respectively as significant.

“1. Commission did not consider **significance** of the said matter as mentioned in clause (a) of section 15 (3) of the Ordinance. Price undercutting as per “Report on Preliminary Determination and Levy of Provisional Antidumping Duty on Import of PVC Resin” is 7.86% and 14.91% in years 2002 and 2003 respectively, which cannot be considered as significant.

“2. Even increase in so-called price undercutting from 7.86% in year 2002 to 14.91% in year 2003 is due to large increase in weighted Average ex-factory price of domestic like product i.e around 12% from the year 2002 to 2003. Price kept on increasing during the Period of Investigation. On

The Commission's investigation revealed that the domestic industry was forced to increase price of the domestic like product in the year 2003 as the cost of production had increased by 14.83 percent in the

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the other hand there is also an increase of 2% in Weighted Average Landed cost of investigated product from the year 2002 to 2003. This shows that instead of reducing the prices the exporter has actually increased its prices. Therefore, so-called price undercutting was due to increase in prices of domestic like product by the applicant. Had there been no increase in prices of domestic like product, there wouldn't have been any price undercutting. Hence investigated product is not responsible for this so-called price undercutting.

"3. Further, how can this be called price undercutting, because price undercutting leads to (results in) price depression and/or price suppression. In this case neither there is price depression nor price suppression, therefore the effect of so-called price undercutting is not at all evident.

"5. Considering the above facts, it is highly unjustified to conclude that the applicant has suffered material injury on this account".

Comment 4

Market Share and Sales:

"The Commission has concluded that the domestic industry suffered material injury in terms of market share from dumped imports in the year 2003. The determination made by the Commission seems unreasonable due to following reasons:

"1. Market share of the applicant has reduced by only 4% in the year 2003 when compared with the year 2002. This is not at all a major reduction, which can result in **material injury** as expressed in the conclusion made by the Commission. Moreover, if we compare the market share of the applicant in the year 2002 with the period of investigation (15 months), it shows a reduction of only 3% as during the period of investigation 94% of the market share was held by the applicant.

"2. Reduction in market share, which is negligible, is due to inefficient policies of the management of the applicant. Reason being, the applicant has increased its Weighted Average ex-factory price of

year 2003. The price increase during the year 2003 was 11.41 percent as compared to the 14.83 percent increase in the cost of production (paragraph 28.9 and 28.10 infra).

The proposition stated here has not been demonstrated.

Comments given above may be noted in this context.

The Commission concluded that the domestic industry suffered material injury in terms of loss in market share due to dumped imports during the POI.

In the year 2003, the domestic industry lost about 4 percent market share (paragraph 29 infra) and the Commission considers it a considerable loss in market share.

This allegation has not been substantiated by any evidence of inefficiency.

domestic like product by around 12% in the year 2003 as compared to the year 2002. So this reduction of market share should not be attributed to the alleged dumped imports from Iran.

“3. Further, from January 2004, there were no imports of the investigated product in Pakistan and the applicant took the entire domestic market. This clearly indicates that the Commission did not consider the **potential effect** of the alleged dumped imports. Whereas, in clause (a) of Section (17) of the Ordinance it is clearly mentioned that “ **actual and potential decline in sales, profits, output, market share**

” has to be evaluated by the Commission while examining the impact of dumped imports on domestic industry concerned.

“4. Considering the above facts, it is highly unjustified to conclude that the applicant has suffered material injury on this account”.

Comment 5

Effects on Inventories:

“The Commission has concluded that the domestic industry suffered material injury on account of increase in inventories over the year 2002 and in the first quarter of the year 2004. The determination made by the Commission seems unreasonable due to following reasons:

“1. As mentioned above the Commission expressed that “The Commission has concluded that the domestic industry suffered material injury on account of increase in inventories **over the year 2002** and in the first quarter of the year 2004.

“2. We are surprised by this conclusion, as there is no increase in inventory over the year 2002 (in 2003) except in the first quarter of the year 2004. It is very clear from their own document “Report on Preliminary Determination and Levy of Provisional Antidumping Duty on Import of PVC Resin” that in the year 2003 the inventory level of the applicant reduced significantly.

“3. Inventory level of domestic industry was high in year 2002, but this cannot be attributed to the alleged dumped imports as the alleged dumped

The relevant periods for purposes of “dumping” and “injury” are the respective periods of investigation taken as a whole, not “from January 2004”, etc.

Allegations made by Interplast (pvt) Ltd., are not substantiated with relevant evidence.

In context of comment 5 following may be noted:

The Applicant had higher inventory level in the year 2002 compared to 2003. But in the year 2003 the Applicant produced more than its production in the year 2002, whereas sales of the Applicant in its domestic market during the year 2003 increased less than the increase in production. In this situation inventory level of domestic industry should plausibly have increased in the year 2003. However, inventory of the domestic industry decreased due to increase in exports (paragraph 31 infra). Thus the Commission has concluded that the domestic industry suffered material injury on account of increase in inventory of domestic like product.

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imports were negligible in the said year and were from Korea only. So, any injury due to this increased volume of inventory in the year 2002 was due to management inefficiencies of the applicant and not the alleged dumped imports. In the year 2003 the inventory levels were significantly reduced as compared with the year 2002.

“4. Increase in inventory in the quarter January-March 2004 again cannot be attributed to alleged dumped imports, as there were no imports of the investigated product in the said quarter from both the alleged sources. Again, this increased inventory of the applicant is due to mismanagement and inefficiency of the applicant.

“5. Considering the above facts, it is highly unjustified to conclude that the applicant has suffered material injury on this account”.

Comment 6

Effects on Profits/Loss:

“The Commission has concluded that the domestic industry was injured in the year 2003 on account of profitability. The determination made by the Commission seems unreasonable due to following reasons:

“1. As mentioned in the “Report on Preliminary Determination and Levy of Provisional Antidumping Duty on Import of PVC Resin” the applicant from the year 2002 onwards earned profits on its operations. Profitability of the domestic industry decreased in the year 2003, but it **increased sharply in the first quarter of the year 2004**. There was a very sharp increase in the profits of the applicant in the year 2002 when compared with the year 2001. In the year 2003 there was a marginal decline in the profits when compared with 2002 and again in the first quarter from Jan-Mar, 2004 there was huge increase in profits. This indicates that profitability position of the applicant is very healthy and this couldn't lead to material injury.

“2. Monthly average profit during the period of investigation (15 months) comes to Rs. 11.3

The Commission concluded that the domestic industry suffered material injury on account of decrease in profit in the year 2003.

Profit of the domestic industry decreased by about 15 percent in the year 2003 over the profit earned in the year 2002 (paragraph 32 infra).

Where profit obtained or increased, it would have been

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(presumably million), whereas monthly average profit for the year 2002 comes to Rs. 8.34 (presumably million). This clearly indicates that the applicant earned more profits during the POI.

higher in absence of dumping.

“3. Further, in the quarter Jan-Mar, 2004 there is very substantial increase in the profits of the applicant. This clearly indicates that the Commission did not consider the **potential effect** of the alleged dumped imports. Whereas, in clause (a) of Section (17) it is clearly mentioned that “ **actual and potential decline in sales, profits, output, market share**” has to be evaluated by the Commission while examining the impact of dumped imports on domestic industry concerned.

“4. Finally, the applicant could have earned more profits had they charge reasonable prices for their exports. Actually the applicant had made exports of the investigated product at relatively lower prices than the price it charged from the domestic customers. Hence, the applicant itself is involved in dumping of the investigated product in the international market.

According to the Applicant exports are made on the basis of variable costs and net of taxes/duties etc. Further Applicant also gets rebate on import taxes paid for exports. Thus charging a lower price for exports compared with domestic price is a normal phenomenon.

“Considering the above facts, it is highly unjustified to conclude that the applicant has suffered material injury on this account”.

Comment 7

Financial Position of the Applicant:

“The Commission did not consider the financial position of the applicant during the year 2003. The Annual Report for the year 2003 of the applicant clearly indicates improved financial position in the said year.

“Current Ratio has improved in the year 2003 as compared to the year 2002. Debt to Equity Ratio has improved in the year 2003 as compared to the year 2002. Similarly, there is further addition in the Shareholder’s Equity in the year 2003 as compared to 2002. This trend clearly indicates that the applicant’s financial position has considerably improved during the year 2003”.

The Commission has considered all relevant injury factors given in the Ordinance (paragraphs 25 to 38 infra). Nonetheless, the three factors mentioned here by the Interplast (pvt) Ltd., do not nullify the substantive findings of the Commission regarding injury. It is not necessary to show injury on every count.

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Comment 9

Conclusion:

“After explaining the above facts, we feel that the Commission did not establish injury properly, and therefore there couldn’t be any causal link between dumping and injury. Reason being, the applicant faces no injury at all on account of alleged dumped imports specially from Iran. According to Section (18) of the Ordinance causal link has to be established before levying any antidumping duty.

The Commission has duly examined all relevant factors as per Part VI of the Ordinance for determination of material injury to the domestic industry (paragraphs 24 to 33 of preliminary determination).

“Section (43) of the Ordinance states that *“The Commission may impose provisional measures if it makes an affirmative preliminary determination of dumping and injury, and determines that provisional measures are necessary to prevent injury being caused during the course of the investigation”*.

“The investigation period for the purpose of preliminary determination ranges between June 25, 2004 till October 26, 2004 as the case was initiated on June 25, 2004 and provisional determination was made on October 26, 2004. During this period there were no imports of the investigated product, rather it has been admitted by the Commission in its “Report on Preliminary Determination and Levy of Provisional Antidumping Duty on Import of PVC Resin” that there were no imports of the investigated product from January 2004 onwards from both the sources. Under such circumstances we fail to understand why the Commission has levied provisional antidumping duty by clearly violating Section (43) of the Ordinance”.

Provisional duty was levied with regard to the period of investigation. If the POI did not seem relevant to Interplast (Pvt) Ltd., it should have sought a different POI with reasons for seeking such a change.

B. Comments of the Applicant

Comment 1

“the rejoinder submitted by IPCC to our Application had sought to argue (i) that the small volume of product exported by IPCC (of 1,294 tons, which was around 1% of the annual production capacity of the Applicant’s plant), could not have caused material injury to the domestic industry; and (ii) that most of the imports were from sources other than IPCC and, therefore, imports from IPCC did not cause material injury to the domestic industry.

The Commission has made preliminary and final determinations in terms of the provisions of the Ordinance.

We rebutted these arguments on the basis that:

“(a) The Anti-Dumping Ordinance prescribes the “*de-minimis*” threshold for volume of imports which is based on the ratio which imports of the investigated product bear to total imports of the like product, not to total production of the domestic like product.

The Ordinance follows the Agreement on Antidumping in this respect. Pakistan as a WTO member is obliged to give effect to the Agreement on Antidumping in its domestic law, and not to follow arbitrary suggestions.

“(b) The Commission had correctly determined that the volume of imports of an investigated product accounted for more than three percent of total imports of the like product (as stipulated in Section 41(3) of the Ordinance). No further condition of “materiality” could be imposed.

“The Commission had cumulatively assessed the effects of dumped imports on the domestic industry, which was fully justified under Section 16 of the Anti-dumping Ordinance read with Article 3.3 of the Anti-dumping Agreement.

Comment 2

“submissions made by Interplast (Pvt) Ltd. on behalf of IPCC in their letter dated August 31, 2004 related to normal value and computation of dumping margin were self-contradictory We trust, therefore, that to the extent relevant to the determination made by the Commission, the correct position will have been noted”.

The Commission’s determination is based on the provisions of the Ordinance.

18. Disclosure of Essential Facts

18.1 In terms of Rule 14(8) of the Rules and Article 6.9 of Agreement on Antidumping, the Commission disclosed the essential facts, and in this context dispatched Statement of Essential Facts (hereinafter referred to as the “SEF”) on January 14, 2005 to all interested parties including the Applicant, the Producers, the Exporters, the importers, and to the Embassies of Korea and Iran in Pakistan.

18.2 Under Rule 14(9) of the Rules, the interested parties were required to submit their comments (if any) on the facts disclosed in SEF, in writing, not later than fifteen days of such disclosure. None of the interested parties submitted comments on the SEF.

19. Examination of the Materials Available with the Commission

Submissions filed before the Commission by the Applicant, information/data received from IPCC, from the importers/industrial users, data/information obtained from the websites of Korean exporter/producer (LG International Corporation and LG Chem, Ltd.), data/information obtained during on-the-spot investigations, and data/information obtained from PRAL have been examined, analyzed and, wherever appropriate, have been considered in making this final determination.

B. DUMPING

20. Determination of Dumping

In terms of the 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".

21. Normal Value

21.1 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".

However, Section 6 of the Ordinance states:

"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".

21.2 As stated in paragraph 7.1 supra the Commission sent questionnaires to the Producers and to the Exporters to gather information/data including data relating to their sales in the domestic market. Korean exporter/producer did not respond to the questionnaires at all (see paragraphs 7.2 and 7.6 supra). Thus, the normal value for the purposes of this final determination for Korean exporter is determined on the basis of the best information available in terms of Section 32 of the Ordinance and Article 6.8 and Annex II of the Agreement on Antidumping. Section 32 of the Ordinance provides as follows:

“If, at any time during an investigation, any interested party

- (a) refuses access to, or otherwise does not provide, necessary information within the period of time as may be prescribed; or
- (b) otherwise significantly impedes the investigation, the Commission may reach preliminary and final determinations, whether affirmative or negative, on the basis of the best information available”.

21.3 It is important to identify here that the Commission had duly informed the Korean exporter/producer of its constrained reliance on the best information available in its letters of August 13, 2004 and August 24, 2004 (Paragraphs 7.2 and 7.6 supra).

21.4 Iranian exporter (IPCC) responded to the Commission’s questionnaire. Normal value for the purposes of this final determination for IPCC is determined on the basis of information/data provided by the Iranian producer (BIPC) and exporter (IPCC).

21.5 Determination of Normal Value for Korean Exporter:

21.5.1 In order to determine normal value for Korean exporter, information/data submitted by the Applicant in its application is used. The Commission considered that information and found that it is the best information available with the Commission in this regard.

21.5.2 For the purposes of determination of normal value for Korean exporter, the Applicant submitted prices of PVC Resin in Korea based on a Chemical Journal “Vinyl Chloride” published on monthly basis from London by Harriman Chemsult Limited, which publishes prices of PVC Resin prevailing in different countries including Korea. This journal publishes a range of prices of petrochemical products including PVC Resin in a large number of countries. The Commission accepted this information and the

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normal value for Korean exporter is determined on the basis of the prices of PVC Resin published in "Vinyl Chloride" prevailed in Korea during the POI.

21.5.3 For the purposes of determination of normal value, minimum monthly price published in "Vinyl Chloride" for Korean market was taken to work out the average price of PVC Resin during the POI.

21.5.4 To arrive at ex-factory price level, adjustments have been made on account of inland freight @ US\$ ** per Metric Tone ("MT")⁷ and value added tax @ 10%⁸. As PVC Resin is an industrial raw material and is mostly sold directly to the end users, adjustment on account of wholesaler/retailer margin has not been taken into account.

21.6 Determination of Normal Value for Iranian Exporter:

21.6.1 The Iranian exporter (IPCC) responded to the Commission's questionnaire but did not provide information on its domestic sales and cost of production of PVC Resin during the POI. However, the Commission obtained this information during on-the-spot investigation conducted at the premises of IPCC and BIPC (paragraph 8 supra). Thus the normal value for IPCC is determined on the basis of the information provided by IPCC and BIPC.

21.6.2 All sales of PVC Resin made by the IPCC in its domestic market during the POI were at loss (below cost). The investigation showed that the sales at loss (below cost) were:

- i. within an extended period of time (throughout the POI);
- ii. in substantial quantities (all quantities sold during the POI); and
- iii. at prices which did not provide for the recovery of all costs within a reasonable period of time;

21.6.3 The Commission determined that during the POI, IPCC sales of PVC Resin in its domestic market were not in the ordinary course of trade in terms of Section 7 of the Ordinance and hence disregarded all these sales for the purposes of determination of normal value. Section 7 of the Ordinance provides as follows:

⁷ The Applicant provided this information by assuming that the inland freight in Korea would also be at the same level as prevailed in Pakistan during the POI.

⁸ The rate of 10% was obtained from Korea Asset Management Corporation's website: www.Kamco.or.kr

“(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.”

21.6.4 Therefore, the Commission has established normal value for IPCC on the basis of cost to make and sell (cost of production plus administrative, selling, general costs and profit) of PVC Resin in Iran in terms of Section 6 of the Ordinance (paragraph 21.1 supra). The cost to make and sell of PVC Resin in Iran was obtained during on-the-spot investigation conducted at the premises of BIPC.

22. Export Price

22.1 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”.

22.2 Determination of Export Price for Korean Exporter:

22.2.1 As stated in paragraphs 7.2 and 7.6 supra, the Korean exporter did not respond to the questionnaire. Therefore, the export price for the investigated product exported by the Korean exporter during the POI, for the purposes of this final determination, is based on the best information available to the Commission.

22.2.2 To determine export price charged by the Korean exporter from Pakistani importers during the POI, the Commission used the import data obtained from PRAL.

22.2.3 To arrive at ex-factory export price, the weighted average CIF export price is adjusted for maritime freight and inland freight. For maritime freight, the Applicant submitted quotation from a shipping company namely 'Inshiping (Pvt) Ltd., Karachi. The Commission accepted the quotation as evidence for maritime freight. For cost of insurance, the Applicant submitted quotations from an insurance company namely 'Adamjee Insurance Company Ltd. The Commission accepted this evidence of insurance expense. The Applicant provided information on inland freight for export of PVC Resin from Korea. The information of inland freight is the same as the Applicant incurred on account of its export sales during the POI. The Commission accepted this for inland freight for Korean exports of PVC Resin to Pakistan.

22.2.4 After making the above mentioned adjustments, the weighted average adjusted export price at ex-factory level, for Korean exporter, has been worked out.

22.3 Determination of Export Price for Iranian Exporter:

22.3.1 To determine export price charged by the Iranian exporter (IPCC) from Pakistani importers during the POI, the Commission has used the information provided by IPCC in its response to the questionnaire and further information obtained during on-the-spot investigation.

22.3.2 According to the information/data provided by IPCC, all sales of the investigated product to Pakistan during the POI were made to un-related parties. IPCC sold the investigated product to Pakistani importers on C&F, Karachi basis.

22.3.3 To arrive at the level of ex-factory export price, IPCC reported adjustments on account of: (i) commission paid to the agent, (ii) handling cost, (iii) bank charges, and (iv) maritime freight. After making these adjustments, the weighted average adjusted export price at ex-factory level, for IPCC, has been worked out.

23. Dumping Margin

23.1 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 export price at ex-factory level.

23.2 The Ordinance defines “dumping margin” in relation to a product as “the amount by which its normal value exceeds its export price”. In terms of Section 14 of the Ordinance the Commission shall determine an individual dumping margin for each known exporter or producer of an investigated product. In this case, none of the Korean exporter/producer responded. Therefore a single dumping margin is determined for Korean exporter/producer on the basis of constructed normal value and weighted average export price for the total exports from Korea during the POI. In the case of Iranian exporter/producer there was only one exporter (IPCC) during the POI, the dumping margin has been calculated for the said exporter.

23.3 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”.

23.4 Taking into account all requirements set out above, the dumping margin has been calculated 40.18 percent of C&F export price for Korean exporter and 31.06 percent of C&F export price for Iranian exporter.

C. INJURY TO THE DOMESTIC INDUSTRY

24. Determination of Injury

24.1 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 of the Ordinance further provides that:

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

24.2 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.

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

25. The Domestic Industry

25.1 In terms of Section 2(d) of the Ordinance, domestic industry is defined as: “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.”

25.2 The Applicant, being the only producer of PVC Resin in Pakistan, represents 100 percent of the domestic production of domestic like product and hence the entire domestic industry. It started commercial production on December 1, 1999.

26. Cumulation of Dumped Imports

26.1 Section 16 of the Ordinance states that:

“where imports of a like product from more than one country are the subject of simultaneous investigation under this Ordinance, the Commission may cumulatively assess the effects of such imports on the domestic industry only if it determines that

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- “(a) dumping margin in relation to an investigated product from each country is more than the negligible amount as specified...., and volume of dumped imports from each investigated country is not less than the negligible quantity as specified.....; and
- “(b) a cumulative assessment of the effects of the imports is appropriate in the light of
- (i) the conditions of competition between the imports; and
 - (ii) the conditions of competition between the imports and a domestic like product”.

26.2 As mentioned in paragraph 11 supra, the volume of imports of the investigated product from Korea and Iran during the POI were not less than the negligible quantity (i.e. less than 3 percent of total imports of PVC Resin). Further, dumping margins for Korean as well as Iranian exporters are also more than the negligible amount (i.e. less than 2 percent of export price) (paragraph 23.4 supra).

26.3 It is evident from the weighted average export price charged by the Korean exporter and the weighted average export price charged by the Iranian exporter during POI that there was a price competition between the imports of the investigated product from both the dumped sources. However, as is explained in paragraph 28.3 infra, price undertaking was experienced by the domestic industry in context of imports from both these sources.

26.4 The conditions of competition between imports of the investigated product and the domestic like product are discussed in detail in paragraphs 27 to 29 infra.

26.5 For the reasons given above, the Commission has cumulatively assessed the effects of dumped imports on the domestic industry as stated in following paragraphs.

27. Volume of Dumped Imports

Facts

27.1 In order to ascertain the volume of dumped imports of the investigated product, the Commission obtained import data from PRAL.

27.2 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

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dumped imports, either in absolute terms or relative to the consumption or production of the domestic like product by the domestic industry. The following table shows imports of the investigated product and production of the domestic like product by the domestic industry during the POI:

(MT)

Period	Dumped Imports*	Domestic Production*
2001	0	82
2002	100	100
2003	1161	108
Jan-Mar 2004	0	28

* Actual figures are indexed by taking 2002 as base year

Analysis

27.3 It is evident from the above table that there were no imports of the investigated product in the year 2001. In the year 2003, the volume of dumped imports increased by over ten fold over the imports of the year 2002. However, there were no imports during the first quarter of the year 2004 (January-March 2004).

27.4 The production of domestic like product increased by 22 percent in the year 2002 over the year 2001 and 8.00 percent in the year 2003 as compared with the production in the year 2002. The increase in production of domestic like product during the first quarter of the year 2004 (on annualized basis) was 3.65 percent.

Conclusion

27.5 On the basis of the above analysis, the Commission has concluded that the dumped imports increased in relative terms as compared with the production of domestic like product in the year 2003 and the Applicant suffered material injury on this account.

28. Price Effects

28.1 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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Price Undercutting

Facts

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

(Rs./MT)

Period	Weighted Average ex-factory price of domestic like product*	Weighted Average landed cost of investigated product	Price under-cutting
2001	100	-	-
2002	102	95	7.86%
2003	114	97	14.91%
Jan-Mar 2004	149	-	-

* Actual figures are indexed by taking 2001 as base year

Analysis

28.3 It appears that the investigated product undercut the average ex-factory price of the domestic like product in the years 2002 and 2003. In the year 2003 the price undercutting peaked at 14.91 percent. However, there was no price undercutting in first quarter of the year 2004, as there was no import of the investigated product into Pakistan during this period.

Conclusion

28.4 On the basis of the above, the Commission has concluded that the investigated product undercut the prices of domestic like product in the year 2003, and the Applicant suffered material injury on this account.

Price Depression

Facts

28.5 The weighted 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	Weighted Average ex-factory price of domestic like product*	Price depression
2001	100	-
2002	102	-
2003	114	-
Jan-Mar 2004	149	-

* Actual figures are indexed by taking 2001 as base year

Analysis

28.6 Analysis of the above facts shows that weighted average ex-factory price of domestic like product increased in every successive year during the POI.

Conclusion

28.7 The Commission has concluded on the basis of the above analysis that the domestic industry did not suffer material injury on this account, as it did not experience price depression during the POI.

Price Suppression

Facts

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

(Rs./MT)

Period	Weighted Average COP of domestic like product*	Weighted Average ex-factory price of domestic like product*	Price Suppression		
			Increase/ (decrease) in COP*	Increase in price*	Price suppression
2001	100	100*	-	-	-
2002	96	102	(4)	2	-
2003	110	114	14	12	-
Jan-Mar 2004	134	149	24	35	-

* Actual figures are indexed by taking 2001 as base year

Analysis

28.9 The above table shows that the average COP of domestic like product decreased by 4.16 percent in the year 2002 vis-à-vis previous year's COP. However, the COP

increased by 15 percent in the year 2003 and 22 percent during the period from January to March 2004 vis-à-vis previous year's COP.

28.10 The weighted average ex-factory price of the domestic like product increased by 2 percent, 12 percent, and 31 percent during the years 2002, 2003, and first quarter of the year 2004 respectively.

Conclusion

28.11 In the year 2003 in percentage terms, selling price of the domestic like product increased relatively less than the increase in its COP but this increase in price was enough to recover increased COP in absolute terms. On the basis of the above analysis, the Commission has concluded that the domestic industry did not suffer on account of price suppression during the POI, as it was able to recover increased COP by way of an increase in selling price.

29. Market Share and Sales

Facts

29.1 The domestic demand of PVC Resin in Pakistan is met through sales by the domestic industry and by imports. The domestic consumption of PVC Resin is ascertained by combining the domestic industry's sales and total imports, and this is referred to here as the total domestic market. The domestic market for PVC Resin during the POI is given in following table:

(MT)

Period	Imports from		Sales by Domestic Industry	Total Domestic Market*
	Dumped Sources	Other Sources		
2001	00.00	0.77	99.23	100.00
2002	0.57	2.97	112.82	116.36
2003	6.67	1.54	114.30	122.51
Jan-Mar 2004	00.00	00.00	24.39	24.39

* Actual figures are indexed by taking 2001 as base year

Analysis

29.2 The above table reveals that the total domestic market of PVC Resin grew by 16.36 percent, and 5.28 percent during the years 2002 and 2003, respectively. However,

the total domestic market for PVC Resin decreased by 20.35 percent in the first quarter of the year 2004 (on annualized basis).

29.3 The above table shows that the market share of domestic industry decreased from 99.23 percent in the year 2001 to 93.30 percent in the year 2003. However, in first quarter of the year 2004 since there were no imports of PVC Resin into Pakistan, the entire domestic market (100 percent) was taken by the domestic industry. Market share of dumped imports increased from 0.49 percent in the year 2002 to 5.44 percent in the year 2003.

Conclusion

29.4 On the basis of the above analysis, the Commission has concluded that the domestic industry suffered material injury in terms of market share from dumped imports in the year 2003.

30. Production and Capacity Utilization

Facts

30.1 Capacity utilized during the POI to produce domestic like product by the domestic industry is given in the table below:

Period	Capacity utilization (%)
2001	69
2002	84
2003	90
Jan-Mar 2004	94

Analysis

30.2 It may be noted from the table above that the production of domestic like product increased throughout POI. Arguably, production and capacity utilization would have been higher in absence of dumping. During the POI, the domestic industry achieved its highest capacity utilization in the first quarter of the year 2004.

Conclusion

30.3 On the basis of the above analysis, the Commission has concluded that the domestic industry did not suffer material injury on account of production and capacity utilization.

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31. Effects on Inventories

Facts

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

Period	Opening Inventory*	Production*	Available for Sale	Domestic Sales*	Exports*	Closing Inventory@
(1)	(2)	(3)	(4)=(2+3)	(5)	(6)	(7)
2001	100.00	100.00	200.00	100.00	100.00	79.30
2002	79.30	121.95	201.25	113.69	140.47	104.58
2003	104.58	131.70	236.28	115.19	221.16	64.77
Jan-Mar 2004	64.77	136.51	201.28	98.33	245.45	103.49

* Actual figures are indexed by taking 2001 as base year

@ Actual figures of closing inventory are indexed by taking opening inventory in the year 2001 as base year.

Analysis

31.2 The data given in table above shows that inventory level of the domestic like product increased in the year 2002 and during the period from January to March 2004. In the year 2003 inventory level decreased. In the year 2003 production and domestic sales of domestic like product increased by 8.00 percent and 1.32 percent, respectively. In this situation there should had been more inventories than the previous year i.e. 2002. Inventory level of domestic like product decreased due to sharp increase in exports. In the year 2003 export of the domestic like product increased by 57.44 percent over the year 2002.

Conclusion

31.3 The Commission has concluded that the domestic industry suffered material injury on account of increase in inventories during the POI.

32. Effects on Profits/Loss

Facts

32.1 The Applicant provided Profit and Loss Account Statement (which reconciled with the audited accounts) for the domestic like product. The table below shows the Profit and Loss figures of the domestic industry during the POI:

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Period	Profit/(Loss)* (Rs)
2001	(100)
2002	100.09
2003	94.13
Jan-Mar, 2004	304.66@

* Actual figures are indexed by taking 2001 as base year

@ On annualized basis.

Analysis

32.2 The domestic industry suffered heavy losses on production and sale of the domestic like product in the year 2001. However, from the year 2002 onwards it earned profits on its operations. Profitability of the domestic industry decreased in the year 2003, but it increased sharply in the first quarter of the year 2004.

32.3 As it is mentioned earlier that the price of domestic like product increased during the POI and the Applicant was able to recover increased cost of production by way of increase in price (paragraph 28.11 supra). In these circumstances there should have been an increase in profits during the POI.

Conclusion

32.4 The Commission has concluded that the domestic industry was injured in the year 2003 on account of profitability.

33. Effects on Employment, Productivity and Wages

Facts

33.1 The number of employees of the domestic industry did not change materially during the POI, as, according to the Applicant, the same number of employees was required to run the plant. The effects on productivity, salaries and wages of the domestic industry were as follows:

Period	No. of Employees*	Total salaries and wages* (RS)	Domestic production* (MT)	Productivity per worker* (MT)	Salaries & wages Rs. per MT*
2001	100	100	100	100	100
2002	104	116	122	117	95
2003	103	132	132	127	101
Jan-Mar, 2004	103**	39	34	132	114

* Actual figures are indexed by taking 2001 as base year

** Number of employees is taken one fourth (30.75) for a quarter (January-March) for reasons of making useful comparison.

Analysis

33.2 The above table shows that the productivity per worker increased during the POI. Similarly the cost of salaries and wages per MT for production of domestic like product also increased during the POI.

Conclusion

33.3 Based on the above analysis, the Commission has concluded that the domestic industry was not materially injured during the POI on account of productivity and employment, as the productivity per worker increased and the employment remained at the same level.

34. Effects on Cash Flow

Facts

34.1 The Applicant provided the following data relating to cash inflow from its operating activities during POI:

Period	Cash inflow from operations (Rs)*
2001	100
2002	67
2003	30

* Actual figures are indexed by taking 2001 as base year

Analysis

34.2 Examination of the data in the above table shows that the cash inflow position of the domestic industry deteriorated during the POI. As mentioned earlier, the price of domestic like product increased during the POI and the Applicant was able to recover increased cost of production by way of an increase in price (paragraph 28.11 supra). Further the market share (in absolute terms) of the Applicant also increased during the POI (paragraph 29.1 supra). In these circumstances there should have been an increase in cash inflow during the POI.

34.3 The Commission's investigation revealed that there were other reasons for decline in cash inflow. One such reason was payment of deferred customs duty payable under the Customs Act, 1969 to the Central Board of Revenue, Government of Pakistan.

Conclusion

34.4 The Commission has concluded that there was a negative effect on the cash inflow of the domestic industry during the POI. But this negative effect was due to

factors other than dumped imports. On the basis of the above, the Commission has concluded that the domestic industry did not suffer material injury in terms of cash flow due to dumped imports of the investigated product.

35. Effect on Return on Investment

Facts

35.1 As per the information provided by the Applicant, the initial investment made in the domestic industry was Rs. **** million with an expectation of return on investment ("ROI") of 20 percent. The ROI during the POI was as follows:

Year	ROI (Percentage)
2001	(10.33)
2002	10.39
2003	9.75

Analysis

35.2 The above table shows that ROI of the domestic industry was negative in the year 2001. ROI was positive in the year 2002 at 10.39 percent, but ROI decreased in the year 2003 to 9.75 percent.

Conclusion

35.3 On the basis of the above, the Commission has concluded that the domestic industry suffered material injury in terms of ROI in the year 2003.

36. Effect on Investment and Growth

Facts/Analysis

36.1 The information provided by the Applicant reveals that no additional investment was made in domestic industry during the POI. According to the Applicant it had plan to expand its production capacity but due to dumping of the investigated product plan for extension did not materialize.

36.2 The Commission's investigation revealed that the installed production capacity of the domestic industry is sufficient to meet foreseeable domestic demand.

Conclusion

36.3 The Commission considered the above facts and allegation. However, as no supporting evidence was provided by the Applicant, the Commission could not

conclude that the domestic industry suffered material injury on account of investment and growth.

37 Ability to Raise Capital

Facts/Analysis

37.1 The Applicant alleged difficulty in raising capital. According to the Applicant, it was planning to float shares in market to raise capital by end of the year 2003 based on the reasonable profits earned in the year 2002, but due to dumping of investigated product, the Applicant was not able to float shares in market.

Conclusion

37.2 The Commission considered the above allegation. Since no supporting evidence was provided, it could not conclude that the domestic industry suffered material injury on account of ability to raise capital.

38. Magnitude of Dumping Margin

As regards the impact on the domestic industry of the magnitude of the dumping margin set out in paragraph 23.4 supra, this impact is not considered negligible.

39. CONCLUSIONS OF MATERIAL INJURY ANALYSIS

The Commission has concluded on the basis of the above analysis that the domestic industry suffered material injury in terms of Section 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. Decline in market share;
- iv. Decline in profits;
- v. Increase in inventories of the domestic like product;
- vi. Decline in return on investment; and
- vii. Significant magnitude of dumping margin.

40. Other Factors

40.1 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.

40.2 The investigation of the Commission revealed that the domestic industry suffered injury on account of decline in cash inflow during the POI. One such reason for this injury was payment of deferred customs duty in the years 2002 and 2003.

D. CONCLUSIONS

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

- i. the Applicant represents the domestic industry being the sole producer of domestic 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 Exporters, at prices below its normal value;
- iv. the volume of dumped imports of the investigated product and the dumping margins established on the basis of the foregoing analysis, are above the negligible and *de minimis* levels respectively;
- v. the domestic industry suffered injury during the POI on account of volume of dumped imports, price undercutting, decline in market share, decline in profits, decline in return on investment and increase in inventories in terms of Section 15 and 17 of the Ordinance; and
- vi. the dumping margin expressed as a percentage of weighted average C&F export price works out to be 40.18 percent ad val for Korean exporter and 31.06 percent ad val for Iranian exporter.

E. IMPOSITION OF DEFINITIVE ANTIDUMPING DUTY

42. 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.

43. In terms of Section 50 of the Ordinance and Article 9 of Agreement on Antidumping, a definitive antidumping duty is hereby imposed on the investigated product @ 40.18 percent ad val of C&F price importable from Korean exporter (LG International Corporation) and @ 31.06 percent ad val of C&F price importable from Iranian exporter (Iran Petrochemical Commercial Company) for a period of five years effective from October 26, 2004. The investigated product is classified under PCT heading No.3904.1000. The definitive antidumping duties at the rate of 40.18 percent ad val and 31.06 percent ad val of C&F price of the investigated product is equivalent to the definitive dumping margins determined at ex-factory price level.

44. In accordance with Section 51 of the Ordinance, the definitive 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.

45. Exporters of PVC Resin from Korea and Iran other than the Exporters and the Producers specified in paragraph 3 supra would not be subject to this definitive antidumping duty.

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

47. 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.

48. The Commission had imposed a provisional antidumping duty on the investigated product @ 40.18 percent and 31.06 percent ad val of C&F price importable from the Korean exporter and Iranian exporter respectively for a period of four months effective from October 26, 2004. In terms of Section 55(2) of the Ordinance and Article 10.3 of Agreement on Antidumping, if the definitive antidumping duty is lower than the amount of provisionally determined antidumping duty, the difference shall be refunded

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by the Commission within forty-five days of the final determination. Since provisional antidumping duties imposed by the Commission on October 26, 2004 and the definitive antidumping duties imposed on February 24, 2005 are equal, no claim for refund of antidumping duty shall be entertained with respect to the import of the investigated product.

(Muhammad Ikram Arif)
Member
February 23, 2004

(Faizullah Khilji)
Chairman
February 23, 2004