



**Government of Pakistan
National Tariff Commission**

REPORT

ON

TERMINATION OF ANTIDUMPING INVESTIGATIONS AGAINST DUMPED IMPORTS OF TINPLATE ORIGINATING IN AND/OR EXPORTED FROM THE REPUBLIC OF FRANCE, THE FEDERAL REPUBLIC OF GERMANY, THE REPUBLIC OF ITALY, THE UNITED KINGDOM AND THE UNITED STATES OF AMERICA.

**A.D.C No.10/2005/NTC/TP
June 03, 2006**

Report on Termination of Antidumping Investigation against Imports of TP into Pakistan Originating in and/or Exported from the Republic of France, the Federal Republic of Germany, the Republic of Italy, the United Kingdom and the United States of America.

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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 determination under the above mentioned Ordinance and Rules.

A. PROCEDURE

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

2. Receipt of Application

The Commission received a written application from Siddiqsons TinPlate Limited, D-53, Textile Avenue, S.I.T.E, Karachi (hereinafter referred to as "the Applicant") on behalf of the domestic industry producing Tinplate (hereinafter referred to as "TP") on October 18, 2005. The Applicant alleged that TP produced in the Republic of France, (hereinafter referred to as "France"), the Federal Republic of Germany (hereinafter referred to as "Germany"), the Republic of Italy (hereinafter referred to as "Italy"), the United Kingdom (hereinafter referred to as "UK") and the United States of America (hereinafter referred to as "USA"), (hereinafter collectively referred to as the "Exporting Countries") is exported to Pakistan at dumped prices. The Embassies of the Exporting Countries in Islamabad were informed through note verbales dated October 20, 2005, sent through the Ministry of Foreign Affairs, Pakistan, of the receipt of application in accordance with the requirements of Section 21 of the Ordinance and Article 5.5 of the Agreement on Antidumping.

3. Evaluation and Examination of the Application

3.1 The examination of the application showed that it met the requirements of Section 20 of the Ordinance and Article 5.3 of the Agreement on Antidumping as it contained sufficient evidence of dumping of TP and injury to the domestic industry caused therefrom. The requirements of Rule 3 of the Rules and Article 5.2 of the Agreement on Antidumping, which relate to the submission of information prescribed therein, were also found to have been met.

3.2 The application fulfils the requirements of Section 24 of the Ordinance and Article 5.4 of the Agreement on Antidumping which enjoins upon the Commission to assess the standing of the domestic industry on the basis of the degree of support for or opposition to the application expressed by the domestic producers of the like product.

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In terms of Section 24(1) of the Ordinance, an application shall be considered to have been made by or on behalf of the domestic industry only if it is supported by those domestic producers whose collective output constitutes more than fifty percent of the total production of a domestic like product produced by that portion of the domestic industry expressing either support for or opposition to the application. Furthermore, Section 24(2) of the Ordinance provides that no investigation shall be initiated when domestic producers expressly supporting an application account for less than twenty five percent of the total production of the domestic like product produced by the domestic industry.

3.3 The domestic industry manufacturing TP consists of only one unit. Therefore, the application is considered to be made by the domestic industry as it is supported by 100 percent of the total production of the like product. The application, therefore, fulfils the requirement of Section 24(1) of the Ordinance.

4. Exporters/Foreign Producers involved in Alleged Dumping of the TP

The Applicant identified twenty-one exporters/foreign producers involved in alleged dumping of TP from the Exporting Countries and provided the Commission complete addresses of all the twenty-one exporters/foreign producers. The Applicant requested that measures be taken against all exporters/foreign producers from the Exporting Countries. List of these exporters/foreign producers is attached at Annex-I.

5. Applicant's Views

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

- i. TP imported from the Exporting Countries into Pakistan and the TP produced in Pakistan by the domestic industry are like products;
- ii. the exporters/foreign producers from the Exporting Countries are exporting the investigated product to Pakistan at dumped prices; and
- iii. export of TP by the exporters/foreign producers from the Exporting Countries to Pakistan at dumped prices has caused and is causing material injury to the domestic industry producing TP, mainly through:
 - a) loss in market share;
 - b) productivity;
 - c) ability to raise investment;
 - d) negative effect on employment and
 - e) negative effect on salaries and wages.

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6. Initiation of Investigation

6.1 The Commission upon examining the accuracy and adequacy of the evidence provided in the application established that there is sufficient evidence of alleged dumping and injury to justify initiation of an investigation. Consequently, the Commission decided to initiate an investigation on December 03, 2005. In terms of Section 27 of the Ordinance and Article 12.1 of the Agreement on Antidumping, the Commission issued a notice of initiation, which was published in the Official Gazette¹ of Pakistan and in two widely circulated national newspapers² (one in English language and one in Urdu Language) on December 06, 2005. Investigation concerning imports of TP into Pakistan (classified under PCT³ No. 7210.1200 (in the Financial Year (“FY”) 2006 another sub-heading 7210.1210 has been created by the Government of Pakistan to classify secondary TP) contained in the First schedule of Customs Act, 1969 (IV of 1969) originating in and/or exported from the Exporting Countries was thus initiated on December 06, 2005.

6.2 The Commission notified the Embassies of the Exporting Countries in Pakistan (by sending a copy of the Notice of Initiation through Ministry of Foreign Affairs, Pakistan on December 05, 2005). Copies of Notice of Initiation were also sent to the exporters/foreign producers of the Exporting Countries identified by the Applicant, the known Pakistani importers, and the Applicant on December 06, 2005, in accordance with the requirements of Section 27 of the Ordinance and Article 12.1 of the Agreement on Antidumping.

6.3 In accordance with Section 28 of the Ordinance and Article 6.1.3 of the Agreement on Antidumping, on December 08, 2005, the Commission also sent copies of full text of the written application (non-confidential version) to the Embassies of the Exporting Countries in Pakistan through the Ministry of Foreign Affairs, Pakistan.

7. Sampling and Information/Data Gathering

7.1 Sampling

In view of the apparent large number of exporters/producers from the Exporting Countries involved in this investigation (paragraph 4 supra), the Commission intended to use sampling, in accordance with Section 14(2) of the Ordinance and Article 6.10 of the Agreement on Antidumping, on the basis of a reasonable number of exporters or producers to be investigated in this investigation. To facilitate sample selection, all known exporters/foreign producers of TP from the Exporting Countries were requested, through the notice of initiation, to make themselves known to the Commission and to provide the requisite information within 15 days of the publication

¹ The official Gazette of Pakistan (Extraordinary) dated December 06, 2005.

² The ‘Daily Business Recorder’ and the ‘Daily Khbrain’ of December 06, 2005 issue.

³ “PCT” is the abbreviation for Pakistan Customs Tariff. PCT heading in Pakistan is equivalent to Harmonized Commodity Description and Coding System up to six-digit level.

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of notice of initiation in the Official Gazette and press in Pakistan. The response, which is noted in paragraph 7.2 *infra*, did not permit sampling.

7.2 Information Gathering

7.2.1 The Commission sent questionnaires along with full text of the written application (non confidential version) on December 28, 2005 to all 21 exporters/foreign producers (whose complete addresses were available with the Commission), for submission of data and information, and were asked to respond within 37 days of the dispatch of the questionnaires i.e. by February 02, 2006.

7.2.2 The following exporters/foreign producers identified by Applicant informed the Commission that they were not involved in production or exports of TP to Pakistan and requested for exclusion of their names from this investigation:

- i) Lily Corporation, USA,
- i) DyStar UK Limited, UK, and
- ii) Wilhelm Grillo Handelsgesellschaft mbH, Germany.

After examination of the requests, the names of above mention exporters/foreign producers were excluded from the investigation.

7.2.3 In response to the questionnaire Corus UK Limited, UK (an exporter/producer of investigated product from UK) informed on January 27, 2006 in the partially filled in questionnaire that it has not exported the investigated product to Pakistan during the POI.

7.2.4 Tinxplex Corporation, USA (an exporter of investigated product from USA) requested for an extension in time period for submission of response to the questionnaire. The Commission acceded to its request for extension, after taking into account the reasons given by it in the request. Partially filled-in exporter's questionnaire from Tinxplex Corporation, USA was received at the Commission on February 02, 2006.

7.2.5 In response to the exporter's questionnaire, Tinxplex Corporation from USA provided partial information, in which it informed that it purchased the investigated product from a US producer i.e USS Posco Industries and exported it to Pakistan during the POI. Tinxplex further informed that "When the mill produces tin plate most of it is made according to an industry standard (JIS G3303 or equivalent) but a proportion of this material is defective (secondary, scrap etc). This secondary material is then divided into different grades. The higher grades are sold domestically and the lower grades are sold into the export markets or scrapped. The material that we shipped to Pakistan during the IP is low grade secondary. There is no domestic market for this material."

7.2.5 Tinxplex through a letter dated February 16, 2006 were asked to provide information in respect of the domestic producer from whom it purchased the secondary Tinplate for export to Pakistan and its cost of production. Tinxplex through e-mail message dated February 20, 2006 informed that it purchased TP for export to Pakistan

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from USS-Posco Industries, USA and has forwarded the request for provision of information of cost on Section-F of the exporter's questionnaire to USS-Posco. On February 22, 2006 the Commission received a letter from Tinplex attaching therewith USS Posco's response, in which USS Posco declined to provide the requisite information being "confidential and proprietary". The Commission through its letter dated February 25, 2006 assured USS Posco that any information provided to the Commission on confidential basis shall be kept confidential. No further response was received from USS-Posco. Thereafter, the Commission on March 17, 2006 informed USS Posco (through a facsimile message) that unless a response is received by March 22, 2006, the Commission would be constrained to rely on the "best available information" in terms of Section 32 of the Ordinance and Article 6.8 of Agreement on Antidumping. No response from USS Posco was received thereafter.

7.2.6 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 preliminary determination the Commission has also used import data obtained from PRAL in addition to the information provided by the Applicant and the exporters/foreign producers.

7.2.7 In order to verify the information/data provided by the Applicant and to obtain further information (if any), on-the-spot investigation was conducted at the offices and plant of the Applicant from January 03 to 05, 2006.

7.2.8 Thus the Commission has sought from all available sources the relevant data and information deemed necessary for the purposes of determination of dumping and injury, if any, caused therefrom. In terms of Rule 12 of the Rules and Article 6.6 of the Agreement on Antidumping, the Commission, during the course of the investigation, satisfied itself as to the accuracy of information supplied by the interested parties to the extent possible for the purposes of this determination.

8. Public File

The Commission, in accordance with Rule 7 of the Rules and Article 6.1.2 of the Agreement on Antidumping, has established and maintained a public file of this investigation 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, and other documents for disclosure to the interested parties.

9. Confidentiality

In terms of Section 31 of the Ordinance and Article 6.5 of the Agreement on Antidumping, any information, which is marked confidential by the interested parties in their submissions and considered confidential by the Commission, shall, during and

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after the investigation, be kept confidential.

10. Period of Investigation

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

"a) for the purposes of an investigation of dumping, an investigation period shall normally cover twelve months preceding the month of initiation of the investigation for which data is available and in no case the investigation period shall be shorter than six months.

"b) for the purposes of an investigation of injury, the investigation period shall normally cover thirty-six months.

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

10.2 The PsOI selected for dumping and injury are, therefore, respectively, as follows:

Investigation of dumping	from July 01, 2004 to June 30, 2005;
Investigation of injury	from July 01, 2002 to June 30, 2005.

11. Investigated Product and Domestic Like Product

11.1 Section 2 of the Ordinance defines the "investigated product" and the "domestic like product" as follows:

i. Investigated Product:

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

ii. Domestic Like Product

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

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

i. Investigated Product

The investigated product is TP (secondary quality) originating in and/or exported from the Exporting Countries into Pakistan. It is classified under PCT Heading No. 7210.1210. The investigated product is used for packaging of edible oils, foodstuff, paints, petroleum products etc.

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ii. Domestic Like Product

The domestic like product is TP produced by the domestic industry in Pakistan. The domestic like product is also classified under PCT Heading No. 7210.1210. The domestic like product is used for packaging of edible oils, foodstuff, paints, petroleum products etc. Major uses of the domestic like product are therefore, identical to those of the investigated product.

11.3 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 available information received/obtained from various sources including the Applicant, and the exporters/foreign producers in the following terms:

- i. the basic raw materials used in the production of the investigated product, and the domestic like product, are identical Tin Mill Black Plate (TMBP).
- ii. both the products are produced with a same/similar manufacturing process.
- iii. both the products have same/similar colours and appearance.
- ii. both the products are substitutable in use. These are mainly used for packaging of edible oils, foodstuff, paints, petroleum products etc
- iii. both the products are classified under the same PCT Heading No. 7210.1210

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

12. Volume of Imports

12.1 In terms of Section 41(3) (b) of the Ordinance and Article 5.8 of the Agreement on Antidumping, 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 unless imports of the investigated product from all countries under investigation which individually account for less than three percent of the total imports of a like product collectively account for more than seven percent of imports of a like product.

12.2 In this regard, data and information available with the Commission on volume of imports of TP during the POI (from July 01, 2004 to June 30, 2005) is shown in table below:

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Table-I
Volume of Imports of TP During Jul 2004 to Jun 2005

S. No.	Country	Volume (MT)	% Share in Total imports
1.	France	833	3.33
2.	Germany	3803	15.19
3.	Italy	2370	9.47
4.	United Kingdom	2578	11.02
5.	United States	5218	20.85
6.	Others	10047	40.14
	Total	24,849	100.00

The above table shows that the volume of imports of the investigated product from the Exporting Countries is above the percentage for “negligible” volume (i.e. less than three percent) of imports of the like product.

13. Submissions by the Interested parties

13.1 The Commission received comments/views from three parties namely: Punjab Tinplate Association, Small Manufacturers of Cosmetics in Swat and European Commission, Directorate-General for Trade. The comments germane to this investigation are as follows:

13.2 Comments of Punjab Tinplate Association Commission’s findings

i) “No injury is being caused by any alleged dumping to the Applicant. This is evident from the fact that share of applicant in total sales in the country has increased during the period of investigation. In the year 2002-03, it had market share of 49%, which increased to 71% in the year 2004-05 (paragraph 16.1 of the application). On the other hand, imports from allegedly dumped sources have gone down from 26% in 2002-03 to 18% in the year 2004-05. It has therefore, been incorrectly suggested by the Applicant in paragraph 16.2 of the application that the “domestic industry lost its market share during the POI and the domestic industry share was taken up by the dumped imports.”

Please see the Commission’s injury analysis at paragraphs 21.3, 21.4, 21.16 and 21.17 and 22 *infra*.

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- ii) "As stated in para 20 of the application, the Applicant " has given dividend to its share holders during last 3 years as its profits increased during the period of investigation." Please see the Commission's injury analysis at paragraphs 21.28 and 21.29 *infra* which shows that the profit of the Applicant increased throughout the POI.
- iii) "Even share of imports from other sources has also decreased i.e. from 25% in the year 2002-03 to 11% in the year 2004-05." Please see the Commission's injury analysis at paragraph 21.3 which also shows that the imports from non-dumped sources decreased during the POI.
- iv) "The capacity utilization (para 21 of application) has also increased form 32% in the year 2000-2003 to 47% in the year 2004-05." Please see the Commission's injury analysis at paragraph 21.19, which shows that the capacity utilization of the Applicant increased from 32 percent to 55 percent in FY 2004 and decreased to 47 percent in FY 2005.

13.3 Comments of Small Manufacturers of Cosmetics in Swat

"Now Siddiqsons Tin plates Ltd. approached again to Tariff Commission claiming that France, Germany, Italy, USA and UK etc are exporting Tin Plate at dumped prices and therefore they want from Government of Pakistan to impose heavy Custom Duties on such imports." The Commission is not responsible for imposition of Customs Duties. It is responsible for the conduct of investigations against dumped imports and injury caused there from and the imposition of Antidumping duties where appropriate.

13.4 European Commission, Directorate-General for Trade

i) Domestic industry

"Under point 2, page 2 of the application it is stated that applicant produces 100% of the investigated product in Pakistan, page 18 makes reference to "other firms "Since the definition of the domestic industry is the basis for the initiation of an anti-dumping investigation, it is of the utmost importance that this issue be clarified. There is only one producer of TP in Pakistan, i.e. Siddiqsons Tinplate Limited and it represents 100 percent of the total production of TP produced by the domestic industry.

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According to Article 5.4 of ADA, an application shall be considered to be made “by or on behalf” of the domestic industry if it is supported by domestic producers whose collective output represents a major proportion of the total domestic production of the domestic like product.”

ii) Confidentiality

“Paragraph 1 of article 6.5 ADA states that applicant has to provide non-confidential summaries of confidential information. These summaries “shall be in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence” (italics added). The European Commission considers that the applicant has failed to submit a non-confidential version of the application in the required form.”

The Applicant provided information of export price from the import data obtained from PRAL. The normal value of the investigated product has been established on the basis of a survey report prepared for the Applicant. The Applicant has requested that the source be kept confidential. However, the Commission has not made a ruling on the request of the Applicant as the Commission made a determination of injury being negligible which has resulted in termination of investigation.

“Indeed the applicant has kept an excessive and unjustified amount of information confidential and has not provided either non-confidential summaries of this information or reasons as to why this information is confidential.”

The Applicant is required to provide a non-confidential summary of information provided in the application. In the subject case the Applicant provided a non-confidential version of the application, which contained information on export price, normal value, dumping margin and injury to the domestic industry.

“This lack of information in the non-confidential version is particularly apparent in the dumping part but also in the injury and impedes the exporters from exercising their right of defence.”

“No information as to the sources of export price and normal value has been provided, e.g. are they based on invoices, offers or statistical data?”

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“Export prices and normal value should be presented in an indexed format in order to see if adjustments such as level of trade, ocean freight, inland freight or any other adjustments have been taken into account and are reasonable. The same applies to the dumping undercutting calculations.”

“The application only provides the dumping and undercutting margins as a percentage. Due to the lack of any other verifiable information in this context no conclusion can be drawn as to the adequacy and accuracy of the dumping and undercutting calculations.”

“Since it is alleged that the applicant is the only producer of the investigated product in Pakistan it is understandable that most of the figures can only be provided in indexed format. However, attention should be paid that the indexation is “in sufficient detail to permit a reasonable understanding” i.e. that it gives a fair idea of the magnitude of the factor in question, and that it reflects the correct trends. For example the domestic market should not be shown as 100 over the three year period considered, where it is mentioned that the domestic market has increased.”

“No reference is made to any supporting evidence such as invoices, offers, company records, audited accounts, etc. Which should normally be provided as annexes to an application. This is a major shortcoming since unsubstantiated allegations and statements are not sufficient evidence in order to initiate an anti-dumping investigation.”

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iii) Injury

“According to article 3.1 ADA a determination of injury shall be based on an objective examination of both (a) the volume of the dumped imports and the effect of the dumped imports on the prices on the domestic market for the like products, and (b) the consequent impact of these imports on domestic producers of such products.” Please see the Commission’s injury analysis at paragraphs 21 and 22.

“After analysis if the information provided on the various injury indicators, it is the view of the European Commission that the applicant does not find itself in an injurious situation. On the contrary, all the main indicators show positive trends and thus the allegedly dumped imports could not have contributed to any injury.”

“With regard to indexation and trends please refer to the last point under confidentiality. Due to this inaccurate presentation of trends some inconsistencies appear to exist and have to be clarified.”

“Nevertheless, irrespective of any clarifications that might be provided, it can be clearly established that the applicant has not suffered material injury.”

- Production increased by 50% over the period, capacity utilization went from 32% to 47%. Please see the Commission’s injury analysis at paragraphs 21.18, 21.19 and 21.20 *infra*.
- Quantities sold by the Applicant increased by 50% in absolute terms and in terms of market share from 49% to 71%. At the same time market share of the allegedly dumped imports decreased from 26% to 18% over the period. The market share of all imports decreased from 51% to 29%. Please see the Commission’s injury analysis at paragraphs 21.15, 21.16 and 21.17 *infra*.

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- The Applicant's profitability increased from 12,92% to 16,66% over the period. The fact that the applicant was able to significantly increase its market share and profitability. An increase in profitability is due to an increase in the world market price, which might only be temporary, it seems that the application was already in a highly profitable position at the beginning of the period.
- Please see the Commission's injury analysis at paragraphs 21.27, 21.28 and 21.29 *infra*.
- Other indicators show similar positive trends. The number of employees remained largely stable, productivity increased significantly, return on investment if needed (ref. Page 18). Please see the Commission's injury analysis at paragraphs 21.33, 21.34, 21.35, 21.38, 21.39 and 21.40 *infra*.
 - Although average production cost increased, sales prices increased in line and profitability was not affected negatively. Please see the Commission's injury analysis at paragraphs 21.12, 21.13 and 21.14 *infra*.
 - Capacity utilization increased significantly over the period, and although indeed inventories increased, this did not have negative effect on profits either. Please see the Commission's injury analysis at paragraphs 21.18, 21.19, 21.20, 21.24, 21.25, 21.26, 21.27, 21.28 and 21.29 *infra*.
 - According to the information provided in the application, the prices of the allegedly dumped imports significantly undercut the domestic industry's prices. However, no price suppression was exercised by these imports (ref. Page 16) although the applicant considers these imports as "price setters" (ref. P.17). Please see the Commission's injury analysis at paragraphs 21.6, 21.7, 21.8, 21.12, 21.13 and 21.14 *infra*.

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Causal Link

The European Commission does not believe that the complainant has suffered or is suffering material injury. Therefore, it is impossible to establish a causal link between the injury and the dumped imports.

The Commission in its injury analysis at paragraphs 21 and 22 has determined that the injury suffered by the domestic industry during the POI was negligible.

The problems of capacity underutilization and increasing inventories are most likely due to an overestimation of demand rather than the allegedly dumped imports.

Conclusion

The European Commission is concerned about the quality of the application. Firstly, it is not clear that the application has been made on behalf of a major proportion of the domestic industry. Furthermore, the non-confidential version of the application shows significant shortcomings and finally the Applicant does not appear to suffer injury within the meaning of the ADA. Thus the application does not comply with the necessary standards according to the ADA and should under no circumstances have been accepted.

Please see the Commission findings in response to EC comments on "domestic industry", "confidentiality", and "injury" in paragraphs 13.4 (ii), 21 and 22.

The European Commission therefore considers that this case should be terminated without delay. If nevertheless the Pakistani authorities decide to continue this unlawful investigation, then the European Commission expects that all issues mentioned above are fully investigated and that all legal and procedural requirements established by the ADA are fully respected.

13.5 In response to the comments made by the European Commission, Directorate-General for Trade the Commission received comments from the Applicant through its Attorney on 29-5-2006, which are reproduced below along with the Commission's findings:

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13.6 Comments by the Applicant

Commission's findings

Domestic Industry:

"On page 2 of the non-confidential questionnaire it has rightly been stated that the applicant holds 100% share in domestic production as it is the only plant of its kind installed and operating in Pakistan. As regards reference to "other firm" on page 18 of the application, the respective sentence under the head growth reads as under:

"Therefore, neither the applicant has felt the need to enhance its plant capacity, nor a new plant has been set up by any other firm".

Here we tried to explain that no new plant has been set-up in Pakistan. Hence, after this explanation we feel that the matter stands clarified."

Confidentiality:

"Here the EC has argued that applicant has failed to submit a non-confidential version of the application in the required form. In fact, the information/data regarding normal values, export prices and injury factors have been kept confidential which are usually kept confidential by most of the applicants throughout the world. However, indexed information about injury was given properly that is why the EC has given its detailed comments on it. Since the Commission accepted confidentiality to this extent and we were not required to provide more details, otherwise the same would have been provided."

The Commission has established that there is only one producer of TP in Pakistan, i.e. Siddiqsons Tinplate Limited and it represents 100 percent of the total production of TP produced by the domestic industry.

Please see the Commission's findings in response to EC's comment on the issue of confidentiality in paragraphs 13.4 (ii) above.

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“As regards confidentiality in dumping part with reference to normal value, it is hereby explained that the pricing survey was conducted for our client, therefore it was specifically kept confidential, however, same fact had been disclosed to the Commission in confidence. In case of export prices, it is understood that the respective exporters from each country must be knowing their own prices. Moreover, the details can be obtained by the exporters from the Commission in disclosure meetings that how dumping margins were calculated in respect of their exports. Interestingly in this case knowing the position that exporters are involved in dumping, none of the exporters have properly responded.”

Injury:

“With regards to injury the EC has referred to Article 3.1 of Antidumping Agreement (ADA). However, it is added that Article 3.1 of ADA should be read with Article 3.2 which states that how significant increase in volume of dumped imports is to be examined and how effect of the dumped imports on prices is to be seen.”

Please see the Commission’s injury analysis at paragraphs 21 and 22 infra.

“With regard to the volume of dumped imports as per Article 5.8 of ADA “the volume of dumped imports shall normally be regarded as negligible if the volume of dumped imports from a particular country is found to account for less than 3 percent of imports of the like product in the importing Member.....”. From this definition of negligible volume one can easily infer, that volume of dumped imports over and above this threshold can cause injury to the domestic industry of importing country. So while examining

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the volume of dumped imports it is not fair to always see the increase in dumped imports and ignore the volume of dumped imports though decreased than the previous period but still much higher than the negligible volume. For a new domestic industry as is the case with the applicant domestic industry, volume of dumped imports should decrease with the passage of time till such period that the domestic industry attains optimum capacity utilization. This does not mean that decreasing volume of dumped imports in not causing or cannot cause injury to the domestic industry."

"With regard to the effect of dumped imports on prices as given in Article 3.2 of the ADA, price undercutting or price depression or price suppression are required to be seen independently. Therefore these price effects are not to be based on one another. However, *EC has observed that inspite of price undercutting due to dumped imports, it did not affect the domestic industry on account of price suppression hence no injury was caused.* This observation does not hold good as price effects are to be seen independently. In case of increasing prices of a product the world over, there could be a situation that inspite of price undercutting there may not be price depression or price suppression. The same was the case with the domestic like product of applicant industry. Hence if there is significant price undercutting, there is a material injury as a result of this factor to the domestic industry of importing country."

"So keeping in view the contents of Article 3.1, 3.2 and 3.4 of ADA and discussion made in previous paragraphs, submission by the EC is commented upon in following paragraphs."

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“EC submission that applicant has not suffered material injury due to following facts:” Please see the Commission’s findings on injury at paragraphs 21 and 22 infra.

EC Comment

1. “Production increased by 50% over the period, capacity utilization went from 32% to 47%.”

Comment by the Applicant

“EC has compared 2004-05 figures with 2002-03 and has ignored altogether the decrease in production and capacity utilization during 2004-05 as compared to last year of 2003-04.” Please see the Commission’s injury analysis at paragraphs 21.18, 21.19 and 21.20 infra.

EC Comment

2. Quantities sold by the applicant increased by 50% in absolute terms and in terms of market share from 49% to 71%. At the same time the market share of the allegedly dumped imports decreased from 26% to 18% over the period. The market share of all imports decreased from 51% to 29%.

Comment by the Applicant

“Again the EC has compared figures of sales and market share of domestic industry pertaining to 2004-05 with figures of 2002-03 and ignored comparison with 2003-04 figures. Even the reduced market share of dumped imports of 18% during 2004-05 clearly constitutes a significant proportion of the domestic market. Under these circumstances, how domestic industry has not suffered material injury due to dumped imports, as the domestic industry still had sufficient unutilized production capacity.” Please see the Commission’s injury analysis at paragraphs 21.15, 21.16 and 21.17 infra.

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In addition around 1/4th of the domestic industry's production was lying as unsold inventory during 2004-05 and volume of dumped imports during this period was 22% more than these inventories."

EC Comment

3. The applicant's profitability increased from 12.92% to 16.66% over the period. The fact that applicant was able to significantly increase its market share and profitability in an increasing market further underlines its strong position. Even though it is alleged that the increase in profitability is due to an increase in the world market price which might only be temporary, it seems that the applicant was already in a highly profitable position at the beginning of the period.

Comment by the Applicant

"Increase in profitability does not mean that dumped imports holding 18% market share with significant price undercutting are not causing or cannot cause material injury to the domestic industry."

Please see the Commission's injury analysis at paragraphs 21.27, 21.28 and 21.29 infra.

EC Comment

4. Other indicators show similar positive trends. The number of employees remained largely stable, productivity increased significantly, return on investment doubled and the applicant would not have had any difficulties in raising investment if needed (*cf.* Page 18).

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Comment by the Applicant

“EC remarks that numbers of employees remained largely stable and productivity increased significantly can be considered true, if we compare results of these factors during 2004-05 with figures of 2002-03. In fact, dumping, for which POI is 2004-05 has adversely affected these factors during 2004-05 as compared to 2003-04 and the same should be kept in view while analyzing injury due to dumped imports. As per table-11 of the questionnaire (non-confidential) it is crystal clear that the domestic industry suffered material injury on account of number of employees, productivity and salaries and wages per MT during 2004-05 as compared to 2003-04, due to dumped imports. In order to increase profit and remain in market, the domestic industry had to slash down its number of employees. However, due to significant portion (18%) of domestic market held by the dumped imports, the domestic industry was not in a position to increase its production. Consequently, due to decreased production, productivity per worker reduced drastically in 2004-05 over 2003-04 inspite of reduction in number of employees. As per Article 3.6 of ADA “the effect of dumped imports shall be assessed in relation to the domestic production of the like product.....”. **In light of referred article reduction in production during 2004-05 due to dumped imports also needs to be considered.”**

Please see the Commission’s injury analysis at paragraphs 21.33, 21.34, 21.35, 21.38, 21.39 and 21.40 infra

EC Comment

5. Although average production costs increased, sales prices increased in line and profitability was not affected negatively.

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Comment by the Applicant

“The domestic industry increased its sales price to cover increased cost of production. However, that would have not been possible, unless the domestic industry had not liberalized its policy of sales on credit. Thus a big chunk of amount was tied up in trade debtors during 2004-05 which was Rs. 244.239 million as compared to Rs. 138.097 million for 2003-04.”

Please see the Commission’s injury analysis at paragraphs 21.12, 21.13 and 21.14 *infra*.

EC Comment

6. “According to the information provided in the application, the prices of the allegedly dumped imports significantly undercut the domestic industry’s prices. However, no price suppression was exercised by these imports (*cf. page 16*) although the applicant considers these imports as “price setters” (*cf. page 17*).”

Comment by the Applicant

“As already discussed under the head injury, according to Article 3.2 of ADA, price effect in the shape of price undercutting is to be seen independently of other price effects like price depression or price suppression as word “**or**” is written in Article 3.2 between all the three price effects. Moreover, in case of trend of increased prices the world over, price undercutting cannot necessarily result in price depression or price suppression. As regards domestic industry’s comments that the dumped imports are price setters in the domestic market that too is true as can be seen by comparing the market share of dumped imports with that of the imports from other sources.”

Please see the Commission’s injury analysis at paragraphs 21.6, 21.7, 21.8, 21.12, 21.13 and 21.14 *infra*.

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EC Comment

7. "Capacity utilization increased significantly over the period, and although indeed inventories increased, this did not have a negative effect on profitability either."

Comment by the Applicant

"The capacity utilization though increased during 2002-03. However, it decreased during 2004-05, i.e. the period of investigation for dumping. Obviously, the dumping claimed by the domestic industry for 2004-05 adversely affected the domestic industry's production during the same period. As regards increase in inventories, the effects of year end increase in inventories are reflected in subsequent periods in the shape of increased cost of financing, additional cost of handling inventories, cost of obsolescence etc."

Please see the Commission's injury analysis at paragraphs 21.18, 21.19, 21.20, 21.24, 21.25, 21.26, 21.27, 21.28 and 21.29 infra.

Causal Link:

"As earlier discussed in our comments, causal link between the dumped imports and injury suffered therefrom by the domestic industry is evident. On the one hand dumped imports are holding significant portion of 18% of domestic market and that too at the significantly undercutting prices. At the same time domestic industry has suffered and is suffering material injury in the shape of reduced production, sizeable inventories, reduced employment, reduced productivity, increased cost of salaries and wages on per MT basis. In such a situation, how one can conclude otherwise that dumped imports are not causing material injury to the domestic industry.

The Commission in its injury analysis at paragraphs 21 and 22 infra has determined that the injury suffered by the domestic industry during the POI was negligible.

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“No doubt, there are imports from other sources, but these were well below the quantum of dumped imports during the POI. Hence, adverse impact of dumped imports on the domestic industry was in no way insignificant.

“As regards the basis of installed capacity of 120,000 the same was based on demand at the time of installation plus expected future growth in the demand of tinsplate in Pakistan. Somehow the future growth is not being reflected in the domestic demand.”

B. DETERMINATION OF DUMPING

14. Determination of Dumping

In terms of Section 4 of the Ordinance, “an investigated product shall be considered to be dumped if it is introduced into the commerce of Pakistan at a price which is less than its normal value”.

15. Normal Value

15.1 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 and Article 2.2 of the Agreement on Antidumping 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”.

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15.2 As stated in paragraph 7.1.2 supra, the Commission sent questionnaires to all known exporters/foreign producers to gather information/data, including data relating to their sales in the domestic market, export sales and cost of production.

15.3 Tinxplex Corporation from USA partially responded to the exporter's questionnaire and Corus UK Limited, UK informed that it has not exported the investigated product to Pakistan during the POI.

15.4 Since none of the exporters/foreign producers provided the requisite information in response to the exporter's questionnaire, normal value in this investigation is determined for each Exporting Country 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”.

15.5 It is important to identify here that the Commission duly informed all known exporters/foreign producers on February 13, 2006 of its resort to the best information available due to their “non-response”.

15.6 To determine normal value for Exporting Countries the Commission relied on the survey report provided by the Applicant with the application filed with the Commission, prepared by the metal journal. According to the survey report TP having 75% minimum usable surface area is considered as secondary TP. The survey report provides ex-works prices of secondary-grade TP in the domestic markets of Exporting Countries during the first quarter of 2005. The Commission has used the ex-works prices mentioned in the survey report to establish the normal value for Exporting Countries.

15.7 Normal value of TP for the Exporting Countries as provided by the Applicant is as follows:

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Table-II
Normal Value (ex-factory price)

Exporting Country	Ex-factory Normal Value (US\$/MT)
France	*** ⁴
Germany	***
Italy	***
UK	***
USA	***

16. Export Price

16.1 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”.

16.2 As stated earlier, none of the exporters/foreign producers of the investigated product provided requisite information. Thus, the export price for investigated product is determined on the basis of the best information available to the Commission in terms of Section 32 of the Ordinance, and Article 6.8 and Annex II of the Agreement on Antidumping.

16.3 To determine export price of the investigated product the Commission has used import data obtained from PRAL (paragraph 7.2.6 supra).

16.4 According to PRAL data, exporters/producers from France exported ***MT of the investigated product to Pakistan during the POI. CIF prices of these exports ranged between US\$ ***/MT to US\$ ***/MT. Weighted average CIF export price of exporters/producers from France works out to be US\$ ***/MT. To arrive at the ex-factory level, weighted average CIF export price has been adjusted on account of ocean freight, inland freight, and insurance cost. The ocean and inland freight of US\$ ***/MT (on the basis of freight charges quoted by Raaziq International (Pvt.) Ltd, a Karachi based shipping company) and *** percent of CIF price as insurance cost have been provided by the Applicant. The export price has been adjusted accordingly. After making adjustments for ocean freight, inland freight, and insurance cost of US\$ ***/MT, the weighted average export price at ex-factory level works out to be US\$ ***/MT.

16.5 According to PRAL data, exporters/producers from Germany exported *** MT of the investigated product to Pakistan during the POI. CIF prices of these exports ranged between US\$ ***/MT to US\$ ***/MT. Weighted average CIF export price of exporters/producers from Germany works out to US\$ ***/MT. To arrive at the ex-factory level, weighted average CIF export price has been adjusted on account of ocean freight, inland freight, and insurance cost. The ocean and inland freight of US\$ ***/MT (on the basis of freight charges quoted by Raaziq International (Pvt.) Ltd, a Karachi

⁴ Actual figures have been omitted to maintain confidentiality.

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based shipping company) and *** percent of CIF price as insurance cost have been provided by the Applicant. The export price has been adjusted accordingly. After making adjustments for ocean freight, inland freight, and insurance cost of US\$ ***/MT, the weighted average export price at ex-factory level works out to US\$ ***/MT.

16.6 According to PRAL data, exporters/producers from Italy exported *** MT of the investigated product to Pakistan during the POI. CIF prices of these exports ranged between US\$ ***/MT to US\$ ***/MT. Weighted average CIF export price of exporters/producers from Italy works out to US\$ ***/MT. To arrive at the ex-factory level, weighted average CIF export price has been adjusted on account of ocean freight, inland freight, and insurance cost. The ocean and inland freight of US\$ ***/MT (on the basis of freight charges quoted by Raaziq International (Pvt.) Ltd., a Karachi based shipping company) and *** percent of CIF price as insurance cost have been provided by the Applicant. The export price has been adjusted accordingly. After making adjustments for ocean freight, inland freight, and insurance cost of US\$ ***/MT, the weighted average export price at ex-factory level works out to US\$ ***/MT.

16.7 According to PRAL data, exporters/producers from UK exported *** MT of the investigated product to Pakistan during the POI. CIF prices of these exports ranged between US\$ ***/MT to US\$ ***/MT. Weighted average CIF export price of exporters/producers from UK works out to US\$ ***/MT. To arrive at the ex-factory level, weighted average CIF export price has been adjusted on account of ocean freight, inland freight, and insurance cost. The ocean and inland freight of US\$ ***/MT (on the basis of freight charges quoted by Raaziq International (Pvt.) Ltd (Karachi based shipping company) and *** percent of CIF price as insurance cost have been provided by the Applicant. The export price has been adjusted accordingly. After making adjustments for ocean freight, inland freight, and insurance cost of US\$ ***/MT, the weighted average export price at ex-factory level works out to US\$ ***/MT.

16.8 According to PRAL data, exporters/producers from USA exported *** MT of the investigated product to Pakistan during the POI. CIF prices of these exports ranged between US\$ ***/MT to US\$ ***/MT. Weighted average CIF export price of exporters/producers from USA works out to US\$ ***/MT. To arrive at the ex-factory level, weighted average CIF export price has been adjusted on account of ocean freight, inland freight, and insurance cost. The ocean and inland freight of US\$ ***/MT (on the basis of freight charges quoted by Raaziq International (Pvt.) Ltd, a Karachi based shipping company) and *** percent of CIF price as insurance cost have been provided by the Applicant. The export price has been adjusted accordingly. After making adjustments for ocean freight, inland freight, and insurance cost of US\$ ***/MT, the weighted average export price at ex-factory level works out to US\$ *** per MT.

17. Dumping Margin

17.1 The Ordinance defines “dumping margin” in relation to a product as “the amount by which its normal value exceeds its export price”. In terms of Section 14(1) of the Ordinance and Article 6.10 of the Agreement on Antidumping the Commission shall

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

17.2 As stated earlier none of the exporters/foreign producers of the investigated product from Exporting Countries provided requisite information, therefore, individual dumping margin has not been determined for any exporter/producer from the Exporting Countries. The Commission has determined the margin of dumping for each country concerned i.e. France, Germany, Italy, UK and USA in terms of Article 9.2 of Agreement on Anti-dumping.

17.3 Section 12 of the Ordinance and Article 2.4 of the Agreement on Antidumping 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.

17.4 Taking into account all requirements set out above, dumping margins have been calculated as follows:

**Table-III
Dumping Margin**

S. No.	Exporting Countries	Ex-factory normal value (US\$/MT)	Weighted average ex-factory export price (US\$/MT)	Absolute dumping margin (US\$/MT)	Dumping margin as percentage of adjusted export price	Dumping margin as percentage of C&F export price
01	France	***	***	***	56.99	49.47
02	Germany	***	***	***	48.20	42.34
03	Italy	***	***	***	58.07	50.35
04	UK	***	***	***	107.54	90.36
05	USA	***	***	***	75.79	65.22

*** Actual figures have been omitted to maintain confidentiality.

C. INJURY TO DOMESTIC INDUSTRY

18 Determination of Injury

18.1 Section 15 of the Ordinance and Article 3 of the Agreement on Antidumping sets out the principles for determination of material injury to the domestic industry and provides as follows:

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

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

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”.

18.2 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.

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

19. Domestic Industry

19.1 In terms of Section 2(d) of the Ordinance and Article 4.1 of the Agreement on Antidumping, domestic industry is defined as follows:

“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.”

19.2 The domestic industry manufacturing domestic like product consists of only one unit i.e Siddiqsons Tinplate Limited. Installed production capacity of the Applicant is around 120,000 MT per annum.

19.3 The Applicant accounts for 100 percent of total production of the domestic like product produced by domestic industry.

20. Cumulation of Dumped Imports

20.1 Section 16 of the Ordinance and Article 3.3 of the Agreement on Antidumping states that:

“where imports of a like product from more than one country are the subject of simultaneous investigation under this Ordinance, the

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Commission may cumulatively assess the effects of such imports on the domestic industry only if it determines that

- “(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”.

20.2 As mentioned in paragraph 12.2 supra, the volume of imports of the investigated product from the Exporting Countries individually during the POI was well above the negligible quantity (i.e. less than 3 percent of total imports of investigated product). Furthermore, the dumping margin for France, Germany, Italy, UK and USA is also more than the *de-minimis* (i.e. less than 2 percent of export price). Following table shows the weighted average dumping margin determined for each of the Exporting Country concerned:

**Table-IV
Dumping Margin**

S. No.	Exporting Countries	Dumping margin as % of C&F export price
01	France	49.47
02	Germany	42.34
03	Italy	50.35
04	UK	90.36
05	USA	65.22

20.3 It is evident from the weighted average export price charged by the exporters/producers from the Exporting Countries during the POI that there was a price competition between the imports of the investigated product exported from the Exporting Countries. Weighted average export price of the investigated product during the POI from the Exporting Countries is given in a table below:

**Table-V
Export Price**

S. No.	Exporting Countries	Weighted average ex-factory export price (US\$/MT)
01	France	***
02	Germany	***
03	Italy	***
04	UK	***
05	USA	***

*** Actual figures have been omitted to maintain confidentiality.

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20.4 For the reasons given above, the Commission has cumulatively assessed the effects of dumped imports from the Exporting Countries on the domestic industry in the following paragraphs.

21. Volume of Dumped Imports

Facts

21.1 The Commission used information for volume of imports submitted by the Applicant and obtained from PRAL.

21.2 With regard to the volume of dumped imports, in terms of Section 15(2) of the Ordinance and Article 3.2 of the Agreement on Antidumping, the Commission considered whether there has been a significant increase in dumped imports, either in absolute terms or relative to the production of the domestic like product by the domestic industry. The following table shows imports of the investigated product during the POI:

**Table-VI
Imports of Investigated Product during the POI**

Year/Period	Imports from dumped sources	Imports from other countries	Total Imports
FY 2003	100.00	91.89	191.89
FY 2004	77.22	73.65	150.86
FY 2005	52.61	66.42	119.03

Actual figures of imports from dumped sources have been indexed by taking figures of FY 2003 equal to 100.

Analysis

21.3 It appears from the above table that the imports of investigated product from dumped sources decreased by 22.78 percent in FY 2004 over FY 2003. In FY 2005 too imports from dumped sources decreased by 31.86 percent. The dumped imports decreased by 47.39 percent during the POI. Further, the above table also shows that imports from non-dumped sources have also substantially decreased during the POI. Therefore, total imports decreased by 39.57 percent in FY2004 and by 24.50 percent in FY 2005.

Conclusion

21.4 On the basis of the above analysis, the Commission has concluded that the dumped imports significantly decreased in absolute terms during POI.

Price Effects

21.5 The effect of dumped imports on the sales price of the domestic like product in the domestic market has been examined to establish whether there has been significant price undercutting (the extent to which the price of the investigated product is lower than the price of the domestic like product), price depression (the extent to which the domestic industry experiences a decrease in its selling prices of domestic like product

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over time), and price suppression (the extent to which increases in the cost of production cannot be recovered in selling price of domestic like product).

Price undercutting

Facts

21.6 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:

Table-VII
Calculations of Price Under-cutting

Period	Weighted Average ex-factory price of domestic like product	Weighted Average landed cost of investigated product	Price under-cutting in	
			Absolute terms	Percentage
FY 2003	100.00	83.54	16.47	16.47
FY 2004	114.93	93.81	21.12	18.38
FY 2005	150.81	100.87	49.94	33.11

Actual figures of weighted average ex-factory price of the domestic like product have been indexed by taking figures of FY2003 equal to 100.

Analysis

21.7 The above table shows that the landed cost of the investigated product undercut the average ex-factory price of the domestic like product in FY 2003, 2004 and 2005. In FY 2003, price undercutting was at 16.47 percent, it was 18.38 percent and it peaked at 33.11 percent in FY 2004 and FY 2005, respectively. However, the Applicant was able to increase the average ex-factory price of the domestic like product through out the POI and the landed cost of dumped imports also increased but at a lower scale.

Conclusion

21.8 On the basis of the above, the Commission has concluded that the price of the investigated product undercuts the price of domestic like product during POI.

Price Depression

Facts

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

Table-VIII

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Calculation of Price Depression

Period	Weighted Average ex-factory price of domestic like product	Price depression
FY 2003	100.00	--
FY 2004	114.93	--
FY 2005	150.81	--

Actual figures of weighted average ex-factory price of the domestic like product have been indexed by taking figures of FY 2003 equal to 100.

Analysis

21.10 Analysis of the above facts shows that weighted average ex-factory price of domestic like product increased every successive year during the POI. The Applicant increased the average ex-factory price of domestic like product by 14.93 percent in FY 2004 and further increased by 31.22 percent in FY 2005.

Conclusion

21.11 The Commission has concluded on the basis of the above analysis that the domestic industry did not face any price depression during the POI due to dumped imports.

Price Suppression

Facts

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

**Table-IX
Calculations of Price Suppression**

Period	Weighted Average COP of domestic like product	Weighted Average ex-factory price of domestic like product	Increase/ (decrease) in COP	Increase in price
FY 2003	100.00	113.09	--	--
FY 2004	112.27	129.98	12.27	16.89
FY 2005	142.97	170.56	30.70	40.58

Actual figures weighted average COP of domestic like product have been indexed by taking figures of FY 2003 equal to 100.

Analysis

21.13 The above table shows that the domestic industry was able to recover increase in cost of production through out the POI, as increase in weighted average ex-factory price of the domestic like product was more than the increase in weighted average cost of production.

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Conclusion

21.14 On the basis of the above analysis, the Commission has concluded that the domestic industry did not suffer injury on account of price suppression during the POI, as it was able to more than recover the increased COP by way of an increase in selling price of domestic like product.

Effects on Market Share and Sales

Facts

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

**Table-X
Market Share**

Year	Quantity sold by domestic industry	Imports from dumped sources	Imports from other countries	Total domestic market
FY 2003	47.00	28.00	25.00	100.00
FY 2004	55.63	21.45	10.77	87.85
FY 2005	69.80	14.62	9.71	94.13

Actual figures of total domestic market have been indexed by taking figures of 2003 equal to 100.

Analysis

21.16 The market share of domestic industry increased from 47 percent in FY 2003 to 64 percent in FY 2004, and further increased to 74 percent in FY 2005. Market share of dumped imports decreased from 28 percent in FY 2003 to 24 percent in FY 2004, and 16 percent in FY 2005. The imports from all other sources also decreased from 25 percent in the FY 2003 to 12 percent in FY 2004 and further fell to 10 percent in FY 2005. The total domestic market of TP contracted from 100 percent in FY 2003 to 94.13 percent in FY 2005.

Conclusion

21.17 On the basis of above analysis, the Commission has concluded that the domestic industry gained significant share in domestic market during POI hence suffered no injury on this account.

Effects on Production and Capacity Utilization

Facts

21.18 The installed production capacity of the Applicant to produce domestic like product was *** MT per annum. Quantity produced and the capacity utilized during the POI are given in the table below:

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**Table-XI
Capacity Utilization**

	Installed Capacity	Capacity Utilization
FY 2003	100	32%
FY 2004	100	55%
FY 2005	100	47%

Actual figures indexed by taking figures of FY 2003 equal to 100.

Analysis

21.19 It may be noted from the table above that the production of domestic like product increased in FY 2004 and resultantly the capacity utilization increased from 32 percent to 55 percent. The production decreased in FY 2005 and capacity utilization also decreased from 55 percent to 47 percent, however, it is higher than the level of production in FY 2003.

Conclusion

21.20 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 during the POI, other than the fall in capacity utilization in FY 2005.

Effects on Production and Sales

Facts

21.21 The production and sales of the Applicant during the POI are given in the table below:

**Table-XII
Quantity Produced and Sold**

	Production	Sales
FY 2003	100.00	110.80
FY 2004	172.04	132.02
FY 2005	145.58	165.67

Actual figures indexed by taking figures of FY 2003 equal to 100.

Analysis

21.22 The table above shows that the production of domestic like product increased by 72.04 percent in FY 2004 over FY 2003 and decreased by 15.38 percent in FY 2005 over 2004. The volume of sales of domestic like product increased by 19.16 percent in FY 2004 over FY 2003 and by 25.48 percent in FY 2005 over FY 2004. It appears from the above table that sales of the domestic industry increased throughout the POI.

Conclusion

21.23 On the basis of the above analysis, the Commission has concluded that the domestic industry did not suffer injury on account of decline in sales. However, in case of production, it appears to suffer injury during FY 2005 over FY 2004.

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Effects on Inventories

Facts

21.24 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:

**Table-XIII
Inventories of Domestic Like Product**

Year	Opening Inventories	Production	Domestic Sales	Closing inventory	Changes in Inventory
FY 2003	24.83	100.00	110.80	14.03	---
FY 2004	14.03	172.04	132.03	54.04	40.01
FY 2005	54.05	145.58	165.67	33.96	(20.08)

Actual figures of production have been indexed by taking figures of FY 2003 equal to 100

Analysis

21.25 The above table shows that the inventory level of the domestic like product increased in FY 2004 and decreased in FY 2005. It appears from the above table that in FY 2004 the Applicant increased its production by 72 percent whereas, its sales increased only by 19 percent. During FY 2005 the Applicant's production decreased of by 15.38 percent and the volume of sales increased by 25.48 percent, resultantly the inventories also decreased.

Conclusion

21.26 On the basis of the above facts the Commission has concluded that the domestic industry did not suffer injury on account of increase in inventories during the POI due to dumped imports.

Effects on Profits/Loss

Facts

21.27 The Applicant provided Profit and Loss Account Statement for the domestic like product. The table below shows the profit and loss figures of the Applicant for the POI:

**Table-XIV
Profit/Loss**

	Profit/(Loss)
FY 2003	100.00
FY 2004	156.80
FY 2005	290.71

Actual figures have been indexed by taking figures of FY 2003 equal to 100

Analysis

21.28 The Applicant's profit increased by 56.80 percent in FY 2004 and by 85.40 percent in FY 2005. The reason given by the Applicant is increase in prices of steel products in international market and its increase in sales volume.

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Conclusions:

21.29 On the basis of the above facts, the Commission has concluded that the domestic industry did not suffer injury on account of profits.

Effects on Cash Flow

Facts

21.30 The cash flow position through operating activities of the Applicant during the POI is given in table below:

**Table-XV
Cash Flow**

Year	Cash flow from Operations
FY 2003	100.00
FY 2004	(362.28)
FY 2005	477.24

Actual figures have been indexed by taking figures of FY 2003 equal to 100

Analysis

21.31 The above table shows a mix trend of cash flows from operations. The cash flow from operations changed from positive (100 percent in FY 2003) to negative (362.28 percent in FY 2004). In FY 2005 the cash generated from operations was positive at the level of 477.24 as compared to 100 in FY 2003.

Conclusions

21.32 On the basis of the above, the Commission has concluded that the domestic industry did not suffer injury on account of cash flows in FY 2005.

Effects on Employment and Productivity

Facts

21.33 The number of employees of the Applicant did not vary significantly during the POI. The employment, productivity, salaries and wages of the domestic industry were as follows:

**Table-XVI
Employment and Productivity**

Period	No. of Employees	Total salaries and wages	Production	Productivity per worker	Salaries & wages
FY 2003	100.00	100.00	100.00	100.00	100.00
FY 2004	103.43	112.96	172.04	166.33	65.66
FY 2005	99.43	130.95	145.50	143.33	85.40

Actual figures have been indexed by taking figures of FY 2003 equal to 100

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Analysis

21.34 The above table shows that the number of employees in domestic industry increased from 100 in FY 2003 to 103.43 in FY 2004, which decreased to 99.43 in FY 2005. The above table shows that the productivity per worker increased in FY 2004, but decreased during FY 2005 due to decrease in production. The cost of salaries and wages per MT for production of domestic like product decreased in FY 2004 to 65.66 and increased in FY 2005 to the level of 85.40.

Conclusion

21.35 Based on the above analysis, the Commission has concluded that the domestic industry suffered injury during FY 2005 over FY 2004 on account of decrease in employment, productivity and increase in salaries & wages per MT.

Ability to raise capital

Facts/analysis

21.36 The Applicant has earned profit during the POI and paid dividends to its shareholders. The financial position of the Applicant improved during the POI and it has not faced difficulty in raising capital.

Conclusions

21.37 The Commission has concluded that the Applicant did not suffer material injury in respect of its ability to raise capital.

Effects on Return on Investment

Facts

21.38 According to the Applicant the domestic industry has invested approximately **** billion in setting up its TP plants with an estimated return of 10 percent. According to the Applicant, 10 percent return on investment in this sector is considered normal.

21.39 The investment and return on investment of the Applicant Units during POI is given in following table:

**Table-XVII
Investment and Return on Investment**

Year	Total Investment	Return on Investment (in percentage)
FY 2003	100.00	25.91
FY 2004	120.96	27.31
FY 2005	113.97	51.28

Actual figures have been indexed by taking figures of FY 2003 equal to 100

Analysis

21.40 The above table shows that the return on investment was 25.91 percent in FY 2003, which increased to 27.31 percent in FY 2004 and further increased to 51.28 percent in FY 2005.

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Conclusions

21.41 On the basis of the above, the Commission has concluded that the domestic industry did not suffer injury on account of return on investment.

Effects on Growth

Facts/analysis

21.42 The domestic demand for TP remained fluctuating between 67 percent to 76 percent of the installed capacity hence the production capacity of the Applicant is more than domestic demand.

22. Summing up of Material Injury

22.1 The analysis in paragraph 21 *supra* shows that there has been no increase in the volume of dumped imports during the POI, rather the dumped imports decreased significantly in absolute terms during the POI. The Applicant was able to increase its sales volume by 19.16 percent in FY 2004 and by 25.48 percent in FY 2005. Similarly, the market share of the Applicant also increased from 47 percent to 64 percent in FY 2004 and further increased to 74 percent in FY 2005. This increase in market share in FY 2005 was obtained in a situation of a shrinking domestic market. The market share of dumped as well as non-dumped imports decreased during the POI.

22.2 The injury factors analyzed in paragraph 21 further show that although the landed cost of investigated product undercut the ex-factory sales price of domestic like product, it has not affected the volume of sales and market share of domestic like product, as its sales and market share increased through out the POI. Similarly, despite facing price undercutting due to dumped imports the Applicant increased its ex-factory sales prices throughout the POI (14.93% in FY 2004 and 31.22% in FY 2005) and did not suffer price depression or suppression. The increased volume of sales at higher ex-factory prices resulted in higher profit earned during FY 2004 and FY 2005. The return on investment also increased from 25.91percent to 51.28 percent.

22.3 The domestic industry has suffered injury during part of the POI on account of negative effect on cash flow i.e., in FY 2004 and negative effect on production, capacity utilization, employment, productivity and salary and wages per MT i.e., in FY 2005. However, injury on account of these factors is, negligible.

23. Other Factors

As the injury suffered by the domestic industry during the POI is negligible the issue of examination of other factors is not germane to the investigation.

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D. **CONCLUSIONS**

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

- i. the Applicant represents the domestic industry being the only 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 from the Exporting Countries, at prices below its normal value;
- vi. 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;
- iv. the injury suffered by the domestic industry during the POI on account of price undercutting, production, employment, productivity and salaries and wages per MT is negligible in terms of Section 41 of the Ordinance and Article 5.8 of Agreement on Antidumping; and
- v. the domestic industry did not suffer material injury during the POI due to dumped imports.

25. In view of the fact that the injury suffered by the domestic industry during the POI is negligible, the investigation against imports of tinplate into Pakistan originating in and/or exported from France, Germany, Italy, U.K and USA is hereby terminated in terms of Section 41 of the Ordinance and Article 5.8 of Agreement on Antidumping.

(Muhammad Ikram Arif)
Member
June 03, 2006

(Faizullah Khilji)
Chairman
June 03, 2006