



**Government of Pakistan
National Tariff Commission**

REPORT

ON

**FINAL DETERMINATION AND LEVY OF DEFINITIVE
ANTIDUMPING DUTY ON IMPORT OF TILES WHICH INCLUDES
CERAMIC, PORCELAIN/VITRIFIED/ GRANITE WALL AND FLOOR
TILES IN GLAZED/UNGLAZED, POLISHED/ UNPOLISHED FINISH
ORIGINATING IN AND/OR EXPORTED FROM THE PEOPLES
REPUBLIC OF CHINA**

A.D.C No.11/2006/NTC/CT

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 Master Tiles & Ceramic Industries Limited, G.T Road Gujranwala (the "Applicant"), a domestic producer of Tiles, which includes ceramic, porcelain/vitrified/ granite wall and floor tiles in glazed/unglazed, polished/unpolished finish, (hereinafter referred to as "Tiles") on behalf of the domestic industry on February 23, 2006. The Applicant has alleged that Tiles produced in the Peoples Republic of China (hereinafter referred to as "China") are exported to Pakistan at dumped prices. The Embassy of China in Islamabad was informed through note verbale dated February 24, 2006, 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

2.1 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 Tiles into Pakistan from China 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.

3. Foreign Exporters of the Tiles

The Applicant identified 219 exporters/producers involved in alleged dumping of Tiles from China. However, the Applicant provided complete addresses of only 35 exporters/producers from China. The Applicant has also stated that there may be other exporters/producers of investigated product who are not known to them and has requested for imposition of antidumping duty on all imports of the investigated product originating in

and/or exported from China. Upon initiation of investigation copy of the notice of initiation was sent to all those known exporters/producers from China on March 27, 2006 directly. For the exporters/producers whose addresses were not available with the Commission, a copy of the Notice of Initiation was sent to Embassy of China in Islamabad, requesting the esteemed Embassy to forward the same to all exporters/producers involved in exports of Tiles to Pakistan from China.

4. Applicant's Views

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

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

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 alleged dumping of Tiles into Pakistan and consequent material injury to the domestic industry to justify initiation of an investigation. Consequently, the Commission decided to initiate the investigation. However, on March 13, 2006 upon the request of some of the importers filed through writ petitions, the Lahore High Court, (Rawalpindi bench) issued a stay order of the proceedings, which was received at the Commission on March 14 2006. The importers had alleged that the Commission has initiated anti-dumping investigation against alleged dumping of Tiles from China without complying with the requirements of Section 27 of the Ordinance. The High Court vacated the stay by disposing off the writ petitions on March 20, 2006 as the Commission informed the Court that no investigation was initiated till that date. Furthermore, the investigation could only be initiated through compliance with the requirements of Section 27 of the Ordinance. Upon

vacation of the stay, the Commission issued a Notice of Initiation in terms of Section 27 of the Ordinance, 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 March 27, 2006. Investigation concerning imports into Pakistan of Tiles (classified under PCT³ No. 6907.1000, 6907.9000, 6908.1000 and 6908.9000) contained in the First schedule of Customs Act, 1969 (IV of 1969) originating in and/or exported from China was thus initiated on March 27, 2006 (pursuant to Commission's decision of March 14, 2006 to initiate).

5.2 The Commission notified the Embassy of China in Pakistan of initiation of investigation against imports of Tiles at dumped prices from China (by sending a copy of the Notice of Initiation through Ministry of Foreign Affairs, Pakistan on March 27, 2006) with a request to forward it to all exporters/producers involved in export of Tiles from China. Copy of Notice of Initiation was also sent to 35 exporters/producers from China (whose complete addresses were available with the Commission), the known Pakistani importers, and the Applicant on March 27, 2006, in accordance with the requirements of Section 27 of the Ordinance. Since the number of exporters/ producers involved is too large, the Commission, through the Notice of Initiation, requested the exporters/producers for certain information in order to resort to the provisions of Section 14(2) of the Ordinance. All interested parties were informed through the Notice of Initiation that if they do not respond to the Commission's request for information, the Commission shall resort to the use of best available information in terms of Section 32 of the Ordinance.

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

5.4 The investigation was again suspended in compliance with the order of the High Court on April 6, 2006 issued upon the request of some importers of Tiles filed with the High Court. This time the importers pleaded that the application submitted by the Applicant to the Commission does not meet the requirements of Section 24 of the Ordinance. The investigation remained suspended till June 7, 2006, when the High Court decided to vacate its stay order. The investigation was resumed w.e.f June 7, 2006 after the decision of High Court and a notice of resumption of investigation was published in the official Gazette of Pakistan and in two widely circulated national newspapers² (one in English language and one in Urdu Language) on June 12, 2006.

¹ The official Gazette of Pakistan (Extraordinary) dated March 27, 2006.

² The 'Daily Express and the 'Business Recorder' of March 27, 2006 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.

6. **Investigated Product and Domestic Like Product**

6.1 Section 2 of the Ordinance defines the “investigated 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”.

Domestic Like Product:

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

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

6.2.1 **Investigated Product**

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

6.2.2 **Domestic Like Product**

The domestic like product is Tiles, which includes ceramic, porcelain/vitrified/ granite wall and floor tiles in glazed/unglazed, polished/ unpolished finish, produced by the domestic industry. Domestic like product has the same usages as of the investigated product. It is also classified under Pakistan Customs Tariff (“PCT”) Heading Nos. 6907.1000, 6907.9000, 6908.1000 and 6908.9000.

6.2.3 **Like Product**

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

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

6.2.4 On the basis of above the Commission has determined that both the investigated product and the domestic like product are “like products” in terms of Section 2(m) of the Ordinance.

7. Period of Investigation

7.1 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”.

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

Investigation of dumping	from January 1 to December 31, 2005;
Investigation of injury	from July 1, 2002 to December 31, 2005.

The POI selected for injury analysis is more than three years as the Applicant’s Financial Year starts from July and ends in June.

8. Information/Data Gathering

8.1 The Commission sent exporter’s questionnaire, on June 9, 2006, directly to the 35 known exporters/producers from China (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 exporter’s questionnaire i.e by July 16, 2006.

8.2 The following nine exporters responded to the Commission’s request for information on the exporter’s questionnaire, for supplying information on the exporter questionnaire:

i) New Zhongyuan Ceramics Import & Export Co. Ltd;

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

However, all nine exporters requested for an extension in time period for submission of information of three weeks i.e. till August 7, 2006, through their respective attorneys. The Commission acceded to the request after taking into account the due cause shown by these exporters in their requests and granted three weeks extension in time period for submission of information on exporter's questionnaire. Filled-in exporter's questionnaire from nine exporters was received at the Commission on August 7, 2006, and upon examination certain deficiencies were found in the information supplied. These deficiencies were communicated to the exporters and were requested to supply the deficient information.

8.3 After examination of the information received from the above-mentioned nine exporters and the information available with the Commission, the Commission verified the information of the exporters mentioned at S. No. (i), (iv), (v), (vi) and (vii) of paragraph 8.2 supra and their following respective producers:

- i) Foshan New Zhongyuan Ceramics Co. Ltd (Producer from whom New Zhongyuan I/E Co. Ltd., Foshan Lungo Ceramics Co. Ltd and Foshan San De Bo Ceramics Co. Ltd. purchased Tiles);
- ii) Heyuan Wanfeng Ceramics Co. Ltd (Producer from whom New Zhongyuan I/E Co. Ltd., Foshan Lungo Ceramics Co. Ltd and Foshan San De Bo Ceramics Co. Ltd. purchased Tiles);
- iii) Qingyuan Southern Building Materials & Sanitary Ware Co. Ltd (Producer from whom New Zhongyuan I/E Co. Ltd., Foshan Lungo Ceramics Co. Ltd and Foshan San De Bo Ceramics Co. Ltd. purchased Tiles);
- iv) Shunde Yuezhong Branch of Guangdong New Zhongyuan Ceramics Co. Ltd. (Producer from whom New Zhongyuan I/E Co. Ltd., Foshan Lungo Ceramics Co. Ltd and Foshan San De Bo Ceramics Co. Ltd. purchased Tiles);
- v) Foshan Zungi Tiles Co. Ltd. (Producer from whom Junjing Industrial Co. Ltd., purchased Tiles),
- vi) Foshan Guangdong Shimanli Ceramic Co. Ltd. (Producer from whom Junjing Industrial Co. Ltd., purchased Tiles),

- vii) Foshan Center Ceramics Co. Ltd. (Producer from whom Nanhai purchased Tiles);
- viii) Fujian Minqing Oumei Ceramics Co. Ltd. (Producer from whom J & M purchased Tiles)

8.4 After preliminary determination the Commission gave further opportunities to the exporters who provided partial and deficient information to substantiate their claims regarding export prices and domestic sales prices which they failed to supply and the Commission had no option but to rely on the best available information in terms of Section 32 of the Ordinance.

8.5 On June 12, 2006 questionnaires were sent to Pakistani importers known to the Commission and these importers were asked to respond to the Commission within 37 days of the dispatch of the questionnaires. None of the Pakistani importers responded.

8.6 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 determination the Commission has used import data obtained from PRAL in addition to the information provided by the Applicant and the exporters.

8.7 On-the-spot investigation was conducted at the premises of the Applicant from July 13 to 15, 2005 at Gujranwala, in order to verify the information provided by the Applicant and to obtain further information. On the spot investigations were also conducted, from September 10 to 23, 2006, at the premises of the five exporters from China and producers from whom these exporters purchased investigated product during the POI for export to Pakistan, who responded to the Commission's request for data/information on exporter's questionnaire and were selected by the Commission for the purposes of on-the-spot-investigation (on the basis of the largest percentage of volume of Tiles exported to Pakistan).

8.8 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 caused therefrom. In terms of Rule 12 of the Rules, the Commission, during the course of the investigation, satisfied itself as to the accuracy of information supplied by the interested parties to the extent possible.

9. Public File

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, and other documents for disclosure to the interested parties.

10. Confidentiality

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. Furthermore, any information, which is by nature confidential in terms of Section 31 of the Ordinance, shall also be kept confidential.

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 provided by the Applicant (which is based on PRAL data) and provided by the exporters/producers from China has been analyzed. The data reveals that imports from China were 9,323,000 SQM, during the POI for dumping, which was 77% of total imports of the investigated product into Pakistan. Thus this percentage is well above the percentage for “negligible” volume (less than three percent) of imports of the like product.

12. Preliminary Determination

12.1 The Commission made its preliminary determination in this case on November 28, 2006 and in terms of Section 37 of the Ordinance, the Commission issued a notice of preliminary determination (“notice of preliminary determination”) which was published on November 30, 2006 in official Gazette of Pakistan and in two widely circulated national newspapers⁴ (one English and one Urdu Language) notifying the imposition of provisional antidumping duty at following rates for the period of four months effective from November 30, 2006:

<u>S. No.</u>	<u>Exporter Producer Name</u>	<u>Anti-Dumping Duty Rate as % of C & F Price</u>
1.	China National Machinery & Equipments I/E Co. Ltd.	0
2.	New Zhongyuan Ceramics Import & Export Co. Ltd.	3.79
3.	Foshan Lungo Ceramics Co. Ltd.	4.86
4.	Foshan San De Bo Ceramics Co. Ltd.	7.55
5.	Foshan Junjing Industrial Co. Ltd.	15.25
6.	Guangdong Nanhai Light Industrial Products I/E Ltd.	19.34
7.	J & M Designers Ltd.	19.49
8.	Foshan Everlasting Enterprise Co. Ltd.	21.02

⁴ The ‘Daily Assas and the ‘Business Recorder’ of November 30, 2006 issue

9. All others exporters from China 21.02

The Commission has also sent the notice of preliminary determination to the Embassy of China in Islamabad, the exporters, the importers and the Applicant in accordance with the requirements of Section 37(4) of the Ordinance.

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

- (i) The application is filed by the domestic industry;
- (ii)** The investigated product and the domestic like product are like products;
- (iii) The investigated product was exported to Pakistan by the exporters below its normal value during POI;
- (iv) The volume of duped imports from China and dumping margin established on the basis of analysis are above de-minimis level;
- (v) The domestic industry suffered material injury during the POI;
- (vi) A significant part of material injury to domestic industry is caused by dumped imports;
- (vii)** Imposition of provisional antidumping duty on investigated product is needed to prevent further injury to the domestic industry by dumped imports.

13. Disclosure after Preliminary Determination

13.1 In terms of Rules 11 of the Rules, the Commission, upon request made by 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 calculation done by the Commission for their exports.

13.2 Exporters for whom individual dumping margins were determined requested the Commission for disclosure meetings. Such disclosure meetings were held on January 8, 2007 and January 9, 2007 at the offices of the Commission.

14. Hearing

Upon the request of interested parties, a hearing was held on February 3, 2007 under Rule 14 of the Rules. The information submitted by the participants during the hearing, whether orally (oral statements were subsequently confirmed in writing as per Rules 14 of the Rules) or in writing, is available in the public file maintained by the Commission.

15. Written Submissions by the Interested Parties on the Preliminary Determination

15.1 The Commission received following views/comments from different interested parties. The Comments of interested parties and Commission's response is given below:

Comments received from the Applicant in letter dated December 27, 2006 through their Attorney

Views/Comments

1. "A very grave error which appears across the Preliminary Determination is the decision of the Commission to adopt the "lowest available normal value" which has been held by the Commission to be "comparable" where direct information on the domestic sales by the producer of the exporter in question was not available and neither was any information available from other producer-suppliers of the same exporter in respect of a particular size/type of the investigated/like/dumped product"

Commission's Response

Dumping Margin has been calculated in terms of Part V of the Ordinance

Section 32(1) of the Ordinance states that:

"... 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"

The Information received from exporters and their producers was analyzed and the best information available in terms of Section 32 of the Ordinance is used to determine dumping margin in this final determination

2. "...the dumping margin for Guangzhou Metals & Minerals ("Guangzhou") an entity in respect of which the Commission even conducted an on-the-spot verification has not been determined. Significantly, the report of the on-the-spot verification of Guangzhou does not even mention deficiencies in information provided or that its information may be discarded. However, curiously, just a few days before the date of the Preliminary Determination the Commission has arbitrarily excluded Guangzhou from its dumping margin calculations. Guangzhou has throughout been reiterating its claim for individual dumping margin which is already on record in the public file".

The Commission in final determination has determined individual dumping margin for Guangzhou Metals & Minerals on the basis of best available information in terms of Section 32 of the Ordinance

Final Determination and Levy of Definitive Antidumping Duty on Import of Tiles From China

3. "China National Machinery which the Commission itself has stated provided deficient information has been rewarded with a "zero" antidumping margin on the basis of information which the Commission has not even verified as yet through an on-the-spot verification"

The Commission had received request from China National Machinery for individual dumping margin before preliminary determination. The request was acceded to and individual dumping margin was determined on the basis of partial/deficient information available at the time of preliminary determination in terms of Section 37(1) of the Ordinance. After the preliminary determination, the Commission further requested China National Machinery for removal of deficiencies for final determination. The Commission did not receive complete/satisfactory response from China National Machinery and therefore, the Commission has not calculated individual dumping margin for China National Machinery in its final determination
4. "The Applicant disagrees with and objects to the decision of the Commission to exclude entirely "design" or "border" or "decorative" tiles (collectively "border tiles") from its dumping calculations. It is submitted that this decision is not in conformity with the requirements of the Ordinance, the Rules and Section 24A (1) of the 1897 Act. The Commission has failed to give sufficient reasons for its decision which is even otherwise unsustainable. By excluding "border tiles" completely the Commission has impinged on the rights of the Applicant *qua* domestic industry. The Commission has not referred to or relied upon any provision of law which empowers it to unilaterally discard or exclude an entire category of the investigated/dumped product to the detriment of the Applicant"

In the light of arguments received after preliminary determination and the facts on which final determination is based it has been decided to include border tiles in dumping calculations in final determination
5. "The Commission will appreciate that, in reality, the dumping is taking place as a result of the sales from the Chinese producer-manufacturers who are producing tiles and making sales in the domestic market and also selling the same to the exporters at prices well below the normal value for export/dumping to third countries. The exporters simply are a conduit for effecting shipment to third countries for which they charge (a relatively small) mark-up on the price. The producer-manufacturer is, therefore, just as culpable (if not more) for participating in the unfair trade practice of dumping and ought to be penalised for the same. Accordingly, in order to afford real protection to the domestic industry it is necessary in the present case for the Commission to specify in the Preliminary Determination the names of each of the manufacturers-producers involved in making sales to the exporters in question in order to avoid circumvention of the antidumping duties imposed by the Commission"

The Commission has determined a residual all others rate for exporters who either did not participate in the investigation or did not provide the requisite information.

6. "...the Commission has reiterated that "normal value" in case where information on domestic sales has not been provided has been determined on the basis of best information available under Section 32 of the Ordinance. It is respectfully submitted that this bare statement is insufficient for the purposes of the requirements of Section 37(2) of the Ordinance read with Section 24A of the 1897 Act. The provisions of Section 32 of the Ordinance must be read with those in the Schedule to the Ordinance and in the present context the provisions of paragraph 7 of the said Schedule. In its reasons and findings of any fact or law the Commission is under a duty to show how it has complied with the aforementioned requirements. No detail to enable the Applicant to confirm compliance with these requirements is given in the Preliminary Determination"
- The Commission has given sufficient reasons for the use of best available information under Section 32 of the Ordinance in its preliminary determination. Furthermore, the reasons for the use of best available information in the final determination for exporters who did not cooperate are set out in paragraphs 24 to 28
7. "With respect to the Foshan Junjing Industrial Company Limited ("Junjing") it is reiterated that this exporter has intentionally (in collusion with its producer-manufacturer) not provided information on all its suppliers to artificially maintain the normal value at the lowest possible level. It is submitted that the two producer-manufacturers of Junjing for which information has been provided are two of the smallest suppliers by volume and not representative of the true picture. Moreover, the Applicant as previously stated that it apprehends that the figures for these producers have been manipulated"
- Claims made in this comment are not substantiated with evidence. Information supplied by the producers and the exporter was verified by the Commission during on-the-spot investigations.
8. "With reference to the decision of the Commission (in paragraphs 20.8.3, 20.8.8, 20.8.13 and 20.8.18 of the Preliminary Determination) to determine normal value of "these sizes" of the investigated product on the basis of domestic sales of "comparable sizes" made by the relevant producer-manufacturer of New Zhongyuan: the Commission has not provided: (a) the definition of the expression "comparable size" or the parameters for determining the same; and (b) whether it has applied the lowest, weighted average or highest price at which the "comparable size" was sold in the domestic market by the concerned producer-manufacturer of New Zhongyuan. The correct course of action would have been to apply the weighted average price for each size. The Commission is, therefore, requested to advise the Applicant as to what constitutes "comparable sizes", the parameters specified by it for determining the same and to further inform the Applicant whether the lowest, highest or weighted average price was applied by it, since none of this critical information is revealed in the Preliminary Determination in violation of the requirements of the Ordinance"
- Investigated product was divided into three categories and comparable size and types were compared with comparable sizes and types of the like product sold in the domestic market of China.
In cases where identical/same sizes were not available, the Commission compared sizes of the investigated product with the closest/ nearest size of the like product.

Comments received from the Junjing in letter dated December 27, 2006 through their Attorney

Views/Comments

Commission's Response

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9. "I, on behalf of Foshan Junjing Industrial Co., Ltd. ("Junjing") and its two suppliers, Foshan Zungui Tiles Co., Ltd. ("Zuigui") and Foshan Shimanli Tiles Co., Ltd. ("Shimanli"), respectfully disagree with the standard of exclusion of design/borders, the determination of normal value on some type for Zuigui, some adjustments on the export price, the C&F price and other issues, and herewith the preliminary determination on dumping margin, which has been disclosed by the National Tariff Commission ("the Commission) in the non-confidential report on Preliminary Determination and levy of Provisional Antidumping Duty on imports of Tiles into Pakistan Originating in and/or Exported from the People's Republic of China ("the Report") on Nov. 30, 2006, and the summary disclosure on calculation of the dumping margin for Junjing ("the Disclosure") at the disclosure meeting on Jan. 8, 2007". Please see the Commission's response to comment 4.
10. "According to the paragraph 19.7 of the Report, the Commission divided the investigated product in three broad categories, namely, ceramic ("glazed"), porcelain ("polished") and design/borders. The design/borders are excluded in the determination of dumping margins in the preliminary determination. Meanwhile, the Commission also revealed the major characteristic of the design/borders are their prices" much higher than the prices of the other types of the investigated product, which unduly distorts the results of dumping margin ...". Please see the Commission's response to comment 4.
11. "However, the Commission did not clarify how they excluded the design/borders and what the specific price standard is used. We respectfully request NTC to further quantify the prices standard used to differentiate the design/borders from the other two categories, especially under the same type or size. We hold that NTC bear the obligation to make such disclosure to guarantee that the exclusion of design/borders has not unreasonably decrease the prices and normal value of the glazed or polished tiles which would adversely distorts the results of dumping margin in a similar way". Please see the Commission's response to comment 4.
12. "Furthermore, in the course of transactions, Junjing has not always sold design/borders in absolutely high prices, while the glazed or polished tiles have ever been sold by preferable prices as a result of the bilateral bargains in the specific market situation. Herewith we hold that it is not reasonable to distinguish the design/borders by the basis of prices Please see the Commission's response to comment 4.
13. In fact, the major characteristic of design/borders is that they are of small-size strips with the various beautiful patterns and are aimed for the decoration between the glazed tiles on the wall. Furthermore, due to the characteristic of processing technique, design/borders do not exist in the polished tiles. Considering such reasons, it is more reasonable that the sizes are regarded as the standard to differentiate the design/borders, Herewith all the different small sizes listed in the Disclosure and the other nineteen small sizes with the shape of strips are design/borders" Please see the Commission's response to comment 4.

14. "In the application filed by PAKISTAN domestic industry identified 219 exporter/manufacturer from China involved in dumping of tiles out of 219 exporters NTC can only able to send letter of initiation to only 35 Exporter / Manufactures list of 35 / Manufactures published in NTC report dt 30 Nov 2006, out of 35 exporter / Manufactures only 7 respond to NTC as such NTC select only 7 exporter manufactures whose investigation took place in China according to the normal practice & criteria required for qualifying as interested exporter / manufactures but we are surprise to go through the NTC list of investigation parties in which exporter No: 1 CHINA NATIONAL MACHINERY & EQUIPMENT IE CO LTD is included into the list of investigation parties in China, and this company is confirmed by NTC as 0% antidumping duty company. The real fact is that this party No 1 is not investigated in China this is the only company of China whose investigation is done in Islamabad (Pakistan), which can be confirmed in the report of NTC".
- The Commission sent Notice of Initiation of Investigation and the Exporter's Questionnaire to all known exporters in China. Furthermore, the Commission forwarded the Notice of Initiation of investigation and the Exporter's Questionnaire to Embassy of China in Islamabad to forward the same to all exporters of the investigated product in China.
- In terms of Rule 12 of the Rules "the Commission may carry out investigation in other countries as may be required...". The Commission is therefore not obliged to carry out on-the-spot investigation of all responding exporters. In this investigation the Commission carried out on-the-spot investigation of the following five exporters who were selected on the basis of largest percentage in the share of exports to Pakistan.
- (i) New Zhong Yuan
 - (ii) Junjing
 - (iii) Nanhai
 - (iv) Guangzhou
 - (v) J & M
- It is not true that China National Machinery was the only exporter from China where the Commission did not carry out on-the-spot investigation. The Commission also did not carry out on-the-spot investigation for the following four exporters:
- (i) China National Machinery
 - (ii) Foshan Everlasting
 - (iii) Foshan San De Bo
 - (iv) Foshan Lungo Ceramics
15. "The Commission has targeted only the concept the of the dumping from few Exporters and due to non-availability of the proper record the commission had issued preliminary report in derogative manner. However the commission has not exerted to collect or to dig out the evidence in the regard from different sources, Hence the entire working on the port of the commission is without basis".
- Through Notice of Initiation of investigation any party who had interest in the case was requested to make itself known to the Commission. Furthermore, after initiation of investigation the Commission sent questionnaires to all known exporters and importers in order to gather information and to provide ample opportunity to these parties to defend their interests. The Commission has based its determination on the basis information provided by the interested parties.

Comments received from Importers & Exporters through their Representative in letter dated February 10, 2007

- | Views/Comments | Commission's Response |
|--|---|
| 16. "Swat Ceramics (Pvt.) Limited has been excluded from the definition of domestic industry alongwith others who imported ceramics tiles. In this case, we have been given to understand by our client that Swat Ceramics (Pvt.) Limited did not import ceramics tiles during the POI of twelve months meant for the determination of dumping margin. Usually the same period is used for the determination of status of domestic industry". | Swat Ceramics (Pvt) limited imported the investigated product during the POI for injury i.e. January 1, 2003 to December 31,2005. Therefore the Commission has not included Swat Ceramics (Pvt) Limited in domestic industry defined under Section 2(d) of the Ordinance. |
| 17. "the Commission has divided the investigated product in three broad categories (Ceramics "Glazed", Porcelain "Polished" and Design/Border) <u>on the basis of inputs, production process and prices.</u>
The Commission has then excluded the design/border tiles to avoid distortion in the results of dumping margin due to its higher prices than the other two categories. On the same analogy we are of the view that injury analysis is distorted by production and sales of porcelain tiles of the Applicant, hence it should be either excluded from the injury analysis or separate injury may be determined for this category". | Please see the Commission's response in comment 4. |
| 18. "the Commission has observed that National Tiles Ceramics Limited and Marshal Tiles and Ceramics Limited are engaged in production of ' extruded split tiles ' which is different from the domestic like product and the product under investigation in terms of raw material and production process. Since the extruded split tiles are also importable under the same PCT heads as pertaining to the investigated product, hence it is requested that in case definitive antidumping duties are imposed, extruded split tiles may kindly be specifically excluded from the levy of such duties". | Extruded split tiles are not included in the definition of investigated product as mentioned in paragraph 6.2.1 supra and therefore these tiles are not subject to levy of antidumping duty |

19. "Karam Ceramics capacity utilization was 157% (it produces only ceramics tiles) during the POI, and capacity utilization of Master Tiles, the Applicant in this case was 47% (it produces ceramics tiles as well as porcelain tiles).
- The production of other three domestic producers (Shabbir Tiles, EMCO Tiles and Swat Ceramics) has not been shown as these were importing the investigated product. It is understood that these three units were not fully meeting the domestic demand due to capacity constraints and were importing tiles and their production was upto the maximum of their existing capacities. It is also known that these three units produce ceramics tiles. This reveals that all the domestic units producing ceramic tiles are running at capacity utilization ranging from 100% to 157% whereas the Applicant producing porcelain tiles and ceramics tiles is running at 47% capacity utilization. As claimed by the Applicant, it is incurring losses whereas all other units (three importing plus Karam Ceramics) are earning profits. This shows that the production and sale of only porcelain tiles is making the difference in capacity utilization and profitability as well".
- As has been discussed in Part C of the preliminary determination report, the overall domestic market of tiles increased during the POI. The Applicant increased its capacity keeping in view the future demand of tiles but could not utilize its capacity to an optimal level due to dumping. Sales of the Applicant increased but at a rate considerably lower than the growth in domestic demand.
20. "The detailed analysis of installed capacity and domestic production would reveal that the main reason of increase in imports from China was tremendous expansion in domestic market of tiles especially ceramic glazed tiles, which the domestic producers were unable to meet due to limited capacity. However, underutilization in capacity was mainly in case of porcelain tiles which was added by the Applicant during 2003-2004 at an enormous expenditure of over Rs. one billion without visualizing limited domestic demand of porcelain tiles".
- Please see the Commission's response to comment 19.
21. "Para 26.2.1 of the report reveals that during FY 2005 (2004-05) there was no price undercutting and during Jul-Dec 2005 the Applicant increased the prices of its product more than the increase in landed cost of investigated product. So during first six months of POI for dumping, if there was no price undercutting and during following six months if the price undercutting was due to own pricing policies of the Applicant, then it should not be attributed to the alleged dumped imports. It is noteworthy that prices of alleged dumped imports increased during the later six months period of POI over the last period".
- The investigation revealed that the cost of production of the Applicant increased by 3.10% in FY 2005 and by 13.33% during the period from July-Dec 2005. The Applicant decreased its price 4.21% in FY 2005 but increased the price by 8.85% during July-Dec 2005 in order to reduce its losses. In spite of this later increase, the Applicant continued to suffer price suppression. (see para 26.4 of report on preliminary determination)
22. "As per para 26.3.1 of the report, the average ex-factory price during Jul-Dec 2005 was higher than FY 2005 and FY 2004, so there was no price depression during the last six months of the POI for dumping. For real comparison data on calendar year basis which corresponds with the POI for dumping calculation should have been used. In this case, determination of injury based on financial year basis due to alleged dumping (determined on calendar year basis) is not reflecting the true linkage between alleged dumping and injury".
- The Applicant maintains its accounts on financial year basis i.e. July to June and the calculations reflect this.

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23. "During Jul-Dec 2005 there appears to be some mistake as actual price suppression is 4.48% and not 22.18% (13.33% - 8.85% = 4.48%). In addition the basic cause of price suppression is increase in cost to make & sell due to costly addition of 5.00 million sqm porcelain tiles capacity by the Applicant during 2003-04. The consequential enhanced financial charges and depreciation have caused this price suppression and not the alleged dumped imports, as prices of imports are showing constant increase in FY-2005 over FY-2004 and in Jul-Dec 2005 over FY-2005 as given under the table of price undercutting".
- The comment has been noted and necessary typographic correction has been made
24. "An interesting point to note is that the price suppression was 10.51% , at its highest level, in the FY 2004 when the imports from China has taken only 25 percent share of the domestic market. Cost to make and sell of the Applicant also reduced in this period. Moreover, production and sales of the Applicant domestic industry also increased during the same period as compared to the FY 2003. This implies that alleged dumped imports have inverse relationship with price suppression".
- The analysis of information by the Commission shows that the Applicant has suffered injury on account of price suppression during the POI
25. "The Commission has rightly observed as per para 27.2 of the report that the "total domestic market of ceramic tiles has grown more than double during the POI". But in the table given under para 27.1 of the report, total domestic market has been shown at a constant figure of 100 throughout the POI, this needs correction".
- Table in paragraph 27.1 reflects percentage share of different segments of the domestic industry. While in para 27.2 analysis has been done on confidential figures to give understanding of change in domestic market. Therefore, there is no conflict between two paragraphs.
26. "In a situation where domestic market has doubled, if installed capacity of the domestic producers for ceramics tiles has not been increased to that extent, obviously the demand and production gap would go to the imports. So failure on the part of domestic producers for corresponding increase in installed capacity of ceramics tiles may not be treated as injury due to alleged dumped imports. The Applicant increased capacity of 1.5 million sqm only in ceramics tiles whereas increase in capacity due to addition of new plant of 5 million sqm was that of porcelain tiles for which domestic demand was limited than the newly installed capacity".
- The Applicant has installed capacity to produce glazed, polished and design tiles in the same plant and this was verified during on-the-spot investigation.

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27. "Para 28.3 of the report reveals that Karam Ceramics capacity utilization was as high as 157% during FY-2005 which produces only ceramic (glazed) tiles. In contrast to this, the capacity utilization of Applicant was only 47% during FY-2005 which produces ceramic (glazed) as well as porcelain (polished) tiles. It is understood that capacity utilization of other three domestic producers (who were also importing ceramic tiles) was around 100%. So obviously the difference between the two types of producers is unutilized capacity of the Applicant concerning porcelain tiles. Hence this may not be attributed to alleged dumped imports". Please see the Commission's response to comment 19.
28. "As per table given under para 29.1 of the report, sales are showing tremendous increase. However, still it is being assumed that sales were not increased to the desired level. Of course sales could not be increased to the desired level because of limited demand of porcelain tiles in Pakistan. Figures of porcelain tiles imports added with sales of porcelain tiles by the Applicant would constitute the domestic demand for porcelain tiles. This domestic demand compared with installed capacity of 5 million sqm of porcelain tiles by the Applicant would clearly depict the true reason why sales were not increased upto the desired level of installed capacity". Please see the Commission's response to comment 19.
29. "It was earlier commented by us that increase in inventories was as per increase in volume of business. As per para 37.5 of the report, the Commission also observed that the inventories fell to a more reasonable level in FY-2004 and FY-2005 due to downward adjustment of domestic prices. The Commission is of the view that the statements in paragraphs 30.3 and 37.5 of preliminary determination are not contradictory: in one case a particular year (a part of POI) is being discussed whilst in the other instance a conclusion regarding the whole POI is being drawn. In spite of above observation, the conclusion arrived at para 30.3 of the report is that the domestic industry suffered material injury on account of dumped imports. There seems contradiction in the observation of the Commission and the resultant conclusion".
30. "Karam Ceramics did not suffer material injury. In addition other domestic producers which have not been discussed have also earned huge profits during the POI (as earlier commented by us) vividly shows that problem is peculiar with the Applicant. And that too as earlier identified is due to costly addition of 5 million sqm capacity of porcelain tiles which have lesser domestic demand". Please see the Commission's response to comment 19: Karam Ceramics did not increase its capacity during POI.
31. "Cash flow of Karam Ceramics and the Applicant was showing positive results during FY-2005. However, during Jul-Dec 2005 cash flow decreased due to peculiar problems of the Applicant and Karam Ceramics data has not been shown for this period due to non-availability". Please see the Commission's response to comment 30.

32. "Out of the three factors, it was concluded that only productivity was reduced and that too only during last six months of the dumping POI i.e Jul-Dec 2005. It was mainly owing to increase in number of employees by the Applicant during the last six months. There was no logic in increasing number of employees when the Applicant was incurring heavy losses". As the production and sales of the Applicant increased, corresponding employment level also increased.
33. "Due to heavy and unwise investment by the Applicant in porcelain plant of 5 million sqm, the return on investment was decreased. But the position of other domestic producers has not been discussed which must be showing better results due to enhanced profitability". Please see the Commission's response to comment 19

16. Disclosure of Essential Facts

16.1 In terms of Rules 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 February 28, 2007 to all interested parties including the known exporters/ foreign producers, the Applicant, the known Pakistani importers, and to the Embassy of China in Pakistan.

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

Comments received from the Applicant in letter dated December 27, 2006 through their Attorney

- | Views/Comments | Commission's Response |
|--|--|
| 1. "The most serious and damaging error committed by the Commission which remains not only uncured but also finds no mention in the SEF is that it has <u>admittedly relied on partial information</u> supplied by the Chinese exporters in order to impose the lowest possible antidumping duty and to avoid the correct and higher duty rate. The Applicant identified 219 exporters and producers of China involved in dumping of tiles in Pakistan out of which only 9 exporters and 10 producers supplied their information <u>which was again partial and incomplete which has been admitted categorically by the Commission in the Preliminary Determination</u> ". | Please see the Commission's response to comment No. 1 of Comments relating to Preliminary Determination. |
| 2. "The Commission has categorically mentioned in its preliminary determination that it has applied the "lowest normal values" where exporters did not cooperate. As per law, the Commission has to rely on the "best information available" which understandably can be less favourable for the exporters who do not cooperate. | Please see the Commission's response to comment No. 1 of Comments relating to Preliminary Determination. |
| 3. "Another issue of great concern to the Applicant which finds no mention in the SEF is the Commission's arbitrary and erroneous decision to exclude one entire category of product (i.e. border/design tiles) while calculating dumping margins which is a part and parcel of the investigated product" | Please see the Commission's response to comment No. 4 of Comments relating to Preliminary Determination. |

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| 4. "The Applicant respectfully submits that, in reaching its final determination, the Commission must also take into account the fact that the anti-dumping duty imposed by the Commission through its preliminary determination <u>has been absorbed by the importers and no price increase has been made by them in the market</u> " | The Commission has made both preliminary and final determinations in accordance with the provisions of the Ordinance |
| 5. "The Applicant has previously explained to the Commission that imposition of antidumping duty <u>on exporters only is erroneous and misconceived</u> given the nature of the investigated product and how sale and distribution thereof is separated for domestic sales and exports from China." | Please see the Commission's response to comment No. 5 of Comments relating to Preliminary Determination. |
| 6. "In the SEF, the Commission itself has noted the instances of non-cooperation and withholding of information from the Commission on the part of various interested parties referred to therein. In some instances the Commission has also disregarded the position adopted by certain interested parties when the stance taken by such parties was not supported by documentary evidence (e.g. New Zhongyuan Ceramics Import & Export Co. Ltd.)." | Please see paragraph 24 relating to rejection of information provided by New Zhongyuan Ceramics Import & Export Co. Ltd. |
| 7. "With reference to the comments noted in paragraph 25.7.1 of the SEF, in view of the continuing non-cooperation by China National Machinery, it is submitted that the highest possible anti-dumping duty is liable to be imposed on this entity which was previously favoured with 0% duty. It is pertinent to mention here that during the public hearing that took place at the Commission, even the importers objected to imposition of 0% duty on China National Machinery" | Please see the Commission's response to comment No. 3 of Comments relating to Preliminary Determination. |

Comments received from Importers and Exporters in letter dated, 2006 through their Representative

- | Views/Comments | Commission's Response |
|---|---|
| 8. "Para 18 of SEF tells that hearing was held and information submitted by the participants is available in the public file. The Commission has said nothing about the examination of these submissions and facts found as a result of this examination" | Rule 14(8) of the Rules requires that:
"the Commission shall inform all interested parties, in writing, subject to the requirement of confidential information under Section 31 of the Ordinance, of essential facts under consideration....."
The law does not therefore require the Commission to disclose results of examination while disclosing essential facts. |

NON-CONFIDENTIAL

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9. "Para 19 of the SEF states that disclosure meetings were held and exporters obtained dumping calculations of their exports. Nothing has been said about the comments/observations made by the exporters on these calculations and new facts brought to the notice of the Commission through their comments"
- The Commission has reported all the relevant facts in the SEF. Comments received from the interested parties have been placed in the Public File. Furthermore, in paragraph 5 of the SEF all interested parties were requested to read the SEF in conjunction with the documents placed in the Public File.
10. "Para 20 of SEF states that the Commission has received written submissions/comments after preliminary determination from the interested parties which would be taken into account while making its final determination. Actually these comments/submissions should have been taken into account in this SEF, so that where one feels that Commission requires some more clarification about certain facts that could be provided before final determination by way of comments on this SEF. If the new facts which the Commission is likely to ascertain through analysis and examination of these submissions are not included in this SEF, how we can say that this SEF contains all facts based on which final determination will be made"
- Please see the Commission's response to comment No. 9 of the comments above
11. "In para 25.3 information supplied by Junjing upto preliminary determination concerning normal value has been mentioned. But nothing is said about additional information supplied by the company/facts brought into the notice of the Commission in response to the disclosure meeting"
- Please see the Commission's response to comment No. 9 of the comments above
12. "As per para 25.6.6 it has been informed that Everlasting purchased ****SQM of glazed and border/design tiles from other producers where information is not available with the Commission. This exporter being our client supplied some of the required information which has not been mentioned by the Commission in the SEF"
- Please see the Commission's response to comment No. 9 of the comments above
13. "In para 26.2 information supplied by Junjing upto preliminary determination concerning export price has been mentioned. But nothing is said about additional information supplied by the company/facts brought into the notice of the Commission in response to the disclosure meeting"
- Please see the Commission's response to comment No. 9 of the comments above
14. "Para 26.4 mentions about the information provided by J&M Designer upto preliminary determination regarding exports. Information provided by J&M Designer thereafter/facts brought into the notice of the Commission has not been mentioned in the SEF"
- Please see the Commission's response to comment No. 9 of the comments above

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15. "In para 26.6 it has been disclosed that China National Machinery supplied partial information upto preliminary determination. It was thus again requested to provide the deficient information and evidences latest by December 30th, 2006 which it failed to supply. In fact China National Machinery supplied some of the required information before due date and some information was supplied thereafter in January 2007. Nothing has been mentioned about its receipt. It is understood that the information supplied by some other exporters in January 2007 has been accepted for consideration by the Commission. On the same line, we request the Commission to accept the information supplied by China National Machinery in December 2006 as well as in January 2007"
- The Commission received certain documents from China National Machinery in Chinese language only and these could not be used. In any event these were supplied well after the due date. The Commission has considered all the information received while making its final determination.
16. "As per para 26.1 of the preliminary determination, the Commission informed that the analysis of effect of dumped imports on the sales price of domestic like product in Pakistan was limited to the Applicant, because the information regarding sales prices of other producers was not available with the Commission. Even now through this SEF, no fact has been brought to the notice of interested parties that whether the Commission has been able to obtain information about sales prices of other producers or not. Therefore, it is requested to the Commission to consider this aspect while making final determination"
- The Commission was not able to obtain information regarding prices of other units as no other unit has responded to the Commission's determination and the letters sent earlier to them.
17. "All facts in the injury analysis given in the SEF have been repeated from the provisional determination. Nothing new has been added. Therefore, it is requested that all our comments on these injury factors communicated to the Commission vide our letter of February 10, 2007 may be incorporated and analyzed in the final determination"
- Comments received from interested parties and relevant to this investigation have been taken into consideration in reaching this final determination

Comments received from New Zhongyuan, Sandebo and Iungo in letter dated March 15, 2007 through their Representative

Views/Comments

18. "Unify invoice is the most direct, effective and admissible evidence which can prove the information in Attachment C-3 is at FOB level, its evidentiary effect should be respect".
19. ""Tax Returns" is the indirect evidences which can also prove the information in Attachment C-3 is at FOB level, its evidentiary effect should be duly take into account in the final findings"

Commission's Response

As per information gathered during the investigation "Unify Invoice" is prepared on the basis of Commercial Invoice approximately one month after the actual transaction has taken place. The Commission repeatedly requested for original commercial invoices which were not provided by these exporters.

In attachment C-3 of the questionnaire the Commission requires information on transaction by transaction basis. However, it was not possible to verify information from tax returns on transaction by transaction basis.

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20. "Some whole set of commercial documents can justify the information in Attachment C-3 is at FOB level, its evidentiary effect should not be ignored". During investigation, the review of documents established that the claim regarding FOB price could not be supported with documentary evidence.
21. "Few deficiencies in some evidences of New Zhongyuan are isolated and non-substantial, and should not be enlarged to overthrow the evidentiary effect of all other evidences". Examination of evidence confirm that it does not support the claim regarding FOB prices. Furthermore, basic documents like commercial invoice, freight invoices and bank receipts have not been provided despite repeated requests.
22. "No certain deficiencies on evidences of Lungo and Sandebo have been pointed out by NTC, the information in Attachement C-3 of Lungo and Sandebo was at FOB level has been substantiated by a large quantity of qualified evidences". Please see the Commission's response to comment 21 of the comments above.

B. DETERMINATION OF DUMPING

16. Dumping

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

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

17. Normal Value

17.1 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".

17.2 However, Section 6 of the Ordinance states:

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

- "a) the comparable price of the like product when exported to an appropriate third country provided that this price is representative; or
- "b) the cost of production in the exporting country plus a reasonable amount for administrative, selling and general costs and for profits.

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

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

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

- “(a) within an extended period of time which shall normally be a period of one year and in no case less than a period of six months;
- “(b) in substantial quantities; and
- “(c) at prices which do not provide for the recovery of all costs within a reasonable period of time.

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

- “(a) a weighted average selling price of transactions under consideration for the determination of normal value is below a weighted average cost; or
- “(b) the volume of sales below per unit cost represents twenty per cent or more of the volume sold in transactions under consideration for the determination of normal value.

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

18. Export Price

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

19. Dumping Determination

19.1 As stated earlier (paragraph 3 supra) the Applicant identified 219 Chinese exporters and producers involved in alleged dumping of the investigated product. The Commission sent questionnaires to gather information to 35 exporters/producers whose complete addresses were available with the Commission (paragraph 8 supra). However, questionnaire was also provided to the Embassy of the People’s Republic of China in Islamabad with a request to forward it to all Chinese exporters/producers of the investigated product to submit information to the Commission.

19.2 The Commission received response of the questionnaire from following nine exporters responded to the questionnaire. These exporters have also supplied information for nine producers on their domestic sales of the like product to determine normal value for the investigated product. Names of the producers are placed at Annex-I

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

19.3 Information supplied by the above mentioned exporters in response to the questionnaires was either deficient/partial/incomplete or was not verifiable. The Commission gave an ample opportunity to all the exporters to provide necessary information and documents (paragraph 8.5 supra).

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

19.5 Since the number of exporters involved was large, the Commission decided to limit its investigation to the following five exporter on the basis of the largest percentage of volume of the exports from China:

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

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

- i. Foshan San De Bo Ceramics Co. Ltd.; Foshan (“San De Bo”);
- ii. Foshan Lungo Ceramics Co. Ltd. Foshan (“Lungo”);

- iii. Foshan Everlasting Enterprise Co., Ltd, Foshan (“Everlasting”); and
- iv. China National Machinery & Equipment Import & Export corporation, Fujian Company Ltd., Fuzhou (“National Machinery & Equipment”).

19.7 In the preliminary determination, the Commission decided to accept the exporters’ request to determine their individual dumping margin. Therefore, the Commission determined individual dumping margin for all the nine exporters who responded to the questionnaire on the basis of the information available with the Commission at that time. However, exporters were provided another opportunity to supply deficient information and further documents to verify the information, which the Commission would have to take into account for the purposes of this final determination. On-the-spot investigations, to verify the information, were conducted at the premises of the five exporters mentioned at paragraph 19.5 supra.

19.8 For the purposes of determination of dumping, investigated product has been divided in three broad categories, ceramic (“glazed”), porcelain (“polished”) and design/borders tiles, on the basis of inputs, production process and price. Dumping in this investigation is determined by comparing normal value and export price of the relevant type, and size etc.

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

Normal Value

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

20.2 Normal value for the investigated product which Junjing purchased from other producers, whose information on domestic sales of the like product was not available with the Commission, is determined on the basis of the best information available in terms of Section 32 of the Ordinance. In this regard first of all domestic sales of Zungui and Shimanli were considered and if sales of comparable type and size of the like product was available from the domestic sales of these two producers, normal value has been determined on the basis of those sales. In cases where these two producers did not have domestic sales for specific type and size of the like product, normal value is determined on the basis of domestic sales of other producers for that particular type and size. In this situation, the weighted average price of the relevant type and size of the like product is applied for the purposes of determination of normal value.

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

20.4 Zungui sold **** square meter (“SQM”) of ceramic (glazed) tiles of different sizes including borders/design tiles in its domestic market during the POI. These sales are in sufficient quantities to determine normal value in terms of Section 6(2) of the Ordinance, as

those are more than 5 percent of the export sales of the investigated product exported by Junging, which it had purchased from Zungui.

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

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

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

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

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

20.10 As stated earlier (paragraphs 20.1 and 20.2 supra) Junging also exported the investigated product, which it had purchased from other producers whose information on sales of the like product in their domestic market is not available with the Commission. According to the information provided by Junging, it purchased ***** SQM of glazed, polished and design/borders of different sizes of the investigated product from other producers (whose information is not available with the Commission). The Commission has used the best information available in terms of Section 32 of the Ordinance to determine normal value for the investigated product whose corresponding domestic sales were not available.

20.11 In determination of normal value for the investigated product whose corresponding domestic sales were not available, first of all, the Commission considered domestic sales of Zungui and Shimanli and if sales of same/similar type and size of the like product was available from the domestic sales of these two producers, normal value has been determined on the basis of those sales. In cases where these two producers did not have domestic sales for specific type and size of the like product, normal value is determined on the basis of domestic sales of other producers for that particular type and size. In this situation, the weighted average price of the relevant type and size of the like product is applied for the purposes of determination of normal value.

Export Price

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

20.13 According to the information, during the POI, Junjing purchased the investigated product from different un-related Chinese producers of the investigated product and exported to Pakistan at a price considered appropriate by it. It exported ceramic (glazed), porcelain (polished) and border/design tiles in different sizes (ranging from 20x30mm to 800x800mm) of the investigated product to Pakistan during the POI. Its total exports sales of the investigated product to Pakistan during the POI were ***** SQM. All export sales to Pakistan, during the POI, were to un-related customers. The Commission has determined export price separately for different sizes.

20.14 To arrive at the ex-factory level, Junjing reported adjustments on account of handling cost, inland freight, ocean freight and bank charges (commission). During on-the-spot investigation at the premises of Junging (paragraph 8.4 supra), it was found that Junging is a separate entity then the producer of the investigated product, it had incurred following further expenses on export sales of the investigated product during the POI. These expenses have also been adjusted in export price to arrive at ex-factory level:

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

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

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

20.16 Thus the export price at ex-factory level is worked out by deducting values reported for the above-mentioned adjustments from the gross value of the sales transactions. Summary calculation of export price for the investigated product is placed at Annexure-IV (Annexure-IV has been omitted to maintain confidentiality).

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

Normal Value

21.1 As per information supplied by Nanhai it purchased investigated product from more than 35 producers, which was subsequently exported to Pakistan during the POI. It supplied information on domestic sales of only one producer namely Foshan Center Ceramics Company Limited ("Center"). However, the Commission received information on domestic sales of another producer namely Zungui with response to the questionnaire of Junging. Normal value for the investigated product which Nanhai purchased from Center and Zungui has been determined on the basis of the domestic sales prices of the like product (relevant type, grade, size etc.) sold by these two producers in their domestic market during the POI.

21.2 Normal value for the investigated product which Nanhai purchased from other producers, whose information on domestic sales of the like product was not available with the Commission, is determined on the basis the of best information available in terms of Section 32 of the Ordinance. In this regard first, the all domestic sales of Zungui and Center were considered and if sales of comparable type and size of the like product was available from the domestic sales of these two producers, normal value has been determined on the basis of those sales. In cases where these two producers did not have domestic sales for specific type and size of the like product, normal value is determined on the basis of domestic sales of other producers for that particular type and size. In this situation, the weighted average price of the relevant type and size of the like product is applied for the purposes of determination of normal value.

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

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

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

course of trade in terms of Section 7 of the Ordinance. Summary of calculations of normal value for Center is placed at Annexure – V (Annexure-V is omitted to maintain confidentiality).

21.6 According to the information provided by Nanhai, it purchased ***** SQM of the investigated product (glazed, 250x330 mm and 300x450mm) from Zungui. Normal value for these sizes of the investigated product has been determined on the basis of the domestic sales of same/similar sizes made by Zungui in its domestic market during the POI. Summary of calculations of normal value is placed at Annexure-II (Annexure-II has been omitted to maintain confidentiality).

21.7 The Commission also determined whether Zungui's domestic sales were in sufficient quantities to determine normal value in terms of Section 6(2) of the Ordinance. Analysis of the information revealed that its domestic sales were in sufficient quantities as those were more than 5 percent of the export sales of the investigated product exported by Nanhai, which it had purchased from Zungui.

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

21.9 As stated earlier (paragraphs 21.1 and 21.2 supra) Nanhai also exported the investigated product, which it had purchased from other producers whose information on sales of the like product in their domestic market is not available with the Commission. According to the information provided by Nanhai, it purchased ***** SQM of glazed, polished and border/design tiles of different sizes of the investigated product from other producers (whose information is not available with the Commission). The Commission has used the best information available in terms of Section 32 of the Ordinance to determine normal value for the investigated product whose corresponding domestic sales were not available.

21.10 In determination of normal value for the investigated product whose corresponding domestic sales were not available, the Commission first considered sales of Zungui and Center and if sales of comparable type and size of the like product were available from the domestic sales of these two producers, normal value has been determined on the basis of those sales. In cases where these two producers did not had domestic sales for specific type and size of the like product, normal value is determined on the basis of domestic sales of other producers for that particular type and size. In this situation, the weighted average price of the relevant type and size of the like product is applied for the purposes of determination of normal value.

Export Price

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

21.12 According to the information, Nanhai purchased the investigated product from different un-related Chinese producers and exported to Pakistan at a price considered appropriate by it during the POI. It exported design/border tiles, ceramic (glazed) and porcelain (polished) types

in different sizes (ranging between 100x100mm to 600x600mm) of the investigated product to Pakistan during the POI. Its total exports of the investigated product to Pakistan during the POI were ***** SQM. All export sales to Pakistan, during the POI, were to un-related customers. The Commission has determined export price separately for different types and sizes.

21.13 To arrive at the ex-factory level, Nanhai reported adjustments on account of handling cost, inland freight, ocean freight and bank charges (commission). During on-the-spot investigation at the premises of Nanhai (paragraph 8.4 supra), it was found that it is a separate entity then the producer of the investigated product, it had incurred following further expenses on export sales of the investigated product during the POI. These expenses have also been adjusted in export price to arrive at ex-factory level:

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

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

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

21.15 Thus export price at ex-factory level is worked out by deducting values reported for the above mentioned adjustments from the gross value of the sales transactions. Summary calculation of export price for the investigated product is placed at Annexure-VI (Annexure-VI has been omitted to maintain confidentiality).

22. Determination of Dumping for J&M Designers

Normal Value

22.1 According to the information supplied by J&M Designers it purchased investigated product from four producers namely Fuzhou pingchi Oumei Factory ("Oumei"), Foshan Sky planet ("Sky Planet"), Sanming foreign ("Sanming") and Fujian Furi, which was subsequently exported to Pakistan during the POI. However, it supplied information on domestic sales of only one producer i.e. Oumei. Normal value for the investigated product (glazed size 200x300) which J&M purchased from Oumei has been determined on the basis of the domestic sales price. Normal value has been determined on the basis of cost to make and sell for those sizes for which either Oumei had no domestic sales or domestic sales were not in the ordinary course of trade in terms of Section 7 of the Ordinance during the POI

22.2 Normal value for the investigated product which J&M purchased from other producers, whose information on domestic sales of the like product was not available with the Commission, is determined on the basis of the best information available in terms of Section 32

of the Ordinance. In this regard first of all domestic sales of Oumei were considered and if sales of comparable type and size of the like product was available from the domestic sales of Oumei, normal value has been determined on the basis of those sales. In cases where this producer did not have domestic sales for specific type and size of the like product, normal value is determined on the basis of domestic sales of other producers for that particular type and size. In this situation, the weighted average price of the relevant type and size of the like product is applied for the purposes of determination of normal value.

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

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

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

22.6 As stated earlier (paragraphs 22.1 and 22.2 supra) J&M also exported the investigated product, which it had purchased from other two producers and some specific sizes from Oumei whose information on sales of the like product in their domestic market is not available with the Commission. According to the information provided by J&M, it purchased ***** SQM of glazed and border/design tiles of different sizes of the investigated product (including sizes purchased from Oumei for which domestic sales are not available) from other producers (whose information is not available with the Commission). The Commission has used the best information available in terms of Section 32 of the Ordinance to determine normal value for the investigated product whose corresponding domestic sales were not available.

22.7 In determination of normal value for the investigated product whose corresponding domestic sales were not available, the Commission first considered sales of Oumei and if sales of comparable type and size of the like product were available from the domestic sales of Oumei, normal value has been determined on the basis of those sales. In cases where Oumei did not have domestic sales for a specific type and size of the like product, normal value is

determined on the basis of domestic sales of other producers for that particular type and size. In this situation, the weighted average price of the relevant type and size of the like product is applied for the purposes of determination of normal value.

Export Price

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

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

22.10 To arrive at the ex-factory level, J&M reported adjustments on account of handling cost, inland freight, ocean freight, bank charges (commission), credit cost and Chinese exporting company's commission. During on-the-spot investigation at (paragraph 8.4 supra), it was found that it is a separate entity then the producer of the investigated product and it had incurred following further expenses on export sales of the investigated product during the POI. These expenses have also been adjusted in export price to arrive at ex-factory level:

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

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

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

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

of did not substantiate the claim. Thus, the Commission has not accepted these adjustments with respect of ocean freight and handling cost.

22.13 Thus the export price at ex-factory level is worked out by deducting values reported for the above-mentioned adjustments from the gross value of the sales transactions. Summary calculation of export price for the investigated product is placed at Annexure-VIII (Annexure-VIII has been omitted to maintain confidentiality).

23. Determination of Dumping for Guangzhou Metal and Minerals Imp & Exp (“Guangzhou”):

Normal Value

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

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

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

23.4 Section 7 of the Ordinance requires the Commission to determine whether domestic sales of these three producers were made in the ordinary course of trade in the domestic market. In determination of normal value, the Commission has disregarded sales, which were not in the ordinary course of trade in terms of Section 7 of the Ordinance. Details of sales by these three producers in their domestic market are given at paragraphs 20.3 to 20.11 and 22.3 to 22.7 *supra*.

Export Price

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

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

23.7 To arrive at the ex-factory level, Guangzhou reported adjustments on account of handling cost, inland freight and ocean freight. During on-the-spot investigation at (paragraph 8.4 supra), it was found that it is a separate entity then the producer of the investigated product and it had incurred following further expenses on export sales of the investigated product during the POI. These expenses have also been adjusted in export price to arrive at ex-factory level:

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

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

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

23.9 Thus the export price at ex-factory level is worked out by deducting values reported for the above-mentioned adjustments from the gross value of the sales transactions. Summary calculation of export price for the investigated product is placed at Annexure-IX (Annexure-IX has been omitted to maintain confidentiality).

24 Determination of Dumping for New Zhongyuan Ceramics Import & Export Co

Normal Value

24.1 According to the information supplied by New Zhongyuan it purchased investigated product from four of its related producers namely Foshan New Zhongyuan, Shunde, Heyuan and Qingyuan, which was subsequently exported to Pakistan during the POI. It supplied

information on domestic sales of all the four producers. Normal value for the investigated product which New Zhongyuan purchased from above mentioned producers has been determined on the basis of the domestic sales prices of the like product sold by these producers in their domestic market during the POI.

24.2 As per the information, the four producers produced and sold ceramic (glazed), porcelain (polished), design and paving tiles in its domestic market during the POI.

24.3 According to the information provided by New Zhongyuan, it purchased ***** SQM of ceramic glazed and design tiles of different sizes (200x300, 250x33mm, 300x300mm, 300x450mm, 330x330mm, 330x600mm) of the investigated product from Foshan New Zhongyuan. Normal value for these sizes of the investigated product have been determined on the basis of the domestic sales of comparable sizes made by Foshan New Zhongyuan in its domestic market during the POI. Summary of calculations of normal value is placed at Annexure-X (Annexure-X has been omitted to maintain confidentiality).

24.4 Foshan New Zhongyuan sold ***** SQM of ceramic (glazed) and design tiles of different sizes to its related and unrelated customers in its domestic market during the POI. These sales are in sufficient quantities to determine normal value in terms of Section 6(2) of the Ordinance, as those are more than 5 percent of the export sales of the investigated product exported to Pakistan by New Zhongyuan and others, which it had purchased from Foshan New Zhongyuan.

24.5 Section 7 of the Ordinance requires the Commission to determine whether domestic sales of Foshan New Zhongyuan were made in the ordinary course of trade in the domestic market for domestic sales. In determination of normal value for the above-mentioned sizes, the Commission disregarded sales, which were not made in ordinary course of trade in terms of Section 7 of the Ordinance.

24.6 Foshan New Zhongyuan sold like product to related and unrelated customers. Analysis of the information showed that the sales to related parties were at "arms length". Thus in determination of normal value, sales to both related and unrelated customers have been considered.

24.7 Foshan New Zhongyuan sold like product on ex-factory/ex-works basis with no price discrimination based on quantity, level of trade (wholesaler, retailer, end user etc). Payment terms were cash at sight or cash in advance. All expenses from ex-factory level, including transportation etc. were borne by the customers. However, it claimed an adjustment on account of advertisement expenses incurred on domestic sales. Sales price has been adjusted for advertisement expenses to arrive at ex-factory level.

24.8 According to the information provided by New Zhongyuan, it purchased ***** SQM of porcelain (polished) tiles of different sizes (300x300, 400x400mm, 500x500mm, 600x600mm, 800x800mm, 1000x1000mm, 1200x1800mm) of the investigated product from Shunde. Normal value for these sizes of the investigated product have been determined on the basis of the domestic sales of comparable sizes made by Shunde in its domestic market during the POI. Summary of calculations of normal value is placed at Annexure-XI (Annexure-XI has been omitted to maintain confidentiality).

24.9 Shunde sold ***** SQM of porcelain (polished) and design tiles of different sizes (ranging from 300x300mm to 1200x1800mm) to its related and unrelated customers in its domestic market during the POI. These sales are in sufficient quantities to determine normal value in terms of Section 6(2) of the Ordinance, as those are more than 5 percent of the export sales of the investigated product exported by New Zhongyuan, which it had purchased from Shunde.

24.10 Section 7 of the Ordinance requires the Commission to determine whether domestic sales of Shunde were made in the ordinary course of trade in the domestic market. In determination of normal value for the above-mentioned sizes, the Commission has disregarded sales, which were not made in ordinary course of trade in terms of Section 7 of the Ordinance.

24.11 Shunde sold like product to related and unrelated customers. Analysis of the information showed that some sales to related parties were not at arms length. Thus in determination of normal value, sales to related parties, which were not at arms length, have not been considered.

24.12 Shunde sold like product on ex-factory/ex-works basis with no price discrimination based on quantity and level of trade (wholesaler, retailer, end user etc). Payment terms were cash at sight or in advance. All expenses from ex-factory level, including transportation etc. were borne by the customers. However, it claimed an adjustment on account of advertisement expenses incurred on domestic sales. Sales price has been adjusted for advertisement expenses to arrive at ex-factory level.

24.13 According to the information provided by New Zhongyuan, it purchased ***** SQM of ceramic (glazed) and paving tiles of different sizes (100x100, 108x108mm, 150x150mm, 190x190mm, 200x200mm, 300x300mm, 300x600mm, 500x500mm, 600x600mm) of the investigated product from Heyuan. Normal value for these sizes of the investigated product have been determined on the basis of the domestic sales of comparable sizes made by Heyuan in its domestic market during the POI. Summary of calculations of normal value is placed at Annexure-XII (Annexure-XII has been omitted to maintain confidentiality).

24.14 Heyuan sold ***** SQM of ceramic (glazed) tiles, ***** SQM of porcelain (polished) and ***** SQM and paving tiles of different sizes to its related and unrelated customers in its domestic market during the POI. These sales are in sufficient quantities to determine normal value in terms of Section 6(2) of the Ordinance, as those are more than 5 percent of the export sales of the investigated product exported by New Zhongyuan, which it had purchased from Heyuan.

24.15 Section 7 of the Ordinance requires the Commission to determine whether domestic sales of Heyuan were made in the ordinary course of trade in the domestic. In determination of normal value for the above-mentioned sizes, the Commission has disregarded sales, which were not in ordinary course of trade in terms of Section 7 of the Ordinance.

24.16 Heyuan sold like product to related and unrelated customers. Analysis of the information showed that some sales to related parties were not at arms length. Thus in determination of normal value, sales to related parties, which were not at arms length, have not been considered.

24.17 Heyuan sold like product on ex-factory/ex-works basis with no price discrimination based on quantity and level of trade (wholesaler, retailer, end user etc). Payment terms were cash at sight or in advance. All expenses from ex-factory level, including transportation etc. were borne by the customers. However, it claimed an adjustment expenses on account of advertisement incurred on domestic sales. Sales price has been adjusted for advertisement expenses to arrive at ex-factory level.

24.18 According to the information provided by New Zhongyuan, it purchased ***** SQM of porcelain (polished) tiles of 500x500mm, 600x600mm and 800x800mm sizes of the investigated product from Qingyuan. Normal value for these sizes of the investigated product have been determined on the basis of the domestic sales of comparable sizes made by Qingyuan in its domestic market during the POI. Summary of calculations of normal value is placed at Annexure-XIII (Annexure-XIII has been omitted to maintain confidentiality).

24.19 Qingyuan sold ***** SQM of porcelain (polished) tiles to its related and unrelated customers in its domestic market during the POI. These sales are in sufficient quantities to determine normal value in terms of Section 6(2) of the Ordinance, as those are more than 5 percent of the export sales of the investigated product exported by New Zhongyuan, which it had purchased from Qingyuan.

24.20 Section 7 of the Ordinance requires the Commission to determine whether domestic sales of Qingyuan were made in the ordinary course of trade in the domestic market. In determination of normal value for the above-mentioned sizes, the Commission has disregarded sales, which were not made in ordinary course of trade in terms of Section 7 of the Ordinance.

24.21 Qingyuan sold like product to related and unrelated customers. Analysis of the information showed that some sales to related parties were not at arms length. Thus in determination of normal value, sales to related parties, which were not at arms length, have not been considered.

24.22 Qingyuan sold like product on ex-factory/ex-works basis with no price discrimination based on quantity and level of trade (wholesaler, retailer, end user etc). Payment terms were cash at sight or in advance. All expenses from ex-factory level, including transportation etc. were borne by the customers. However, it claimed an adjustment on account of advertisement expenses incurred on domestic sales. Sales price has been adjusted for advertisement expenses to arrive at ex-factory level.

Export Price

24.23 New Zhongyuan provided information on its export sales of the investigated product. It claimed that the information provided by it in column titled 'Gross Value' of attachment C-3 in response to the questionnaire is at FOB level. During on-the-spot investigation conducted at its premises this claim was not verifiable, as it failed to supply the relevant documents (i.e. commercial invoices, LC etc) which were asked by the investigators. New Zhongyuan was informed that the Commission may treat this information at C&F level and not at FOB level, because one sales invoice confirms it at C&F level.

24.24 New Zhongyuan contested and supplied further documents (Unify invoice etc.) to prove its claim. Investigation of those documents revealed that unify invoice is prepared for VAT refund purposes usually two to four weeks after export shipment is made. Source documents to prepare unify invoice is the commercial invoice, packing list, shipping invoice etc. But New Zhongyuan did not supply verifiable commercial invoices, sea freight invoices and other relevant documents.

24.25 New Zhongyuan representatives also had a meeting with officers of the Commission on February 3, 2007 on this issue. During the meeting also they were unable to prove their claim from the documents submitted as the source documents (commercial invoices, freight invoices, LC, packing list etc) were not been submitted. On inquiry they informed that sales are recorded after issuance of unify invoice, which as the Commission understands, is not a normal business practice.

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

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

24.27 One another source that the Commission could have relied on was the information provided by the importers. As stated in paragraph 8.5 supra, none of the importers responded to the Commission and therefore the Commission had no option but not to calculate individual dumping margin for New Zhongyuan in this investigation. Therefore, the Commission has applied all others rate of antidumping duty on New Zhongyuan.

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

Normal Value

25.1 As per information supplied by San De Bo it purchased investigated product from four of its related producers namely Foshan New Zhongyuan, Shunde, Heyuan and Qingyuan, which was subsequently exported to Pakistan during the POI. It supplied information on domestic sales of all four producers. Normal value for the investigated product which San De Bo purchased from above mentioned producers has been determined on the basis of the domestic sales prices of the like product sold by these producers in their domestic market during the POI.

25.2 According to the information provided by San De Bo, the four producers produced and sold ceramic (glazed), porcelain (polished), design/border and paving tiles in the domestic market during the POI.

25.3 As per the information San De Bo, it purchased ***** SQM of ceramic glazed and design tiles of different sizes (250x330mm 330x330mm, 300x450mm, 300x600mm and 330x600mm) of the investigated product from Foshan New Zhongyuan. Normal value for these types of the investigated product has been determined on the basis of the domestic sales of comparable sizes made by Foshan New Zhongyuan in its domestic market during the POI. Summary of calculations of normal value is placed at Annexure-X (Annexure-X has been omitted to maintain confidentiality).

25.4 Details of sales of the like product by Foshan New Zhongyuan in its domestic market are given at paragraphs 24.3 to 24.7 supra.

25.5 San De Bo, it purchased ***** SQM of porcelain (polished) tiles of 300x300mm and 600x600mm sizes of the investigated product from Shunde. Normal value for these sizes of the investigated product have been determined on the basis of the domestic sales of comparable sizes made by Shunde in its domestic market during the POI. Summary of calculations of normal value is placed at Annexure-XI (Annexure-XI has been omitted to maintain confidentiality).

25.6 Details of sales of the like product by Shunde in its domestic market are given at paragraphs 24.9 to 24.12 supra.

25.7 San De Bo purchased ***** SQM of polished and paving tiles of 150x510mm and 600x600mm of the investigated product from Heyuan. Normal value for these sizes of the investigated product have been determined on the basis of the domestic sales of comparable sizes made by Heyuan in its domestic market during the POI. Summary of calculations of normal value is placed at Annexure-XII (Annexure-XII has been omitted to maintain confidentiality).

25.8 Details of sales of the like product by Heyuan in its domestic market are given at paragraphs 24.14 to 24.17 supra.

25.9 San De Bo purchased ***** SQM of porcelain (polished) tiles of 600x600mm size of the investigated product from Qingyuan. Normal value for these sizes of the investigated product have been determined on the basis of the domestic sales of comparable sizes made by Qingyuan in its domestic market during the POI. Summary of calculations of normal value is placed at Annexure-XIII (Annexure-XIII has been omitted to maintain confidentiality).

25.10 Details of sales of the like product by Qingyuan in its domestic market are given at paragraphs 24.19 to 24.22 supra.

Export Price

25.11 In response to the questionnaire San De Bo provided information on its export sales of the investigated product. It claimed that the information provided in column titled 'Gross Value' of attachment C-3 is at FOB level. On-the-spot investigation was not conducted at its premises to verify the information. San De Bo was requested to supply information in a specified format and necessary documents for the purposes of the verification of the information provided in response to the questionnaire.

25.12 San De Bo and supplied some documents (Unify invoice etc.) to prove its claim for FOB. Investigation of those documents revealed that unify invoice was prepared for VAT refund purposes usually two to four weeks after export shipment was made. Source documents to prepare unify invoice is the commercial invoice, packing list, shipping invoice etc. But San De Bo did not supply verifiable commercial invoices and other relevant documents.

25.13 San De Bo representatives had a meeting with officers of the Commission on February 3, 2007 on this issue. During the meeting also they were not able to prove their claim from the documents submitted as the source documents (commercial invoices, freight invoices, LC, packing list etc) had not been submitted. On inquiry they informed that sales are recorded after issuance of unify invoice, which as the Commission understands is not a normal business practice.

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

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

25.15 One another source that the Commission could have relied on was the information provided by the importers. As stated in paragraph 8.5 supra, none of the importers responded to the Commission and therefore the Commission had no option but not to calculate individual dumping margin for San De Bo in this investigation. Therefore, the Commission has applied all others rate of antidumping duty on San De Bo.

26. Determination of Dumping for Foshan Lungo Ceramic Co.

Normal Value

26.1 According to the information supplied by Lungo it purchased investigated product from four of its related producers namely Foshan New Zhongyuan, Shunde, Heyuan and Qingyuan, which was subsequently exported to Pakistan during the POI. It supplied information on domestic sales of all four producers. Normal value for the investigated product which Lungo purchased from above mentioned producers has been determined on the basis of the domestic sales prices of the like product sold by these producers in their domestic market during the POI.

26.2 According to the information provided by Lungo, it purchased ***** SQM of ceramic glazed and design tiles of different sizes (250x330mm, 300x300mm, 300x450mm, 300x600mm and 330x600mm) of the investigated product from Foshan New Zhongyuan. Normal value for these sizes of the investigated product have been determined on the basis of the domestic sales of comparable sizes made by Foshan New Zhongyuan in its domestic market during the POI.

Summary of calculations of normal value is placed at Annexure-X (Annexure-X has been omitted to maintain confidentiality).

26.3 Details of sales of the like product by Foshan New Zhongyuan in its domestic market are given at paragraphs 24.3 to 24.7 supra.

26.4 Lungo purchased ***** SQM of porcelain (polished) tiles of different sizes (500x500mm, 600x600mm, 800x800mm, and 1000x1000mm) of the investigated product from Shunde. Normal value for these sizes of the investigated product have been determined on the basis of the domestic sales of comparable sizes made by Shunde in its domestic market during the POI. Summary of calculations of normal value is placed at Annexure-XI (Annexure-XI has been omitted to maintain confidentiality).

26.5 Details of sales of the like product by Shunde in its domestic market are given at paragraphs 24.9 to 24.12 supra.

26.6 Lungo purchased ***** SQM of polished tiles of 500x500mm and 600x600mm of the investigated product from Heyuan. Normal value for these sizes of the investigated product has been determined on the basis of the domestic sales of comparable sizes made by Heyuan in its domestic market during the POI. Summary of calculations of normal value is placed at Annexure-XII (Annexure-XII has been omitted to maintain confidentiality).

26.7 Details of sales of the like product by Heyuan in its domestic market are given at paragraphs 24.14 to 24.17 supra.

26.8 Lungo purchased ***** SQM of porcelain (polished) tiles of 500x500mm and 600x600mm sizes of the investigated product from Qingyuan. Normal value for these sizes of the investigated product have been determined on the basis of the domestic sales of comparable sizes made by Qingyuan in its domestic market during the POI. Summary of calculations of normal value is placed at Annexure-XIII (Annexure-XIII has been omitted to maintain confidentiality).

26.9 Details of sales of the like product by Qingyuan in its domestic market are given at paragraphs 24.19 to 24.22 supra.

Export Price

26.10 In response to the questionnaire Lungo provided information on its export sales of the investigated product. It claimed that the information provided in column titled 'Gross Value' of attachment C-3 is at FOB level. On-the-spot investigation was not conducted at its premises to verify the information. Lungo was requested to supply information in a specified format and necessary documents for the purposes of the verification of the information provided in response to the questionnaire.

26.11 Lungo supplied some documents (Unify invoice etc.) to prove its claim for FOB. Investigation of those documents revealed that unify invoices were prepared for VAT refund purposes usually two to four weeks after export shipments were made. Source documents to prepare unify invoice is the commercial invoice, packing list shipping invoice etc. But Lungo did not supply verifiable commercial invoices and other relevant documents.

26.12 Lungo's representatives had a meeting with officers of the Commission on February 3, 2007 on this issue. During the meeting also they were unable to prove their claim from the documents submitted because source documents (commercial invoices, freight invoices, LC, packing list etc) were not been submitted. On inquiry they informed that sales are recorded after issuance of unify invoice, which as the Commission understands is not a normal business practice.

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

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

26.14 One another source that the Commission could have relied on was the information provided by the importers. As stated in paragraph 8.5 supra, none of the importers responded to the Commission and therefore the Commission had no option but not to calculate individual dumping margin for Lungo in this investigation. Therefore, the Commission has applied all others rate of antidumping duty on Lungo.

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

Normal Value

27.1 As per the information provided by Foshan Everlasting Enterprise Co., Ltd. ("Everlasting") it purchased the investigated product from seven producers, which was subsequently exported to Pakistan during the POI. In response to the questionnaire, it supplied information on domestic sales of only one producer namely Foshan JianXing Ceramic Co., Ltd. ("Jianxing"). On-the-spot investigation was not conducted at the premises of Jianxing to verify the information.

27.2 Everlasting was requested to supply information on domestic sales of the other producers from whom it has purchased investigated product during the POI. It was also requested to supply necessary documents for the purposes of verification of the information. Everlasting supplied some documents but it did not supply information on domestic sales of other producers.

27.3 Normal value for the investigated product, which Everlasting purchased from Jianxing was determined on the basis of the domestic sales price of the like product sold by it in its domestic market during the POI.

27.4 Everlasting purchased ***** SQM of ceramic glazed tiles of 200x200mm, 300x300mm and 400x400mm from Jianxing. Normal value for these sizes of the investigated product has been determined on the basis of the domestic sales of comparable sizes made by Jianxing in its domestic market. Summary of calculations of normal value for is placed at Annexure-XIV (Annexure-XIV has been omitted to maintain confidentiality).

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

27.6 Section 7 of the Ordinance requires the Commission to determine whether domestic sales of Jianxing were made in the ordinary course of trade in the domestic market. In determination of normal value for the above-mentioned sizes, the Commission has disregarded sales, which were not made in ordinary course of trade, in terms of Section 7 of the Ordinance.

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

27.8 Normal value for the investigated product which Everlasting purchased from other producers, whose information on domestic sales of the like product was not available with the Commission, is determined on the basis the best information available in terms of Section 32 of the Ordinance. In this regard first of all domestic sales of Jianxing were considered and if sales of comparable type and size of the like product was available from its domestic sales, normal value has been determined on the basis of those sales. In cases where this producer did not have domestic sales for specific type and size of the like product, normal value is determined on the basis of domestic sales of other producers for that particular type and size. In this situation, the weighted average price of the relevant type and size of the like product is applied for the purposes of determination of normal value.

Export Price

27.9 Everlasting was requested to provide information on its export sales of the investigated product on transaction by transaction basis in a specified format which it provided. Since on-the-Spot investigation was not conducted at the premises of Everlasting, it was requested to supply necessary documents for the purposes of verification of the information. Everlasting supplied some documents in this regard. Examination of those documents revealed that Everlasting had not supplied information as per the specified format of the questionnaire. It has reported different types (glazed tiles and design/borders) of the investigated product under one transaction. It was not possible to separate different types of the investigated product reported in a single transaction, the export price for different types/models could not be determined on the basis of the information provided by it on its export sales of the investigated product during the POI.

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

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

27.11 One another source that the Commission could have relied on was the information provided by the importers. As stated in paragraph 8.5 supra, none of the importers responded to the Commission and therefore the Commission had no option but not to calculate individual dumping margin for Everlasting in this investigation. Therefore, the Commission has applied all others rate of antidumping duty on Everlasting.

28. Determination of Dumping for China National Machinery & Equipment Imp. & Exp. Corp. Ltd.

Normal Value

28.1 As per the information supplied by China National Machinery, it purchased investigated product from one producer namely Fujian Huida, which was subsequently exported to Pakistan during the POI. In response to the questionnaire, it supplied partial information on domestic sales of this producer. Deficiencies were conveyed to China National Machinery which it failed to remove.

28.2 As some vital information (cost of production etc) for determination of normal value was missing, normal value for the investigated product exported by China National Machinery could not be determined.

Export Price

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

28.4 Thus export price for China National Machinery could not be determined on the basis of the information provided by it on its export sales of the investigated product during the POI.

28.5 In such a situation, individual dumping margin for China National Machinery could not be determined in this investigation. Therefore, the Commission has applied an all others rate for antidumping duty on China National Machinery.

29. Dumping Margin

29.1 The Ordinance defines “dumping margin” in relation to a product as “the amount by which its normal value exceeds its export price”. In terms of Section 14(1) of the Ordinance the Commission shall determine an individual dumping margin for each known exporter or producer of an investigated product. However, Section 14(2) provides that if the Commission is satisfied that the number of exporters, producers or importers, or types of products involved is so large as to make it impracticable to determine 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.

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

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

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

29.5 Taking into account all requirements set out above, the dumping margins have been determined as follows. Calculations of dumping margin are placed at Annexure XV (Annexure XV has been omitted to maintain confidentiality):

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

C. INJURY TO DOMESTIC INDUSTRY**30. Determination of Injury**

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

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

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

Material injury to the domestic industry is summarized in the following paragraphs.

31. Domestic Industry

31.1 In terms of Section 2(d) of the Ordinance, 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, except that when any such domestic producers are related to the exporters or importers or are themselves importers of the allegedly dumped investigated product in such case “domestic industry” shall mean the rest of the domestic producers.”

31.2 The domestic ceramic tiles manufacturing industry consists of the following six units with an installed production capacity of 17.41 million square meters (SQM) Tiles per annum:

S.No	Name of the Unit	Installed Capacity (million SQM)	Domestic Production (million SQM)	Percentage Share in Domestic Production
i.	Master Tiles and Ceramic Industries Ltd., Gujranwala (Applicant)	7.50	3.56	56%
ii.	Karam Ceramics Ltd., Karachi	1.76	2.76	44%
iii.	Sonex Tiles and Ceramic Industries Ltd., Gujranwala	2.00	--	Started commercial production in January 2006.
iv.	Shabbir Tiles and Ceramic Ltd., Karachi	2.95		Themselves importers
v.	EMCO Industries Ltd., Karachi	1.70		Themselves importers
vi.	Swat Ceramics (Pvt.) Ltd., Swat.	1.50		Themselves importers
	Total	17.41	6.32	100

31.3 The Commission's investigation revealed that the units mentioned at S.No. (iv), (v) and (vi) in above are themselves importers of the investigated product. Therefore, the Commission has excluded these units from definition of domestic industry under Section 2(d) of the Ordinance.

31.4 After excluding those units who themselves import the alleged dumped product (mentioned at S.No. (iv), (v) and (vi) in above table) from the definition of domestic industry, domestic industry for the purposes of this investigation consists of the following three units:

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

31.5 The Applicant is the major domestic producer of Tiles in Pakistan representing 56 percent of domestic production produced by the domestic industry, whereas, Karam Ceramics Ltd represents 44 percent of domestic production produced by the domestic industry. Sonex Tiles and Ceramic Industries Ltd., as stated earlier in paragraph 31.2 started commercial production in January 2006, which is outside the POI. Therefore, the Applicant and Karam Ceramics Ltd, are considered as domestic industry.

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

32. Volume of Alleged Dumped Imports

Facts

32.1 In order to ascertain the volume of dumped imports of the investigated product, the Commission obtained import data from PRAL, and the Applicant. As stated earlier in paragraph 8.6 the importers were also requested to provide information on imports, to which they did not respond.

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

Period	Dumped Imports of IP		Total Production in Pakistan*
	Absolute Quantity*	% age of domestic production	
FY 2003	100.00	17.78%	562.48
FY 2004	294.65	36.03%	817.87
FY 2005	564.40	59.26%	952.42
Jul-Dec 2005	426.22	90.52%	470.87

*Actual figures of volume of dumped imports and total production have been indexed with respect to quantity of imports for FY 2003 as base

Analysis

32.3 The above table shows that the imports of the investigated product increased in absolute terms by 194.65 percent in FY 2004, 91.55 percent in FY 2005 and 51.04 percent between July to December 2005 on annualized basis. The production of domestic like product in Pakistan increased by 45.40 percent in FY 2004, (as the Applicant enhanced its installed production capacity by putting up a new plant of ***** SQM Tiles which started production in October 2003), 16.45 percent in FY 2005 and decreased by 1.12 percent during the period from July to December 2005 on annualized basis. Thus imports in absolute terms of the investigated product increased more rapidly as compared to the increase in production of the domestic like product in Pakistan.

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

Conclusion

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

33. Price Effects

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

33.2 Price undercutting**Facts**

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

Period	(Rs/SQM)		
	Average ex-factory price of domestic like product*	Average landed cost of investigated product*	Price undercutting
FY 2003	100	94.40	5.60
FY 2004	87.29	79.98	7.31
FY 2005	83.73	84.29	--
Jul-Dec 2005	91.37	87.00	4.37

* Actual figures of average ex-factory price of domestic like product and average landed cost of investigated product have been indexed with respect to average ex-factory price of domestic like product for FY 2003 as base

Analysis

33.2.2 It appears from the above table that the weighted average landed cost of the investigated product was lower than the weighted average ex-factory price of the domestic like product in the range of 4.37 to 7.31 during the POI, except in FY 2005.

Conclusion

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

33.3 Price Depression**Facts**

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

Period	(Rs./SQM)	
	Weighted Average ex-factory price of domestic like product	Price depression
FY 2003	100	--
FY 2004	87.29	12.71%
FY 2005	83.73	4.06%
Jul. - Dec.2005	91.37	--

* Actual figures of average ex-factory price of domestic like product have been indexed taking FY 2003 as base

Analysis

33.3.2 The weighted average ex-factory price of domestic like product decreased by 12.71 percent in the FY 2004 and 4.06 percent in FY 2005 on account of unfair competition from dumped imports.

Conclusion

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

33.4 Price Suppression**Facts**

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

(Rs./SQM)

Period	Weighted Average cost to make & sell of domestic like product	Weighted Average ex-factory price of domestic like product	Price Suppression		
			Increase/ (decrease) in COP	Increase/ (decrease) in price	Price suppression
FY 2003	100.00	115.85	-	--	--
FY 2004	95.78	101.13	(4.21)	(14.72)	10.51
FY 2005	98.88	97.01	3.10	(4.12)	7.22
Jul. to Dec. 05	112.21	105.86	13.33	8.85	4.33

*Actual figures of weighted average cost to make & sell and weighted average ex-factory price of domestic like product have been indexed with respect to weighted average cost to make & sell for FY 2003 as base

Analysis

33.4.2 The above table shows that the weighted average cost to make and sell of domestic like product decreased by 4.21 in FY 2004, increased by 3.10 in FY 2005 and by 13.33 during the period from July to December 2005. Weighted average ex-factory price of the domestic like product decreased by 14.72 in FY 2004, by 4.12 in FY 2005 and increased by 8.85 during the period from July to December 2005. The increase in cost of make and sell was more than the increase in price of the domestic like product in FY 2005 and in July to December 2005.

Conclusion

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

34. Market Share**Facts**

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

Period	Production by domestic producers		Imports from		Total Domestic Market
	Domestic Industry*	Other domestic units**	Dumped Source (China)	Other Sources	
FY 2003	32%	44%	13%	11%	100%
FY 2004	33%	36%	25%	6%	100%

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FY 2005	28%	27%	33%	12%	100%
Jul-Dec 2005	24%	23%	43%	10%	100

* Applicant plus Karam Ceramics Ltd.

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

Analysis

34.2 The above table shows that the total domestic market of Ceramic Tiles has grown more than doubled during the POI. The market share of the domestic industry was 32 percent in FY 2003, it decreased from 32 percent in FY 2004 to 28 percent in FY 2005 and to 24 percent during the period from July to December 2005. Whereas the market share of dumped imports increased from 13 percent in FY2003 to 25 percent in FY 2004, and further increased to 33 percent in FY 2005. During the period from July to December 2005 the market share of dumped imports increased to 43 percent. Market share of imports from other sources remained in the range of 6 to 12 percent during the POI.

Conclusion

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

35. Production and Capacity Utilization**Applicant**

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

Period	Installed Capacity*	Capacity Utilization
FY 2003	100	67.51%
FY 2004	358	54.12%
FY 2005	500	47.47%
Jul-Dec 2005	250	45.60%

* Actual figures of installed capacity have been indexed by taking FY 2003 as base

Analysis

35.2 It may be noted from the table above that the production of the Applicant increased throughout the POI, (as its new plant with installed capacity of producing ***** SQM Tiles

started production in October 2003). However, with increase in installed capacity, the production did not increase with the same pace and the capacity utilization level decreased from 67.5 percent in FY 2003 to 54.89 percent in FY 2004. The capacity utilization decreased further from 54.12 percent to 47.47 percent in FY 2005 and during the period from July to December 2005 capacity utilization was 45.60 percent.

Karam Ceramics

35.3 Data of installed capacity and production of Karam Ceramics during the POI is given in the table below:

Period	Installed Capacity	Capacity Utilization
FY 2003	100	114.16%
FY 2004	100	127.34%
FY 2005	100	156.96%
Jul-Dec 2005	50	157.17%

*Actual figures of installed capacity have been indexed by taking FY 2003 as base

Analysis

35.4 The above table shows that installed capacity of Karam Ceramics remained the same during the POI, however, due to increase in its production every financial year, its capacity utilization increased from 114.6 percent in FY 2003 to 127.34 percent in FY 2004 and further increased to 156.96 percent in FY 2005. Information for the period from July to December 2005 is not available with the Commission.

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

Period	Capacity Utilization
FY 2003	92.70%
FY 2004	72.19%
FY 2005	68.28%
Jul-Dec 2005	66.77%

Conclusion

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

36. Effect on Sales

Facts

36.1 The Applicant’s sales made during the POI are given in table below:

(SQM)

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

*Actual figures of sales have been indexed by taking FY 2003 as base

Analysis

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

Conclusions

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

37. **Effects on Inventories**

Facts

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

Period	Opening Inventory	Change in Inventory
FY 2003	100	67
FY 2004	67	180
FY 2005	180	128
Jul-Dec 2005	128	130

(SQM)
*Actual figures of opening inventory and closing inventory have been indexed by taking FY 2003 figure of opening inventory as base

Analysis

37.2 The Applicant enhanced installed capacity in FY 2004 and consequently increased production. The sales of the Applicant also increased, however, its sales did not increase correspondingly. The inventory level of the domestic like product increased by 169.66 percent in FY 2004 it decreased by 28.88 percent in FY 2005 and again increased by 1.73 percent during the period from July to December 2005.

Conclusion

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

38. **Profit and Loss**

Facts

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

(Rs.)

	Net Profit/(Loss) Applicant	Net Profit of Karam Ceramics
FY 2003	100.00	100.00
FY 2004	91.09	85.39
FY 2005	(17.17)	170.86
Jul-Dec 2005	(48.99)	N.A

Analysis

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

38.3 Karam Ceramics earned an overall profit of Rs. ***** in FY 2003, its profit decreased to Rs. ***** in FY 2004. However, in FY 2005 the profit of Karam Ceramics increased to Rs. ***** Profit/Loss figures for the period from July to December 2005 are not available with the Commission.

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

(Rs.)

	Net Profit/(Loss)
FY 2003	100
FY 2004	88.54
FY 2005	66.80
Jul-Dec 2005	(27.11)

* Actual figures of values have been indexed by taking FY 2003 as base

Conclusions:

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

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

39. Cash Flow**Facts**

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

Year	Cash Flow from operations of Applicant	Overall Cash Flow from operations of Karam Ceramics
FY 2003	(100)	100
FY 2004	39.38	(10.84)
FY 2005	71.05	98.86
Jul-Dec 2005	17.71	N.A

*Actual figures of values have been indexed by taking FY 2003 as base

Analysis

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

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

Conclusions

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

39.5 Karam Ceramics suffered material injury on account of cash flow during FY 2004 only.

40. Employment, Productivity and Wages

40.1 Following is the information regarding employment, productivity and wages as given below in the table:

	Employees	Wages	Production	Productivity
FY 2003	100	100	100	100
FY 2004	188.37	136.29	287.27	152.51
FY 2005	199.67	199.89	351.56	176.04
Jul-Dec 2005	209.36	114.73	168.71	161.08

*Actual figures of values have been indexed by taking FY 2003 as base

Analysis

40.2 The above table shows that the number of employees increased from **** in FY 2003 to ***** during the period from July to December 2005. During the same period wages decreased

from Rs. *****/SQM in FY 2003 to Rs. *****/SQM in FY 2005, but again increased to Rs. *****/SQM during the period from July to December 2005 on annualized basis. The productivity per worker increased during the period from FY 2003 to FY 2005, however, it decreased during the period from July to December 2005.

Conclusion

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

41. **Return on Investment**

Facts

41.1 The Applicant has stated that during the FY 2004 new investment was made in this industry to cater to the needs of expanding domestic market.

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

Analysis

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

Conclusions

41.3 On the basis of the above, the Commission has concluded that the Applicant suffered material injury on account of the reduction in return on investment, which affected its ability to invest.

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

Facts/analysis

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

Conclusions

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

43. **Growth**

Facts/Analysis

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

Conclusion

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

44. Summing up of Material Injury

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

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

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

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

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

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

45. Other Factors

45.1 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.

45.2 The investigation of the Commission revealed that there were imports from sources other than dumped source during the POI that may also have caused injury to the domestic industry. However, injury caused by imports from other sources cannot be considered as significant as its volume was far less than the volume of dumped imports. Following table shows the volume of imports from other sources and from dumped sources:

(SQM)

Period	Imports from		Total Imports
	China	Other Sources	
FY 2003	52%	48%	100%
FY 2004	81%	19%	100%
FY 2005	74%	26%	100%
Jul-Dec 2005	81%	19%	100%

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

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

E. CONCLUSIONS

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

- i. the application was filed on behalf of domestic industry as the domestic industry represents major proportion of the production 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/producers, from China, 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 material injury during the POI on account of, volume of dumped imports, price undercutting, price depression, price suppression, loss in market share, decline in profit, negative effects on production and capacity utilization, and increase in inventories (in terms of Section 15 and 17 of the Ordinance); and
- vi. there is a causal relationship between dumped imports and the material injury suffered by the domestic industry.

F. IMPOSITION OF DEFINITIVE ANTIDUMPING DUTY

47. 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.

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

49. In terms of Section 50 of the Ordinance and Article 9 of the Agreement on Antidumping, definitive antidumping duties as given in the following table are hereby imposed on the investigated product importable from China into Pakistan for a period of five years effective from November 30, 2006.

Antidumping Duty Rates

Exporter Name	% of Export price	% of C&F Price	Anti-dumping duty Rate
Junging	21.50	14.85	14.85
Nanghai	30.45	21.08	21.08
J&M	33.92	16.46	16.46
Guangzhou	54.73	23.65	23.65
All Others	54.73	23.65	23.65

50. Tiles imported from sources, other than those as specified above shall not be subject to definitive antidumping duties. The antidumping duty rates are determined on C&F value in *ad val* terms. The investigated product is classified under PCT heading No. 6907.1000, 6907.9000, 6908.1000 and 6908.9000.

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

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

53. 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.

54. In terms of Section 55(2) of the Ordinance, if the definitive antidumping duty is lower than the amount of provisionally determined antidumping duty, the difference shall be refunded. The definitive antidumping duties imposed on Junjing and J & M is lower than the amount of provisionally determined antidumping dutie, therefore, the difference shall be refunded. Hence the Commission, informs the importers to send their request for refund of any duty that may have been paid (under the Commission's preliminary duties on imports from Junjing and J & M) to the extent of the difference between the rate of duties for the final determination and the rate of duties per the provisional determination to the Secretary, National Tariff Commission, State Life Building No. 5, Blue Area, Islamabad within period of thirty days.

(Muhammad Ikram Arif)
Member
March 24, 2007

(Faizullah Khilji)
Chairman
March 24, 2007

List of Producers

- (i) Foshan New Zhongyuan Ceramics Co. Ltd.
- (ii) Hueyuan Wanfeing Ceramic Co. Ltd.
- (iii) Qingyuan Southern Building Materials & Sanitary Ware Co. Ltd.
- (iv) Shunde Yueznong Branch of Guangdong New Zhonyuan Co. Ltd.
- (v) Foshan Zungi tiles Co. Ltd.
- (vi) Foshan Guangdong Shimanli Cermic Co. Ltd.
- (vii) Foshan Centre Ceramics Co. Ltd
- (viii) Fujian Minqing Oumei Ceramics Co. Ltd.
- (ix) Foshan Jianxing Ceramic Co. Ltd.