

**(NON-CONFIDENTIAL)**



**Government of Pakistan  
National Tariff Commission**

**REPORT**

**ON**

**FINAL DETERMINATION AND LEVY OF DEFINITIVE ANTI-DUMPING DUTIES ON DUMPED IMPORTS OF LEAD PENCILS ORIGINATING IN AND/ OR EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA**

**ADC NO. 52/2017/NTC/Pencils  
October 09, 2018**

**Final Determination and Levy of Definitive Antidumping Duties on Dumped Imports of Lead Pencils into Pakistan Originating in and/ or Exported from the People's Republic of China**

The National Tariff Commission (the "Commission") having regard to the Anti-Dumping Duties Act, 2015 (the "Act") and the Anti-Dumping Duties Rules, 2001 (the "Rules") is responsible to conduct anti-dumping investigations for imposition of anti-dumping duties to offset injurious impact of dumped imports on domestic industry and to ensure fair competition thereof, and to the WTO's Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (the "Antidumping Agreement").

2. The Commission has conducted an investigation on alleged dumped imports of Lead Pencils into Pakistan originating in and/or exported from the People's Republic of China ("China"), under the Act and the Rules. The Commission has made final determination in this investigation under Section 37 of the Act. The Commission has made final determination in this investigation under Section 39 of the Act. This report on final determination has been issued in accordance with Section 39(5) of the Act and Article 12.2 of the Agreement on Antidumping.

**A. PROCEDURE**

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

**4. Receipt of Application**

4.1 On October 11, 2017, the Commission received a written application under Section 20 and 24 of the Act from M/s Indus Pencils Industries Private Limited, Karachi (the "Applicant"). The Applicant is a producer of lead pencils. The Applicant alleged that lead pencils originating in and/or exported from China are being dumped into Pakistan, which have caused and are causing material injury to the domestic industry producing lead pencils.

4.2 The Commission informed the Embassy of China in Islamabad through a note verbal dated October 16, 2017 of the receipt of application in accordance with the requirements of Section 21 of the Act.

**5. Evaluation and Examination of the Application**

The examination of the application showed that it met requirements of Section 20 of the Act as it contained sufficient evidence of dumping of lead pencils into Pakistan from China and material injury to the domestic industry caused therefrom. Requirements of Rule 3 of the Rules, which relate to the submission of information prescribed therein were also found to have been met.

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**6. The Domestic Industry**

6.1 Section 2(d) of the Act defines domestic industry as follows:

*“Domestic industry” means the domestic producers as a whole of a domestic like product or those whose collective output of that product constitutes a major proportion of the total domestic production of that product; except when any such domestic producers are related to the exporters or importers, or are themselves importers of the allegedly dumped investigated product. In such a case “domestic industry” may mean the rest of the domestic producers:*

**Explanation.-** For the purposes of this clause, producers shall be deemed to be related to exporters or importers only if –

- (i) one of them directly or indirectly controls the other;
- (ii) both of them are directly or indirectly controlled by the same third person; or
- (iii) together they directly or indirectly control a third person:

*Provided that there are grounds for believing or suspecting that the effect of the relationship is such as to cause the producer concerned to behave differently from non-related producers. For that purpose one shall be deemed to control another when the former is legally or operationally in a position to exercise restraint or direction over the latter”*

6.2 As per the information available with the Commission, the domestic lead pencils manufacturing industry comprises of the seven units. Following table shows unit-wise installed production capacity of the domestic industry:

**Table-I  
Unit-wise Installed Production Capacity**

<b>S. No.</b>	<b>Unit Name</b>	<b>Installed Capacity</b>
i.	Indus Pencils Industries Pvt. Ltd.	29.27
ii.	Shah Sons Pvt. Ltd.	17.83
iii.	Amjad Ahsan Info Tech Pvt. Ltd.	17.33
iv.	Mark Uni-Star Industries Ltd.	11.55
v.	Dollar Industries Limited	1.60
vi.	Pakistan Pencils Ltd.	11.71
vii.	Sayyed Engineers Ltd.	10.70
	<b>Total</b>	<b>100.00</b>

Source: the concerned units

Note: To maintain confidentiality, actual figures have been indexed with reference to total installed capacity by taking it equal to 100

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**7 Standing of the Application**

7.1 Section 24 of the Act enjoins upon the Commission to assess the standing of the domestic industry on the basis of the degree of support for or opposition to the application expressed by the domestic producers of the domestic like product. Section 24(1) of the Act states as follows:

*".... an application shall be considered to have been made by or on behalf of the domestic industry only if it is supported by those domestic producers whose collective output constitutes more than fifty percent of the total production of a domestic like product produced by that portion of the domestic industry expressing either support for or opposition to the application."*

Furthermore, Section 24(2) of the Act provides that:

*"..... no investigation shall be initiated when domestic producers expressly supporting an application account for less than twenty five percent of the total production of the domestic like product produced by the domestic industry."*

7.2 The Commission requested all producers in the industry for information necessary for this investigation, however, only two units i.e. M/s Mark Uni-Star Industries Limited and M/s Amjad Ahsan Info Tech Pvt. Ltd. provided data/information to the Commission. On repeated requests three other units namely Dollar Industries Ltd., Shahsons Pvt. Ltd., and Sayyed Engineers Ltd. Provided information on their installed production capacity, volume of production and sales.

7.3 M/s Sayyed Engineers Ltd. has supported the application and has stated that *"Please note that in the past years we have been importing finished pencil from China because manufacturing pencil in Pakistan was not feasible. Therefore we strongly recommended for Antidumping Duty on pencils from China."* M/s Shahsons Pvt. Ltd. in its letter dated December 14, 2017 oppose the application made by the Applicant, however, M/s Shah Sons Pvt. Ltd. vide its letter dated March 16, 2018 withdrew its earlier letter dated December 14, 2017 and requested the Commission to treat the company's undertaking as indifferent in this investigation. M/s Dollar industries Ltd. opposed this application. Pakistan Pencils Ltd. was asked for the information but it did not respond, however, in the hearing it has opposed the application and after hearing it has provided written comments and information on its installed production capacity, volume of production and sales during the POI.

7.4 It is pertinent to mention that almost all domestic units in the industry have imported the investigated product during the period of investigation (POI) (please refer paragraph 11 infra for POI). Following table shows the imports of lead pencils

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by the domestic industry from China:

**Table-II  
Imports by Domestic Industry**

S. No	Unit Name	Year		
		2014-15	2015-16	2016-17
i.	Dollar Industries Ltd.	54.93	63.25	100.00
ii.	Pakistan Pencils Ltd.	35.98	34.29	25.60
iii.	Sayyed Engineers Ltd.	21.83	45.11	22.01
iv.	Shah Sons Pvt. Ltd.	5.60	11.81	16.93
v.	Mark Uni-Star Industries Ltd.	6.38	--	1.26
vi.	Indus Pencils Industries Pvt. Ltd.	1.17	1.04	--

Source: Pakistan Revenue Automation Limited ("PRAL")

**Note:** To maintain confidentiality actual figures have been indexed with reference to the volume of imports by Dollar Industries in the year 2016-17 by taking it equal to 100

7.5 The following parties submitted that the Applicant as well as M/s Mark Uni-Star Industries Ltd. cannot qualify as domestic industry under provisions of the Act and the Antidumping Agreement as they are themselves importers of the investigated product and their major production is of poly (plastic) lead pencils whereas imports are of wood lead pencils. Therefore, they requested that the application filed with the Commission in this case should be rejected:

- i. China Writing Instruments Association, China;
- ii. China Chamber of Commerce for Imports and Exports of Light Industrial Products and Arts-Crafts;
- iii. Brothers Pen Company, Karachi;
- iv. Real Enterprises, Karachi;
- v. Salim & Company, Karachi;
- vi. Sultan and Company, Karachi;
- vii. Dollar Industries Ltd., Karachi; and
- viii. Success Marketing Ways, Multan;

7.6 The above-mentioned parties have based their request on the following grounds:

- i. *"..... the Applicant produces both wood case pencils as well as plastic case pencils..... The data provided by the Applicant include both wood case and plastic case pencils hence is incorrect and misleading. For the purpose of determination of standing of the domestic industry the Commission should only take into account the production of Wood Case Pencils..... The Applicant has provided incorrect figures of its production and included production of plastic case pencils to show higher production of pencils and to unlawfully qualify to file an application."*

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- ii. *“.....Mark Unistar imported around 150,000 Kgs of finished pencils from China during Jul 2014- June 2015 (first year of the POI). Therefore, in the interest of justice Mark Unistar (or Mark Industries) should not have been qualified as a part of domestic industry in terms of Section 2(d) of the Act.....”*
- iii. *“the Applicant (Indus Pencil) also does not qualify to be a part of domestic industry since it, itself, imported Lead Pencils from China during the year 2014. As per the market information the Applicant imported around 12,000 Kgs of Lead Pencils during 2014 at a price which was prevalent and matches with that of other importers. Therefore, being itself an importer of the investigated product, the Applicant does not qualify to be a part of the domestic industry in terms of Section 2(d) of the Act.....”*

7.7 The Applicant and M/s Mark Uni-Star Industries Ltd. have submitted the following in response to the above submissions of the importers:

- i. *“Product under investigation “LEAD PENCILS” is classified under Pakistan Customs Tariff (“PCT”) Heading no. 9609.1000, which is described/defined in PCT as: “Pencils and crayons, with leads encased in a rigid sheath” The word “sheath” here has a noteworthy significance. Sheath is defined by the Cambridge Dictionary as: “a close-fitting covering to protect something”*
- ii. *“As per Explanatory Notes of World customs organization (Brussels Nomenclature) description of Pencil includes “Pencils and crayons, with leads encased in wood or plastics or in some cases in a sheath composed of layers of Paper.”*
- iii. *“Hence in layman terms sheath is essentially the “outer shell” (Case) of the pencils regardless of whether it is wood or plastic which protects the lead inside again regardless of whether it is black or coloured. With all definitions, it is established that “Pencils/ Lead Pencils”, as applied by the applicant and initiated by the NTC, includes Black and Colored Pencil, whether made by Wood or Plastic.”*
- iv. *Lead pencils whether coloured or black, plastic or wooden are all essentially like products under section 2(m) of the Act. Not only these have same visual/ appearance but also have same Use, same consumer and are fully substitutable in nature.”*
- v. *“the interest of Mark Uni Star Industries lies in domestic production. This is proven by the fact that Mark Uni Star Industries has not*

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*imported pencils after 2014-15 and is in support of Anti-Dumping. Since 2014 Mark Uni Star Industries is running the pencil unit even after making losses due to dumping by China plus has made additional investments.”*

7.8 The Commission has considered views/comments as well as explanations provided by the interested parties on the issue of domestic industry and standing of the application keeping in view relevant provisions of the Act, the Antidumping Agreement and the practices of other investigating authorities in the same/ similar situations. The Commission has reached on the following conclusions:

- i. The investigated product in this investigation is Lead Pencils imported from China without any distinction of lead encased in wood or plastic.
- ii. Section 2(d) of the Act as well as Article 4.1 of the Antidumping Agreement provides that, if domestic producers are related to exporters or are themselves importers of the investigated product the term “domestic industry” may be interpreted as referring to the rest of the producers. Thus, these provisions give an option and discretion to the authority and does not impose an obligation to exclude related and/or importing producers from the definition of the domestic industry.
- iii. The WTO Panel in *EC – Fasteners (China)* found that “*the use of the term 'may' in Article 4.1 makes it clear that investigating authorities are not required to exclude related producers or importing producers*” and that “*there is nothing in Article 3.1, or in Article 4.1, that limits the discretion of investigating authorities to exclude, or not, related or importing domestic producers.*”
- iv. Exclusion of any producer from the definition of the domestic industry is conditional i.e. dependent upon the behavior of the producer concerned. Section 2(d) of the Act stipulates that the concerned producer may be excluded from domestic industry if it “behave differently from non-related producers”. The question of different behavior does not arise as the importing producer itself is the Applicant in this case and the other importing producer is supporting the application.
- v. The Applicant and M/s Mark Uni-Star Industries Ltd. are legitimate producer of Lead Pencil in Pakistan and have made considerable investments for production of Lead Pencil in the country. Therefore, their primary objective lies in domestic production and sales of the domestic like product rather than in imports of the investigated product. Further, their imports of lead pencils were marginal as

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compared to their production during the POI. This fact is also established from the import information obtained from PRAL for imports of lead pencils by the Applicant and the supporting producer (M/s Mark Unistar) and their domestic production, which is provided the following table:

**Table-III**  
**Imports and Domestic Production by the Applicant and Uni Star**

Year	Indus Pencil (Applicant)		Mark Unistar (supporting)	
	Imports	Production	Imports	Production
2014-15	1.33	100.00	7.25	19.86
2015-16	1.18	101.46	--	23.27
2016-17	--	108.09	1.43	31.29

Sources: PRAL and domestic producers

**Note:** To maintain confidentiality actual figures have been indexed with reference to the volume of imports by Indus Pencil in the year 2014-15 by taking it equal to 100

7.9 Based on the above information and analysis, the Commission has determined that all units in the industry including the Applicant, M/s Mark Uni Star Industries, Dollar industries Ltd. and Pakistan Pencils Ltd. are legitimate producers of lead pencils in Pakistan and qualify as the domestic industry. Therefore, the application filed in this instance is in accordance with provisions of the Act and the Antidumping Agreement.

7.10 Based on the information provided in the fore-going paragraphs standing of the application is determined in the following table:

**Table-IV**  
**Standing of the Domestic Industry**

S. No.	Unit Name	% share	Status
i.	Indus Pencils Industries Pvt. Ltd.	37.34	Applicant
ii.	Mark Uni-Star Industries Ltd.	10.81	Supporting
iii.	M/s Amjad Ahsan Info Tech Pvt. Ltd.	2.97	Supporting
iv.	Sayyed Engineers Ltd.	0.18	Supporting
v.	Shah Sons Pvt. Ltd.	34.02	Indifferent
vi.	Dollar Industries Ltd.	4.66	Opposing
vii.	Pakistan Pencils Ltd.	10.02	Opposing
	Total	100.00	

Source: the domestic industry

7.10 The above table shows that the supporting producers account for 51.30 percent of the total domestic production of domestic like product. Share of supporting producers among the vocal producers (supporting and opposing) is 77.75 percent. Therefore, on the basis of the above information and analysis it is determined that the application is made on behalf of the domestic industry as it



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fulfills the requirements of Section 24 of the Act.

**8 Applicant's Views**

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

- i. Exporters/ producers from China are exporting lead pencils to Pakistan at dumped prices;
- ii. Lead pencils imported from China and produced in Pakistan by the domestic industry are like products; and
- iii. Imports of lead pencils from China into Pakistan at dumped prices has caused and is causing material injury to the domestic industry producing lead pencils mainly through:
  - a. volume of dumped imports;
  - b. decline in profits;
  - c. decline in return on investment;
  - d. price undercutting;
  - e. price depression;
  - f. magnitude of the margin of dumping;
  - g. Negative effect on inventories;
  - h. Negative effects on employment;
  - i. Negative effects on salaries and wages; and
  - j. Negative effect on cash flows

8.2 The Applicant had made following requests to the Commission:

- i. Initiate an investigation against alleged dumping of lead pencils from the China under Section 23 of the Act;
- ii. Impose appropriate antidumping duty on alleged dumped imports of lead pencils in accordance with Section 50 of the Act; and
- iii. Impose provisional measures under Section 43 of the Act to prevent injury being caused during the investigation.

**9 Initiation of Investigation**

9.1 The Commission, in accordance with Section 23 of the Act examined the accuracy and adequacy of the evidence and information provided in the application, and established that there was sufficient evidence of alleged dumping

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of lead pencils into Pakistan from China and consequent alleged material injury to the domestic industry. Therefore, the Commission decided on December 08, 2017 to initiate an investigation in this case.

9.2 The Commission issued a notice of initiation in accordance with Section 27 of the Act, which was published in the Official Gazette<sup>1</sup> of Pakistan and in two widely circulated national newspapers<sup>2</sup> (one in English language and one in Urdu Language) on December 13, 2017. Investigation concerning alleged dumped imports of Lead Pencils into Pakistan originating in and/or exported from China was thus initiated on December 13, 2017 in accordance with Section 27(2) of the Act.

9.3 In pursuance of Section 27 of the Act the Commission notified Embassy of China in Islamabad of initiation of the investigation (by sending a copy of the notice of initiation) on December 13, 2017 with a request to forward it to all exporters/ producers involved in production, sales and export of lead pencils in China. Copy of the notice of initiation was also sent to exporters/ producers directly (whose addresses were available with the Commission), Pakistani importers, the Applicant and other domestic producers between 13 to 18 December 2017.

9.4 In accordance with Section 28 of the Act, on December 18, 2017 copies of full text of the written application (non-confidential version) were sent to all exporters/ producers, whose complete addresses were available with the Commission and to the Embassy of China in Islamabad with a request to forward it to all exporters/ producers in China involved in production, sale and/or export of lead pencils.

**10. Investigated Product, Domestic Like Product and Like Product**

10.1 Sub-sections (k), (e) and (m) of Section 2 of the Act defines investigated product, domestic like product and like product as follows:

- i. **Investigated Product:**  
*“a product, which is subject to an antidumping investigation as described in the notice of initiation of the investigation”.*
- ii. **Domestic Like Product:**  
*“means a like product that is produced by the domestic industry”.*
- iii. **Like Product:**  
*“a product which is alike in all respects to an investigated product or,*

<sup>1</sup> The official Gazette of Pakistan (Extraordinary) dated December 13, 2017.

<sup>2</sup> The daily 'The Express Tribune' and 'Dunya' of December 13, 2018 issues.

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*in the absence of such a product, another product which, although not alike in all respects, has characteristics closely resembling those of the investigated product”.*

10.2 For the purposes of this investigation and given the definitions set out above, investigated product, domestic like product and like product are defined in the following paragraphs.

**10.3 Investigated Product:**

Investigated product is pencils with lead encased in a rigid (wood or plastic) sheath (“Lead Pencils”). It is classified under PCT Heading No. 9609.1000. Investigated product is used for writing/coloring in schools, offices etc. Following is the customs tariff structure applicable on import of the Lead Pencils:

**Table-V  
Tariff Structure**

PCT No	9609.1000
Description	Pencils (other than Pencils of heading 96.08), crayons, Pencils leads, pastels, drawing charcoals, writing or drawing chalks and tailors' chalks. - Pencils and crayons, with leads encased in a rigid sheath
Customs Duty (MFN)	20%
Pak- China FTA	16%
Regulatory Duty	Nil
Sales Tax	Nil

**10.4 Domestic Like Product:**

The domestic like product is pencils with lead encased in a rigid (wood or plastic) sheath (“Lead Pencils”). It is classified under PCT Heading No. 9609.1000. The domestic like product is used for writing/coloring in schools, offices etc.

**10.5 Like Product:**

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

- i. basic raw materials used in the production of the investigated product, and the domestic like product are the same or similar;
- ii. the investigated product and the domestic like product are produced

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- with a similar manufacturing process;
- iii. both the products have similar appearance. Further, physical properties, nature and quality of the investigated product and the domestic like product are also similar;
- iv. both the products are used for same/similar purposes and are substitutable in use; and
- v. both the products are classified under the same PCT/HS heading numbers.

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

**11 Period of Investigation ("POI")**

11.1 In terms of Section 36 of the Act, Period of Investigation ("POI") is:

- i. *"for the purposes of an investigation of dumping, an investigation period shall normally cover twelve months preceding the month of initiation of the investigation for which data is available and in no case the investigation period shall be shorter than six months."*
- ii. *"for the purposes of an investigation of injury, the investigation period shall normally cover thirty-six months:  
"Provided that the Commission may at its sole discretion, select a shorter or longer period if it deems it appropriate in view of the available information regarding domestic industry and an investigated product".*

11.2 The POI selected for the purposes of this investigation for dumping and injury are, as follows:

For determination of dumping:	From July 01, 2016 to June 30, 2017
For determination of injury:	From July 01, 2014 to June 30, 2017

**12 Exporters/ Producers Involved in Alleged Dumping of Lead Pencils**

The Applicant identified 115 exporters/ producers involved in alleged dumping of the investigated product from China. The Applicant stated that there may be other exporters and producers of the investigated product, which are not known to him, therefore, the Applicant has requested for imposition of antidumping duty on all imports of the investigated product originating in and/or exported from China.

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**13 Information/Data Gathering**

13.1 The Commission sent exporter's questionnaire on December 18, 2017 to the Embassy of the China in Islamabad with a request to forward it to all exporters/ producers of the investigated product in China. Exporter's questionnaire was also sent directly to exporters/ producers based in the China whose addresses were available to the Commission on December 18, 2017 for collection of data and information necessary for this investigation. The exporters/ producers were asked to supply information within 37 days of the dispatch of questionnaire.

13.2 In response to the Commission's request for information, on January 17, 2018 following exporters/ producers requested for extension in the deadline to submit information on exporter's questionnaire:

- i. Zhejiang Shengming Stationery Co. Ltd. (Shengming Stationery)
- ii. Zhejiang Hongye Pencil Industry Co. Ltd. (Hongye Pencil)
- iii. Fujian Songxi Huilian Stationery Co. Ltd. (Huilian Stationery)
- iv. Zhejiang Qingyuan Baolong Stationery Ltd. (Baolong Stationery)
- v. Zhejiang Best Intenerated Pencil Wood Co. Ltd. (Best Intenerated)
- vi. Zhejiang Hongxing Stationery Co. Ltd. (Hongxing Stationery)

13.3 The Commission granted extension of two weeks to submit data/ information on exporter's questionnaire.

13.4 Best Intenerated's response on exporter's questionnaire was received on January 31, 2018, which was found deficient in certain aspects. Deficiencies were communicated to Best Intenerated vide a letter dated March 08, 2018. Best Intenerated submitted its response to the deficiencies on March 26, 2018. Information submitted by Best Intenerated is used for determination of its individual dumping margin.

13.5 Hongxing Stationery's response on exporter's questionnaire was received on January 31, 2018, which was found deficient in certain aspects. Deficiencies were communicated to Hongxing Stationery vide a letter dated March 08, 2018. Hongxing Stationery submitted its response to the deficiencies on March 26, 2018. Information submitted by Hongxing Stationery is used for determination of its individual dumping margin.

13.6 Shengming Stationery's response on exporter's questionnaire was received on January 31, 2018, which was found deficient in certain aspects. Deficiencies were communicated to Shenming Stationery vide a letter dated March 08, 2018. Shenming Stationery submitted its response to the deficiencies on March 26, 2018.

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Information submitted by Shenming Stationery is used for determination of its individual dumping margin.

13.7 Hongye Pencil's response on exporter's questionnaire was received on January 31, 2018, which was found deficient in certain aspects. Deficiencies were communicated to Hongye Pencil vide a letter dated March 08, 2018. Hongye Pencil submitted its response to the deficiencies on March 26, 2018. Information submitted by Hongye Pencil is used for determination of its individual dumping margin.

13.8 Huilian Stationery's response on exporter's questionnaire was received on January 31, 2018 which was found deficient in certain aspects. Deficiencies were communicated to Huilian Stationery vide a letter dated March 08, 2018. Huilian Stationery submitted its response to the deficiencies on March 26, 2018. Information submitted by Huilian Stationery is used for determination of its individual dumping margin.

13.9 Baolong Stationery's response on exporter's questionnaire was received on January 31, 2018 which was found deficient in certain aspects. Deficiencies were communicated to Baolong Stationery vide a letter dated March 08, 2018. Baolong Stationery submitted its response to the deficiencies on March 26, 2018. Information submitted by Baolong Stationery is used for determination of its individual dumping margin.

13.10 On December 18, 2017 questionnaires were also sent to other known producers of Lead Pencils and Pakistani importers of Lead Pencils, requesting them to provide information within 37 days of the issuance of the questionnaire. Domestic producers namely Mark Industries Limited and Amjad Ahsan Info Tech Pvt. Ltd. have provided data/information to the Commission. None of the importers provided data/ information to the Commission on the prescribed questionnaire.

13.11 On January 26, 2018 the non-cooperating exporters/ producers, other domestic producers and importers were informed through a letter that, as they have not responded to the Commission in providing necessary information, the Commission will be constrained to make preliminary and/or final determination of dumping of the investigated product and/or material injury to the domestic industry for them on the basis of "Best Information Available" in terms of Section 32 of the Act and Article 6.8 of Antidumping Agreement, including those contained in the application submitted by the domestic industry.

13.12 The Commission has an access to the database of import statistics of Pakistan Revenue Automation Limited ("PRAL"), the data processing arm of the Federal Board of Revenue, Government of Pakistan. For the purposes of this final determination the Commission has used import data obtained from PRAL in addition to the information provided by the domestic producers and cooperating

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exporters.

13.13 Thus, the Commission has sought from all available sources the relevant data and information deemed necessary for the purposes of determination of dumping of the investigated product and material injury to the domestic industry in this investigation.

**14 Verification of the Information**

14.1 In terms of Sections 32(4) and 35 of the Act and Rule 12 of the Rules, during the course of an investigation, the Commission shall satisfy itself as to the accuracy of the information, and for this purpose verify the information supplied by the interested parties. Accordingly, the Commission has satisfied itself to the accuracy and adequacy of information and evidence supplied by the interested parties to the extent possible for the purposes of this final determination.

14.2 In order to verify information/data provided by the Applicant and other domestic producers, officers of the Commission conducted on-the-spot investigations at the office and plant of M/s Mark Uni-star Industries Ltd. from February 27, 2018 to March 01, 2018. Officers of the Commission conducted on-the-spot investigations at the offices and plants of the Applicant and M/s Amjad Ahsan Info Tech Pvt. Ltd. from 12 to 16 March 2018.

14.3 In order to verify information/data provided by the cooperating exporters/producers, officers of the Commission conducted on-the-spot investigations at their offices in China from April 23, 2018 to May 05, 2018.

**15 Public File**

The Commission, in accordance with Rule 7 of the Rules, has established and maintained a public file at its office. This file remains available to the interested parties for review and copying from Monday to Thursday between 11.00 hours to 13.00 hours throughout the investigation (except public holidays). This file contains non-confidential versions of the application, responses to the questionnaires, submissions, notices, correspondence, and other documents for disclosure to the interested parties.

**16 Confidentiality**

16.1 In terms of Section 31 of the Act, the Commission shall keep confidential any information submitted to it which is by nature confidential or determined by the Commission to be of confidential nature for any other reason or provided as confidential by the interested parties upon good cause shown to be kept confidential.

16.2 The Applicant, other domestic producers and cooperating exporters have

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requested to keep confidential certain information in terms of Section 31 of the Act. This information` includes data relating to sales, sale prices, cost to make and sell, inventories, production, profit/(loss), return on investment, salaries & wages, number of employees etc.

16.3 On the basis of requests made by the interested parties, the Commission has determined the confidentiality in light of Section 31 of the Act and for the reasons that disclosure of such information may be of significant competitive advantage to a competitor, or because its disclosure would have a significant adverse effect upon the interested parties providing such information. Therefore, the Commission kept all such information confidential for which the interested parties made a request to keep it confidential. However, in terms of Sub-Section (5) of the Section 31 of the Act non-confidential summaries of all confidential information, which provides reasonable understanding of the substance, have been placed in public file.

**17. Preliminary Determination**

17.1 The Commission made preliminary determination in this investigation on June 06, 2018 in terms of Section 37 of the Act and imposed following provisional antidumping duties for a period of four months.

**Table-VI  
Provisional Anti-dumping Duty Rates**

Exporter/ Producer Name	Duty Rates (%)
Zhejiang Best Intenerated Pencil Wood Co. Ltd.	4.55
Zhejiang Hongxing Stationery Co. Ltd.	22.55
Zhejiang Shengming Stationery Co. Ltd.	34.50
Zhejiang Hongye Pencil Industry Co. Ltd.	51.39
Fujian SongxiHuilian Stationery Co. Ltd.	22.82
Zhejiang QingyuanBaolong Stationery Ltd.	25.59
All others from China	51.39

17.2 The Commission issued a notice of preliminary determination, which was published on June 06, 2018 in Official Gazette of Pakistan and in two widely circulated national newspapers (the "Dawn" and "Jang") notifying the preliminary determination.

17.3 On June 06, 2018 the Commission also sent copy of the notice of preliminary determination to the Embassy of China in Islamabad, the exporters, the importers, domestic producers and the Applicant in accordance with the requirements of Section 37(4) of the Act. A detailed report (non-confidential version) of the preliminary determination was placed at the public file and was also posted on Commission's website [www.ntc.gov.pk](http://www.ntc.gov.pk).



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**18. Disclosure Meetings**

18.1 On requests made by cooperating exporters/ producers the officers of the Commission held separate meetings with their representatives on June 14, 2018 to explain the methodology used in calculations of dumping margins. In the said meetings copies of dumping calculations were also provided to the representatives of exporters/ producers.

18.2 All the cooperating exporters/ producers have submitted views/comments on their dumping calculations. The Commission has considered views/comments of the exporters/ producers while making dumping calculations for them this final determination.

**19. Views, Comments and Hearing**

19.1 All interested parties were invited to make their views/comments known to the Commission and to submit information and documents (if any) with regard to this investigation. The Commission received written submissions/comments from exporters, importers, China Writing Instrument Association, China Chamber of Commerce for Import and Export of Light Industrial Products and Arts-Crafts and domestic producers. The views/comments received from interested parties are duly considered by the Commission while making this final determination.

19.2 Upon request of domestic industry, exporters/ producers and importers, a hearing in this investigation was held on July 17, 2018 under Rule 14 of the Rules. All interested parties were invited to attend the hearing. The views/comments and information submitted by the interested parties and presented by the participants during the hearing were made available to other interested parties by placing the same on the public file. Further, views/comments presented by interested parties during the hearing are duly considered by the Commission while making this final determination

19.3 Views/Comments of the interested parties germane to this investigation and response of the Commission are provided at Annex-II of this report.

**20. Disclosure of Statement of Essential Facts**

20.1 In terms of Rules 14(8) of the Rules, and Article 6.9 of Agreement on Antidumping, the Commission disclosed essential facts, and in this context dispatched a Statement of Essential Facts (the "SEF") on September 07, 2018 to all interested parties including the known exporters/producers, the Applicants, other domestic producers, known Pakistani importers, and to the Embassy of China in Pakistan.

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20.2 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. Following parties have submitted comments of SEF:

- i. Government of China;
- ii. Zhejiang Best Intenerated Pencil Wood Co. Ltd.;
- iii. Zhejiang Hongxing Stationery Co. Ltd.;
- iv. Zhejiang Shengming Stationery Co. Ltd.;
- v. Zhejiang Hongye Pencil Industry Co. Ltd.;
- vi. Fujian Songxi Huilian Stationery Co. Ltd.;
- vii. Zhejiang Qingyuan Baolong Stationery Ltd.;
- viii. China Writing Instrument Association; and
- ix. China Chamber of Commerce for Import and Export of Light Industrial Products and Arts-Crafts
- x. Indus Pencil Industries Ltd., (the Applicant);
- xi. Mark Unistar Industries Ltd.;
- xii. Oro Industries
- xiii. Dollar Industries Pvt. Ltd.
- xiv. Zen Tax.
- xv. Brother Pen Company
- xvi. Real Enterprises
- xvii. Salim& Co.
- xviii. Success Marketing Ways
- xix. Sultan & Co.

20.3 views/comments presented by interested parties in response to the SEF are duly considered by the Commission while making this final determination. Views/ Comments of the interested parties germane to this investigation and response of the Commission are provided at Annex-II of this report.

**B. DETERMINATION OF DUMPING**

21 **Dumping**

In terms of Section 4 of the Act 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”.*

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**22 Normal Value**

22.1 In terms of Section 5 of the Act “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”.*

Further, Section 6 of the Act 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 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”.*

22.2 Ordinary course of trade is defined in Section 7 of the Act 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*

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*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.”*

**23 Export Price**

The “export price” is defined in Section 10 of the Act as follows:

*“a price actually paid or payable for an investigated product when sold for export from an exporting country to Pakistan”.*

**24 Dumping Determination**

24.1 As stated earlier, in response to the Commission’s request for information following six exporters/ producers of Lead Pencils from China provided information:

- i. Zhejiang Best Intenerated Pencil Wood Co. Ltd. (“Best Intenerated”)
- ii. Zhejiang Hongxing Stationery Co. Ltd. (“Hongxing Stationery”)
- iii. Zhejiang Shengming Stationery Co. Ltd. (“Shengming Stationery”)
- iv. Zhejiang Hongye Pencil Industry Co. Ltd. (“Hongye Pencil”)
- v. Fujian Songxi Huilian Stationery Co. Ltd. (“Huilian Stationery”)
- vi. Zhejiang Qingyuan Baolong Stationery Ltd. (“Baolong Stationery”)

24.2 Individual dumping margins in this investigation are determined for the above-mentioned six exporters/ producers on the basis of the information provided by them and verified by the Commission. Normal value, export price and individual dumping margins for the above-mentioned exporters/producers have been determined in accordance with Part III, IV and V of the Act on the basis of the information provided by them. However, dumping margin for all other non-cooperating exporters/producers from China has been determined on the basis of

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best information available.

25 **Determination of Normal Value for Zhejiang Best Intenerated Pencil Wood Co. Ltd. ("Best Intenerated")**

25.1 Best Intenerated sales of Lead Pencils in its domestic market during the POI were to related party and unrelated parties. It sold 83.86 percent of its total sales to related party, which was meant to export whereas 16.14 percent of its total sales were made to unrelated parties for domestic consumption. These sales are in sufficient quantities to determine normal value in terms of Section 6(2) of the Act, as these are more than 5 percent of the export sales of the investigated product exported by Best Intenerated/ Songxi Wanda Trading Co., Ltd ("Wanda" a related company of Best Intenerated) to Pakistan during POI.

25.2 Section 7 of the Act requires the Commission to determine ordinary course of trade for domestic sales to determine normal value, which are normally determined by comparing gross price with cost to make and sell. Best Intenerated maintains only one cost of production of all types of Lead Pencils in its accounting system, therefore, the Commission could not verify type-wise cost to make and sell of Lead Pencils during on-the-spot verification. However, cost to make and sell is determined separately for black lead pencils and colour lead pencils on the basis of information obtained during on-the-spot investigation on raw materials/inputs used and or consumed by the Best Intenerated for production of black lead or colour lead pencils. Therefore, ordinary course of trade is determined separately for black lead pencils and colour lead pencils on the basis their respective cost to make and sell during the POI.

25.3 To determine normal value the lead pencils have been divided into two groups i.e. black lead pencil and colour lead pencil. Investigation has revealed that below costs sales of the like product were in substantial quantities, 34.41 percent for black lead pencils and 23.18 percent for colour lead pencils in terms of Section 7(2) of the Act. Furthermore, below costs sales were in extended period of time and its prices did not provide recovery of all costs within the POI. Thus, in determination of normal value the Commission has disregarded sales, which were not in the ordinary course of trade in accordance with provisions of Section 7 of the Act.

25.4 To arrive at the ex-factory price, Best Intenerated has claimed adjustments on account of inland freight, handling cost and packing cost. The Commission has accepted these adjustments and the normal value at ex-factory level for the like product is worked out by deducting value of these adjustments from the gross price.

26 **Determination of Export Price for Zhejiang Best Intenerated/ Songxi Wanda Trading Co., Ltd ("Wanda")**

26.1 Wanda is a related company of the Best Intenerated and it is a trading company. It is responsible for exports of the products produced by the Best

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Intenerated. Wanda was engaged in export of the lead pencils to the Pakistan and other countries during the POI. As per sale arrangements between the two related companies Wanda purchase finished products from Best Intenerated and exports to the different countries at its own price. Export price for Best Intenerated/ Wanda has been determined on the basis of the information provided by them on their export sales to Pakistan during the POI.

26.2 As per the information provided by Best Intenerated/ Wanda 87 percent of its total exports of the investigated product during the POI were to Pakistan, which were to unrelated parties. For like to like comparison, the investigated product is divided into black lead pencils and colour lead pencils and the export price is determined separately for black lead pencils and colour lead pencils.

26.3 Best Intenerated/ Wanda claimed that its all exports of the investigated product during POI were at FOB basis, however, during on-the-spot investigation the Commission found that certain transactions were at C&F basis. To arrive at the ex-factory level, adjustments on account: of credit cost, inland freight, handling cost, bank charges, non-refunded VAT, non-refunded other taxes (urban tax and education tax) packing cost, Wanda's operating cost and Wanda's profit have been made. These adjustments were verified during on-the-spot investigation conducted at its premises. Export price at ex-factory level for the investigated product is worked out by deducting value of these adjustments from the gross price.

**27. Determination of Normal Value for Zhejiang Hongxing Stationery Co. Ltd.**

27.1 Normal value for Zhejiang Hongxing Stationery Co. Ltd. ("Hongxing Stationery") has been determined on the basis of the information provided by it in response to the questionnaire.

27.2 Hongxing Stationery sales of Lead Pencils in its domestic market during the POI were to related party and unrelated parties. It sold 31.18 percent of its total sales to related party, which was meant to export whereas 68.32 percent of its total sales were made to unrelated parties for domestic consumption. These sales are in sufficient quantities to determine normal value in terms of Section 6(2) of the Act, as these are more than 5 percent of the export sales of the investigated product exported by Hongxing Stationery/ Zhejiang Dezhi Imp & Exp Co. Ltd ("Dezhi", a related company of Hongxing Stationery) to Pakistan during POI.

27.3 Section 7 of the Act requires the Commission to determine ordinary course of trade for domestic sales to determine normal value, which are normally determined by comparing gross price with cost to make and sell. Hongxing Stationery maintains separate cost of production of different types of Lead Pencils based on an internal cost allocation criterion on the basis of standard inputs and costs. According to the Hongxing Stationery the cost allocation criterion is based upon the inputs used and value addition. On predefined criterion Hongxing Stationery allocates every month

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actual cost incurred during the month. During on-the-spot investigation conducted at its premises the Hongxing Stationery was asked to provide documentary evidence in support of cost allocation criterion and inquired whether there is any universally accepted criterion or input output ratios to develop such kind of criterion. In response Hongxing Stationery stated that this criterion was internally devised and no documentary evidence in support of the cost allocation criterion is available. Therefore, the Commission could not verify type-wise cost of production of different types of Lead Pencils during on-the-spot verification. However, cost to make and sell is determined separately for black lead pencils and colour lead pencils on the basis of information obtained during on-the-spot investigation. Therefore, ordinary course of trade is determined separately for black lead pencils and colour lead pencils on the basis their respective cost to make and sell during the POI.

27.4 To determine normal value the lead pencils have been divided into two groups i.e black lead pencil and colour lead pencil. Investigation has revealed that below costs sales of the like product were not in substantial quantities in terms of Section 7(2) of the Act. Therefore, normal value is determined on the basis of total sales to unrelated customers.

27.5 To arrive at the ex-factory price, Hongxing Stationery has claimed adjustments on account of inland freight, and credit cost. During on-the-spot investigation conducted at its premises the Hongxing Stationery was unable to substantiate its claim relating to credit cost, therefore, this adjustment has not been accepted, whereas adjustment on account of inland freight has been accepted and the normal value at ex-factory level for the like product is worked out by deducting value of inland freight from the gross price.

28. **Determination of Export Price for Zhejiang Hongxing Stationery Co. Ltd./ Zhejiang Dezhi Imp & Exp Co. Ltd (“Dezhi”)**

28.1 Dezhi is a related company of the Hongxing Stationery and it is a trading company. It is responsible for exports of the products produced by the Hongxing Stationery. Dezhi was engaged in export of the lead pencils to the Pakistan and other countries during the POI. As per sale arrangements between the two related companies Dezhi purchase finished products from Hongxing Stationery and exports to the different countries at its own price. Hongxing Stationery itself has also exported the investigated product to Pakistan during the POI. Export price for Hongxing Stationery/ Dezhi has been determined on the basis of the information provided by them on their export sales to Pakistan during the POI.

28.2 According to the information provided by Hongxing Stationery/ Dezhi they exported 21.14 percent of their total exports of Lead Pencils to Pakistan during the POI. Their all export sales to Pakistan, during the POI, were to unrelated parties. For like to like comparison, the investigated product is divided into black lead pencils and colour lead pencils and the export price is determined separately for

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black lead pencils and colour lead pencils.

28.3 Hongxing Stationery/ Dehzi's exports of the investigated product to Pakistan during POI were at C&F basis. To arrive at the ex-factory level, adjustments on account of: ocean freight, inland freight, handling cost, credit cost, bank charges, non-refunded VAT, non-refunded other taxes (urban tax and education tax), Dehzi's financial cost and profit have been made. These adjustments were verified during on-the-spot investigation conducted at its premises. Export price at ex-factory level for the investigated product is worked out by deducting value of these adjustments from the gross price.

**29 Determination of Normal Value for Zhejiang Shengming Stationery Co. Ltd.**

29.1 Normal value for Zhejiang Shengming Stationery Co. Ltd. ("Shengming Stationery") has been determined on the basis of the information provided by it in response to the questionnaire.

29.2 Shengming Stationery sold 49.45 percent of its total sales of Lead Pencils 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 Act, as these are more than 5 percent of the export sales of the investigated product exported by Shengming Stationery to Pakistan during POI.

29.3 Section 7 of the Act requires the Commission to determine ordinary course of trade for domestic sales to determine normal value, which are normally determined by comparing gross price with cost to make and sell. Shengming Stationery maintains only one cost of production for all types of lead pencils in its accounting system. As separate type wise cost of production is not available, therefore, ordinary course of trade is determined on the basis of its combine cost to make and sell during the POI.

29.4 To determine normal value, the lead pencils have been divided into two groups i.e black lead pencil and colour lead pencil. Investigation has revealed that below costs sales of the like product were in substantial quantities (79.59% of black lead and 70.10% of colour lead) in terms of Section 7(2) of the Act. Furthermore, below costs sales were in extended period of time and its prices did not provide recovery of all costs within the POI. Thus, in determination of normal value the Commission has disregarded sales, which were not in the ordinary course of trade in accordance with provisions of Section 7 of the Act.

29.5 To arrive at the ex-factory price, Shengming Stationery has claimed adjustments on account of credit cost, eraser, sharpener and packing cost. The Commission has not accepted adjustment on account of packing cost because the Shengming Stationery was not able to substantiate with documentary evidence during on-the-spot investigation. The Commission has accepted other adjustments and the normal value at ex-factory level for the like product is worked out by



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deducting value of these adjustments from the gross price.

**30 Determination of Export Price for Zhejiang Shengming Stationery Co. Ltd.**

30.1 Export price for Shengming Stationery has been determined on the basis of the information provided by it on its export sales to Pakistan during the POI.

30.2 According to the information provided by Shengming Stationery it exported 50.55 percent of its total sales of Lead Pencils to all export markets during the POI. Out of which 16.38 percent were exported. Its all export sales to Pakistan, during the POI were to un-related customers. For like to like comparison, the investigated product is divided into black lead pencils and colour lead pencils and the export price is determined separately for black lead pencils and colour lead pencils.

30.3 Shengming Stationery exported investigated product at FOB basis. To arrive at the ex-factory level, Shengming Stationery reported adjustments on account of credit cost, inland freight, certificate of origin fee, handling cost, bank charges, and unrefunded VAT. The Commission has accepted these adjustments and export price at ex-factory level for the investigated product is worked out by deducting value of these adjustments from the gross price.

**30 Determination of Normal Value for Zhejiang Hongye Pencil Industry Co. Ltd.**

31.1 Normal value for Zhejiang Hongye Pencil Industry Co. Ltd. ("Hongye Pencil") has been determined on the basis of the information provided by it in response to the questionnaire.

31.2 Hongye Pencil sold 56.09 percent of its total sales of Lead Pencils 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 Act, as these are more than 5 percent of the export sales of the investigated product exported by Hongye Pencil to Pakistan during POI.

31.3 Section 7 of the Act requires the Commission to determine ordinary course of trade for domestic sales to determine normal value, which are normally determined by comparing gross price with cost to make and sell. Hongye Pencil maintains only one cost of production for all types of lead pencils in its accounting system. As separate type wise cost of production is not available, therefore, ordinary course of trade is determined on the basis of its combine cost to make and sell during the POI.

31.4 To determine normal value, the lead pencils have been divided into two groups i.e. black lead pencil and colour lead pencil. Investigation has revealed that below costs sales of the like product were in substantial quantities (88.58% of black lead pencils and 86.64% of colour lead pencils) in terms of Section 7(2) of the Act. Furthermore, below costs sales were in extended period of time and its prices did

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not provide recovery of all costs within the POI. Thus, in determination of normal value the Commission has disregarded sales, which were not in the ordinary course of trade in accordance with provisions of Section 7 of the Act.

31.5 To arrive at the ex-factory price, Hongye Pencil has claimed adjustments on account of credit cost, inland freight and packing cost. The Commission has not accepted adjustment on account of packing cost because the Hongye Stationery was not able to substantiate with documentary evidence during on-the-spot investigation. The Commission has accepted other adjustments and the normal value at ex-factory level for the like product is worked out by deducting value of these adjustments from the gross price.

**32. Determination of Export Price for Zhejiang Hongye Pencil Industry Co. Ltd.**

32.1 Export price for Hongye Pencil has been determined on the basis of the information provided by it on its export sales to Pakistan during the POI.

32.2 According to the information provided by Hongye Pencil it exported 43.91 percent of its total sales of Lead Pencils to all export markets, out of which 36.56 percent were exported to Pakistan during the POI. It all export sales to Pakistan, during the POI were directly to un-related customers. For like to like comparison, the investigated product is divided into black lead pencils and colour lead pencils and the export price is determined separately for black lead pencils and colour lead pencils.

32.3 Hongye Pencil exported investigated product at FOB basis. To arrive at the ex-factory level, Hongye Pencil reported adjustments on account of credit cost, inland freight, certificate of origin fee, handling cost, bank charges, un-refunded and VAT. The Commission has accepted these adjustments and export price at ex-factory level for the investigated product is worked out by deducting value of these adjustments from the gross price.

**33 Determination of Normal Value for Fujian Songxi Huilian Stationery Co. Ltd.**

33.1 Normal value for Fujian Songxi Huilian Stationery Co. Ltd. ("Huilian Stationery") has been determined on the basis of the information provided by it in response to the questionnaire.

33.2 Huilian Stationery sold 82.70 percent of its total sales of Lead Pencils 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 Act, as these are more than 5 percent of the export sales of the investigated product exported by Huilian Stationery to Pakistan during POI.

33.3 Section 7 of the Act requires the Commission to determine ordinary course of

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trade for domestic sales to determine normal value, which are normally determined by comparing gross price with cost to make and sell. Huilian Stationery maintains only one cost of production for all types of lead pencils in its accounting system. As separate type wise cost of production is not available, therefore, ordinary course of trade is determined on the basis of its combine cost to make and sell during the POI.

33.4 To determine normal value, the lead pencils have been divided into two groups i.e. black lead pencil and colour lead pencil. Investigation has revealed that below costs sales of the like product were in substantial quantities (59.67% of black lead pencils and 62.31% of colour lead pencils) in terms of Section 7(2) of the Act. Furthermore, below costs sales were in extended period of time and its prices did not provide recovery of all costs within the POI. Thus, in determination of normal value the Commission has disregarded sales, which were not in the ordinary course of trade in accordance with provisions of Section 7 of the Act.

33.5 To arrive at the ex-factory price, Huilian Stationery has claimed adjustments on account of credit cost, eraser, sharpener and packing cost. The Commission has not accepted adjustment on account of packing cost because the Huilian Stationery was not able to substantiate with documentary evidence during on-the-spot investigation. The Commission has accepted other adjustments and the normal value at ex-factory level for the like product is worked out by deducting value of these adjustments from the gross price.

**34. Determination of Export Price for Fujian Songxi Huilian Stationery Co. Ltd.**

34.1 Export price for Huilian Stationery has been determined on the basis of the information provided by it on its export sales to Pakistan during the POI.

34.2 According to the information provided by Huilian Stationery it exported 17.30 percent of its total sales of Lead Pencils to all export markets including Pakistan during the POI, out of which 27.55 percent were exported to Pakistan during the POI. All export sales to Pakistan, during the POI, were directly to un-related customers. For like to like comparison, the investigated product is divided into black lead pencils and colour lead pencils and the export price is determined separately for black lead pencils and colour lead pencils.

34.3 Huilian Stationery exported investigated product at FOB basis. To arrive at the ex-factory level, Huilian Stationery reported adjustments on account of credit cost, inland freight, certificate of origin fee, handling cost, bank charges, and unrefunded VAT. The Commission has accepted these adjustments and export price at ex-factory level for the investigated product is worked out by deducting value of these adjustments from the gross price.

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**35. Determination of Normal Value for Zhejiang Qingyuan Baolong Stationery Ltd.**

35.1 Normal value for Zhejiang Qingyuan Baolong Stationery Ltd. ("Baolong Stationery") has been determined on the basis of the information provided by it in response to the questionnaire.

35.2 Baolong Stationery sold 82.26 percent of its total sales of lead pencils 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 Act, as these are more than 5 percent of the export sales of the investigated product exported by Baolong Stationery to Pakistan during POI.

35.3 Section 7 of the Act requires the Commission to determine ordinary course of trade for domestic sales to determine normal value, which are normally determined by comparing gross price with cost to make and sell. Baolong Stationery maintains only one cost of production for all types of Lead Pencils in its accounting system. As separate type-wise cost of production is not available, therefore, ordinary course of trade is determined on the basis of its combine cost to make and sell during the POI.

35.4 During POI Baolong Stationery exported the investigated product to Pakistan through three transactions only on January 04, 2017, April 17, 2017 and June 07, 2017. Therefore, in this case normal value (domestic price) is taken from the sales transactions of these dates or of closer date (in case no sale was made in the same date or the sales in the same date was not at ordinary course of trade).

35.5 To arrive at the ex-factory price, Baolong Stationery has claimed adjustments on account of credit cost and packing cost. The Commission has accepted these adjustment on account of credit cost, however adjustment on account of packing cost is not accepted because the Baolong Stationery was not able to substantiate with documentary evidence during on-the-spot investigation. Normal value at ex-factory level for the like product is worked out by deducting value of credit cost from the gross price.

**36. Determination of Export Price for Zhejiang Qingyuan Baolong Stationery Ltd.**

36.1 Export price for Baolong Stationery has been determined on the basis of the information provided by it on its export sales to Pakistan during the POI.

36.2 According to the information provided by Baolong Stationery it exported 17.74 percent of its total sales of Lead Pencils to all export markets, out of which 45.83 percent were exported to Pakistan during the POI. Its exports to Pakistan

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during the POI were made through three transactions only on: January 04, 2017, April 17, 2017 and June 07, 2017. During POI Baolong Stationer exported only color lead pencils to Pakistan. Export sales to Pakistan, during the POI were to un-related customers.

36.3 Baolong Stationery exported investigated product at FOB basis. To arrive at the ex-factory level, Baolong Stationery reported adjustments on account of credit cost, inland freight, certificate of origin fee, handling cost, bank charges, and unrefunded VAT. The Commission has accepted these adjustments and export price at ex-factory level for the investigated product is worked out by deducting value of these adjustments from the gross price.

**37 Determination of Dumping Margin for All Other Chinese Exporters**

Since, during the POI major share in exports of the investigated product to Pakistan was of the cooperating exporters whose individual dumping margins have been determined, therefore, the Commission has decided to apply highest individual dumping margin to all other Chinese exporters as a residual dumping margin.

**38. Dumping Margin**

38.1 The Act defines “dumping margin” in relation to a product as “*the amount by which its normal value exceeds its export price*”.

38.2 The Commission has also complied with the requirements of Section 11 of the Act in comparison of normal value and export price. Section 12 of the Act provides three methods for fair comparison of normal value and export price in order to establish dumping margin. The Commission has calculated dumping margin by comparing weighted average normal value with weighted average export price at ex-factory level, except in case of Baolong Stationery where transaction to transaction approach is adopted due to limited export sales transaction on only three dates (please refer paragraph 31 supra).

38.3 The Commission has determined individual dumping margins for the six cooperating exporters/producers from China. Dumping margins and antidumping duty rates for all other exporters from China, who did not cooperate and have not provided requisite information is determined as the highest individual dumping margin among the cooperating exporter/ producer.

38.4 Taking into account all requirements set out above, the final dumping margins are provided in the following table.

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**Table-VII  
Dumping Margins**

Exporter/ Producer Name	Dumping Margin as %age of	
	Export Price	C&F Price
Zhejiang Best Intenerated Pencil Wood Co. Ltd./ Songxi Wanda Trading Co., Ltd	5.54%	4.92%
Zhejiang Hongxing Stationery Co. Ltd./ Zhejiang Dezhi Imp & Exp Co. Ltd	20.71%	18.95%
Zhejiang Shengming Stationery Co. Ltd.	37.24%	34.50%
Zhejiang Hongye Pencil Industry Co. Ltd.	66.94%	61.58%
Fujian Songxi Huilian Stationery Co. Ltd.	24.76%	22.82%
Zhejiang Qingyuan Baolong Stationery Co. Ltd.	27.81%	25.59%
All others from China	66.94%	61.58%

**39 De minimis Dumping Margins and Negligible Volume of Dumped Imports**

39.1 In terms of Section 41(3)(a) of the Act, dumping margin shall be considered to be negligible if it is less than two percent, expressed as a percentage of the export price. Dumping margins, set out in paragraph 38.4 supra, are above the *de minimis* level.

39.2 In terms of Section 41(3) (b) of the Act, volume of dumped imports shall normally be regarded as negligible if it accounts for less than 3 percent of total imports of the like product. The data obtained from PRAL on volume of imports of Lead Pencils from all sources during the POI (July 01, 2016 to June 30, 2017) is provided in the table below:

**Table-VIII  
Volume of Imports of Lead Pencils during POI**

Country/ Source of Import	% share in total imports
Dumped Source - China	98.82%
Other Sources	01.18%
Total	100.00%

Source: PRAL

39.3 It appears from the above table that the volume of dumped imports of the investigated product China during the POI was well above the negligible threshold set-out in Section 41(3)(b) of the Act.

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**C. INJURY TO THE DOMESTIC INDUSTRY**

**40. Determination of Injury**

40.1 Section 15 of the Act sets out the principles for determination of material injury to the domestic industry in the following words:

*“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...”*

40.2 Section 15 of the Act further provides that:

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

40.3 The Commission has taken into account all factors listed at Sections 15 and 17 of the Act in order to determine whether domestic industry suffered material injury during the POI. Material injury to the domestic industry has been analyzed in the following paragraphs in accordance with Part VI of the Act.

40.4 As stated earlier that there are seven units in the industry. The Commission requested for information from all units, however, only three units i.e. the Applicant (Indus Pencils Industries Pvt. Ltd.), M/s Mark Uni-Star Industries Ltd. and M/s Amjad Ahsan Info Tech Pvt. Ltd. provided necessary information on injury factors. Other four units namely, M/s Shah sons Ltd., M/s Sayyed Engineers Ltd., M/s Dollar Industries Ltd. and M/s Pakistan Pencils Ltd. have provided information on their installed capacity, volume of production and sales. Therefore, analysis of the injury factors is based on the information submitted by Applicant and other two units namely M/s Mark Uni-Star Industries Ltd. and M/s Amjad Ahsan Info Tech Pvt. Ltd. However, installed production capacity, volume of domestic production and volume of sales is for entire domestic industry. As the Applicant and other two units who have provided information accounts for major share (51.30 percent) in the entire industry and 77.75 in the producers who have expressed their opinion, therefore any inference derived from the data of these three units would apply to the entire industry.

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**41. Volume of Dumped Imports**

41.1 In order to ascertain the volume of dumped imports of the investigated product, the Commission has obtained import data from PRAL. As other products are also imported in the same PCT no. (9609.1000) (paragraph 10.3 supra), therefore, imports under this PCT have been segregated and only imports of lead pencils have been considered for the purposes of this investigation.

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

**Table-IX  
Volume of Imports and Domestic Production**

Period	Dumped imports	Domestic Production	Dumped Imports as:	
			increase/ (decrease)	% of domestic production
2014-15	100.00	50.84	--	196.69%
2015-16	130.57	53.63	30.57	243.45%
2016-17	129.07	57.74	-1.50	223.53%

Source: the entire domestic industry and PRAL.

**Note:** To maintain confidentiality actual figures have been indexed with reference to dumped imports in the year 2014-15 by taking it equal to 100

41.3 It appears from the above table that dumped imports of the investigated product increased significantly by 30.57 percent in absolute terms in the year 2015-16 and then decreased slightly by 1.15 percent in the year 2016-17, however, the dumped imports of the investigated product during the POI for dumping (2016 17) were significantly higher (29 percent) than the base year.

41.4 The dumped imports relative to domestic production increased significantly from 196.69 percent to 243.45 percent in the year 2015-16 and slightly declined to 223.54 percent in the year 2016-17, however it remained significantly above the base year.

**42 Price Effects**

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



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domestic like product over time), or price suppression (the extent to which increased cost could not be recovered by way of increase in selling price of the domestic like product). Effects of dumped imports on price of the domestic like product are analyzed in following paragraphs:

**42.2 Price undercutting**

42.2.1 Weighted average ex-factory price of the domestic like product has been calculated from the information submitted by the Applicant and other two domestic producers (M/s Unistar and Amjad Info) on the basis of their quantity and value of sales during the POI. Weighted average landed cost of the investigated product has been calculated from the information obtained from PRAL. Calculations of the price undercutting during the POI is given in following table:

**Table-X  
Price Undercutting**

Year	Domestic Industry's price			Landed cost of dumped			Price undercutting		
	Black	Colour	Total	Black	Colour	Total	Black	Colour	Total
2014-15	98.14	132.64	100.00	90.70	105.79	93.60	0.02	0.04	6.40%
2015-16	110.33	144.01	115.70	98.97	115.70	102.48	0.02	0.04	11.43%
2016-17	115.50	148.55	123.14	118.18	106.40	115.70	-	0.06	6.04%

Sources: the cooperating domestic producers and PRAL

**Note:** To maintain confidentiality actual figures have been indexed with reference to domestic industry's price in the year 2014-15 by taking it equal to 100

42.2.2 The above table shows that the weighted average landed cost of the investigated product was lower than the weighted average ex-factory price of the domestic like product, resultantly the dumped imports of the investigated product undercut prices of the domestic like product ranging from 6.04 percent to 11.43 percent during the POI.

**42.3 Price Depression**

42.3.1 Weighted average ex-factory prices of the domestic like product prevailed during POI are given in table below:

**Table-XI  
Price Depression**

Year	Prices of:			Increase/(Decrease) in Price		
	Poly pencils	Wood pencils	Total	Poly pencils	Wood pencils	Total
2014-15	101.00	96.80	100.00	-	-	-
2015-16	101.60	112.00	104.80	0.60	15.20	5.00
2016-17	96.00	119.20	104.60	(5.60)	7.40	(0.20)

Source: the cooperating domestic producers

Note: To maintain confidentiality actual figures have been indexed with reference

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to domestic industry’s price in the year 2014-15 by taking it equal to 100.

42.3.2 The above table shows that the domestic industry did not face price depression in case of wood lead pencils whereas it faced price depression in case of poly pencils as its price declined by 5.42 percent in the year 2016-17. However, the total weighted average price of the domestic like product increased by 5 percent in the year 2015-16 and declined by 0.19 percent in the year 2016-17.

**42.4 Price Suppression**

42.4.1 Weighted average cost to make and sell and ex-factory prices of the domestic like product for the POI are given in the following table for determination of price suppression:

**Table – XII  
Weighted average Cost to Make & Sell and Ex-factory Price**

Year	Cost to make & sell			Prices of:			Increase/(Decrease) in:					
	Poly pencil	Wood pencil	Total pencil	Poly pencil	Wood pencil	Total pencil	Cost to make & sell of			Prices of:		
							poly	wood	total	poly	wood	total
2014-15	98.17	105.48	100.00	92.32	88.48	91.41	-	-	-	-	-	-
2015-16	95.98	114.99	101.83	92.87	102.38	95.80	(2.19)	9.32	1.83	0.55	13.89	4.57
2016-17	104.94	117.73	109.51	87.75	108.96	95.61	8.96	2.74	7.68	(5.12)	6.76	(0.18)

Source: the cooperating domestic producers

**Note:** To maintain confidentiality actual figures have been indexed with reference to the cost to make & sell in the year 2014-15 by taking it equal to 100

42.4.2 The above table shows that the total weighted average cost to make and sell of the domestic like product increased by 1.83 percent and 7.54 percent during the years 2015-16 and 2016-17 respectively. The weighted average total price of the domestic like product increased by 5 percent the year 2015-16 and then decreased by 0.19 percent in the year 2016-17. Thus, the domestic industry faced price suppression in the year 2016-17 as it was not able to recover increased cost to make and sell of 7.54 percent by way of increase in price.

**43. Effects on Market Share**

43.1 Total domestic demand for Lead Pencil in Pakistan is met through local production and imports. Size of the domestic market is established by adding sales of domestic like product, imports of the investigated product from China and imports of the like product from other sources. Following table shows the total market and market share from each source of supply during the POI:

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**Table- XIII  
Market Share**

Year	Domestic Industry's Sales#		Imports from:				Total Market	
			Dumped source		Other sources		volume	change
	Volume	share	volume	share	volume	share		
2014-15	30.65	30.65%	68.45	68.45%	0.90	0.90%	100.00	--
2015-16	33.66	27.17%	89.37	72.15%	0.84	0.68%	123.87	23.87%
2016-17	37.01	29.28%	88.34	69.89%	1.05	0.83%	126.40	2.05%

# Sales by all units Sources: the domestic industry and PRAL  
 Note: To maintain confidentiality actual figures have been indexed with reference to total market in the year 2014-15 by taking it equal to 100

43.2 The above table shows that the total domestic market of Lead Pencils increased by 23.87 percent during the years 2015-16 and further increased by 2.05 percent in the year 2016-17.

43.3 The domestic industry’s market share decreased by 3.48 percent from 30.65 percent in the year 2014-15 to 27.17 percent in the year 2015-16 and then increased by 2.11 percent to 29.28 percent in the year 2016-17, however, it remained lower than its market share in the base year.

43.4 Market share of the dumped imports increased by 3.70 percent from 68.45 percent in the year 2014-15 to 72.15 percent in the year 2015-16 and then decreased by 2.26 percent to 69.89 percent in the year 2016-17. However, it remained more than its market share in the base year. Share of imports from other sources decreased from 0.90 percent in the year 2014-15 to 0.68 percent in the year 2015-16 and then slightly increased to 0.83 percent in the year 2016-17.

**44. Effects on Sales**

44.1 The sales of the domestic like product in the domestic market by the domestic industry during the POI are given below:

**Table- IV  
Sales by the Domestic**

Period	Sales	% increase
2014-15	100.00	--
2015-16	109.81	9.81%
2016-17	120.74	9.95%

Source: the domestic industry  
 Note: To maintain confidentiality actual figures have been indexed with reference to the sales in the year 2014-15 by taking it equal to 100

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44.2 The above table shows that the domestic industry's sales of the domestic like product in the domestic market increased by 9.81 percent and 9.95 percent in the years 2015-16 and 2016-17 respectively. Therefore, the domestic industry did not face negative effects on sales during the POI.

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

45.1 The installed production capacity, quantity produced and the capacity utilization of the domestic industry during the POI were as follows:

**Table – XV  
Installed Capacity, Production and Capacity Utilization**

Period	Installed Capacity	Production	Capacity Utilization (%)
2014-15	100.00	24.93	24.93%
2015-16	101.85	26.30	25.83%
2016-17	142.26	28.32	19.91%

Source: the domestic industry

Note: To maintain confidentiality actual figures have been indexed with reference to the installed capacity in the year 2014-15 by taking it equal to 100

45.2 The above table shows that the installed capacity of the domestic industry has increased significantly during the POI. The installed capacity increased by 1.85 percent in the year 2015-16 and 39.68 percent in the year 2016-17. Production of the domestic like product also increased by 5.49 percent in the year 2015-16 and 7.66 percent in the year 2016-17. The Capacity utilization increased by 0.89 percent in the year 2015-16 and declined by 5.92 percent in the year 2016-17. However, this decline in capacity utilization was due to substantial increase in the installed production capacity of the domestic industry.

**46. Effects on Inventories**

46.1 The information relating to the inventories of the domestic like product of the cooperating three producers during the POI is given below:

**Table – XVI  
Inventories of Domestic Like Product**

Period	Opening Inventory	Production	Domestic Sales	Export sales	closing inventory
2014-15	10.84	100.00	84.41	12.21	14.22
2015-16	14.22	101.40	93.41	6.20	16.02
2016-17	16.02	114.30	113.00	1.46	15.86

Source: the cooperating domestic producers

**Note:** To maintain confidentiality actual figures have been indexed with reference

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to production in the year 2014-15 by taking it equal to 100

46.2 The above table shows that the closing inventory level of the domestic like product increased from 142,009 gross in the year 2014-15 to 158,337 gross in the year 2016-17. The closing inventory of the domestic industry increased by 13 percent during the year 2015-16 over the preceding year and decreased by 1 percent in the year 2016-17 as compared to the year 2015-16.

46.3 The above table also shows that the cooperating exporters faced sharp decline in their exports. The exports of the domestic like product declined by 49.25 percent and 76.38 percent in the years 2015-16 and 2016-17 respective. Thus, increase in inventories of the domestic like product was due to its decline in exports.

**47. Effects on Profit/Loss**

47.1 The table below shows net profits/(loss) of the three cooperating domestic producers on production and sales of the domestic like product during the POI:

**Table – XVII**  
**Profits/(Loss) of the Cooperating Producers**

Period	Profit/(Loss)
2014-15	(100.00)
2015-16	(205.34)
2016-17	(272.31)

Source: the cooperating domestic producers

**Note:** To maintain confidentiality actual figures have been indexed with reference to loss in the year 2014-15 by taking it equal to 100

47.2 The information provided in the above table shows that the losses of the domestic industry on production and sales of the domestic like product increased over the POI for injury.

**48. Effects on Cash Flows**

48.1 All the three domestic producers who provided information are multi-product units and the cash flows of their operations cannot be determined separately for different products, as number of factors are combine for all products.

48.2 As per Section 17(2) of the Act, *“the Commission shall assess effect of dumped imports in relation to production of a domestic like product in Pakistan when available data permit separate identification of that production on the basis of criteria of production process, producer’s sales and profits:*

*Provided that if such separate identification of that production is not possible, the Commission shall assess effects of dumped imports by examination of the production of the narrowest group or range of products, which includes a domestic like product, for which necessary information can be provided.”*

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48.3 Keeping in view the above, cash flows are assessed for entire operations of the cooperating domestic producers, which is provided in the following table:

**Table – XVIII  
Net Cash Flow**

Period	Net Cash flow
2014-15	100.00
2015-16	128.91
2016-17	(117.46)

Sources: the cooperating domestic producers

**Note:** To maintain confidentiality actual figures have been indexed with reference to net cash flow in the year 2014-15 by taking it equal to 100

48.4 The above table shows that the domestic industry's net cash flow from its operating activities improved in the year 2015-16 but declined significantly during the year 2016-17.

49. **Effects on Employment, Productivity and Salaries & Wages**

49.1 The data relating to the employment, salaries & Wages and productivity of the cooperating three domestic producers for the POI is given in the following table

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

Period	Number of Employees	Productivity per worker	Salaries & Wages Per gross
2014-15	100.00	100.00	100.00
2015-16	96.66	104.90	108.52
2016-17	95.32	119.92	100.73

Source: the cooperating domestic producers

**Note:** To maintain confidentiality actual figures have been indexed with reference to no. of employees, productivity and salaries & wages in the year 2014-15 by taking them equal to 100

49.2 The above table shows that the employment in the domestic industry decreased 3 percent and 01 percent in the years 2015-16 and 2016-17 respectively. Salaries and wages increased by 9 percent in the year 2015-16 and decreased to by 7 percent in the year 2016-17. Productivity per worker also increased during the POI due to a consistent increase in production of the domestic like product during the POI.

50. **Effects on Return on Investment**

50.1 All the three domestic producers who provided information are multi-product units and the investment and return on investment cannot be determined separately for different products as number of factors are combine for all products.

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50.2 Keeping in view the above the effects on investment and return on investment are assessed for entire operations of the three cooperating producers in accordance with provisions of Section 17(2) of the Act. The information on return on investment is provided in the following table:

**Table – XX  
Return on Investment**

Period	ROI (%)
2014-15	8.24%
2015-16	7.69%
2016-17	5.37%

Source: the cooperating domestic producers

50.3 The above table shows that the return on investment decreased throughout the POI.

**51. Effects on Growth and Investment**

The installed production capacity of the domestic industry increased significantly (39.68 percent, paragraph 45 supra) during the POI. However, the domestic industry was not able to utilize its optimum installed production capacity during the POI despite the fact that domestic demand was more than the quantity produced by the domestic industry.

**52. Summing up of Material Injury and Effect of Dumped Imports**

52.1 Analysis of the volume of imports of the investigated product shows that the dumped import increased significantly in absolute terms and relative to domestic production during the POI. Further, dumped imports of the investigated product undercut prices of the domestic like product. The domestic industry also faced price suppression during the POI.

52.2 As a result of significant increase in volume of dumped imports, its market share increased in the years 2015-16 and 2016-17 as compared to the market share in the year 2014-15, whereas market share of domestic industry decreased during the POI. Further, domestic industry faced increase in losses, price suppression, decline in employment, cash flows and ROI during the POI.

52.3 Investigation of the Commission has shown that there was a time correlation between dumped imports of the investigated product and material injury faced by the domestic industry on above mentioned factors as both happened during the same time period.

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**53. Magnitude of Dumping Margins**

The dumping margin determined in this final determination for imports of the investigated product is ranging from 5.54 percent to 66.94 percent, which is considered enough to cause material injury to the domestic industry. Further, injury factors discussed above show that domestic industry has suffered materially injury due to dumped imports of the investigated product.

**D. Causal Relationship between Dumped Imports of the Investigated Product and Material Injury to the Domestic Industry**

54. Examination of the volume of dumped imports shows a causal relationship between dumped imports of the investigated product and material injury suffered by the domestic industry during the POI, as volume of dumped imports increased significantly at dumped prices which simultaneously adversely affected price, employment, cash flows market share, ROI and profits of the domestic industry. Following table shows correlation between volume of dumped imports and material injury faced by the domestic industry on above mentioned factors:

**Table – XXI  
Material Injury to the Domestic Industry and Causation**

S. No	Description	2014-15	2015-16	2016-17
i.	Volume of dumped imports	100.00	130.57	129.07
ii.	Increase/ (decrease) in dumped imports	--	30.57%	(1.15%)
lii,	Market share of dumped imports	68.45%	72.15%	69.89%
iv.	Market share of domestic like product	30.65%	27.17%	29.28%
v.	Price Undercutting	6.40%	11.43%	6.04%
iv.	Price Suppression	---	---	7.54%
vii.	Domestic industry’s production	100.00	105.49	113.57
viii.	Domestic industry’s capacity utilization	24.93%	25.83%	19.91%
ix.	Domestic industry’s ROI	8.24%	7.69%	5.37%
x.	Domestic industries sales	100.00	101.40	107.82
xi.	Closing inventories	100.00	112.65	111.50
xii.	Loss	100.00	205.34	272.31
xiii.	Net cash flows	100.00	128.91	-117.46
xiv	Number of Employees	100.00	96.66	95.32

**Note:** To maintain confidentiality actual figures have been indexed with reference to imports, domestic industry’s production, sales, inventories, loss, net cash flows and number of employees in the year 2014-15 by taking them equal to 100



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**55 Other Factors**

55.1 In accordance with Section 18(2) and 18(3) of the Act, the Commission has examined following factors other than dumped imports which could at the same time cause injury to the domestic industry, in order to ensure that possible injury caused by other factors is not attributed to the injury caused by dumped imports:

- i. Volume and price of imports not sold at dumping prices;
- ii. Contraction in demand or changes in the patterns of consumption;
- iii. Impact of sales tax on inputs;
- iv. Export performance of domestic industry
- v. Trade restrictive practices and competition between imports and domestic producers;
- vi. Developments in technology; and

**5.2 Volume of other Imports and Contraction in Demand**

55.2.1 The Commission has preliminarily determined that the domestic industry did not suffer material injury due to other factors including imports of Lead Pencils from sources other than the dumped source during the POI. Volume of imports from other sources, dumped sources and sales by the domestic industry are provided in the following table to analyze whether there is contraction in demand for Lead Pencils or there are changes in its patterns of consumption in accordance with Section 18(3) of the Act:

**Table-XXII  
Total Domestic Market of Lead Pencils**

Year	Domestic Industry's Sales#		Imports from:				Total Market	
	Volume	share	Dumped source		Other sources		volume	change
			volume	share	volume	share		
2014-15	30.65	30.65%	68.45	68.45%	0.90	0.90%	100.00	--
2015-16	33.66	27.17%	89.37	72.15%	0.84	0.68%	123.87	23.87%
2016-17	37.01	29.28%	88.34	69.89%	1.05	0.83%	126.40	2.05%

Note: To maintain confidentiality actual figures have been indexed with reference to total market in the year 2014-15 by taking it equal to 100

55.2.2 The above table shows that the volume of imports of Lead Pencils from sources other than the dumped source was negligible (less than 1% of total domestic market) throughout the POI. Whereas volume of dumped imports of the investigated product increased significantly during the POI. Thus, imports of Lead Pencil from other sources were not the cause of material injury to the domestic industry during the POI.

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55.2.3 The above table further shows that there was no contraction in domestic demand of the Lead Pencils during the POI rather domestic market increased significantly, by 23.87 percent and 2.05 percent in the years 2015-16 and 2016-17 respectively. Thus, there was no contraction in demand or there was no change in pattern of consumption of the Lead Pencils during the POI.

**55.3 Impact of Sales Tax on Inputs of Lead Pencils**

Investigation of the Commission has revealed that the stationery sector including lead pencils was exempted from payment of sales tax at production as well as at sales stages up till 30 June 2016. From 1<sup>st</sup> July 2016 exemption of sales tax at production stage was withdrawn whereas sales of stationery items including lead pencils remained exempted from payment of sales tax. This situation created an anomaly as raw materials/ inputs became liable to sales tax whereas the end product was not liable to sales tax. Thus, sales tax paid on raw materials/ inputs during the year 2016-17 became part of the cost of production. However, from 1<sup>st</sup> July 2018 the raw materials/ inputs of stationery sector are also exempted from payment of sales tax. The estimated impact of sales tax in cost of production of lead pencils works out to Rs. \*\*\*\* per gross for the year 2016-17. The Commission is of the view that increase in losses of the domestic industry during the year 2016-17 was partly due to the impact of sales tax in the cost of production of the domestic like product.

**55.4 Export performance of the domestic industry**

Investigation has shown that domestic industry exported Lead Pencils to Egypt and Turkey during the year 2014-15 which stopped afterwards. The Commission is of the view that stoppage of these exports affected adversely to the inventories of the domestic like product.

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

- i. There was no change in trade restrictive practices and competition between producers other than producers from the dumped source and domestic producer; and
- ii. There was no considerable change in technology to produce Lead Pencils during the POI;

55.6 Based on the above information and analysis the Commission has concluded that the domestic industry also suffered some injury due to factors other than the dumped imports of the investigated product, however, these factors were not the prime cause of material injury to the domestic industry during the POI. Rather dumped imports of the investigated product were the main reason of material injury to the domestic industry.

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**E. CONCLUSIONS**

56. After taking into account all considerations, evidences, information and analysis, the Commission has reached the following conclusions for the purposes of this final determination:

- i. The application was filed on behalf of the domestic industry;
- ii. The investigated product and the domestic like product are like products in terms of provisions of the Act;
- iii. During POI, the investigated product was exported to Pakistan by the exporters/ producers from China at prices below its normal value;
- iv. Volume of dumped imports of the investigated product and the dumping margins established for the exporters/ producers of the investigated product are above the negligible and *de minimis* levels;
- v. The dumping margins expressed as a percentage of weighted average adjusted export price at ex-factory level is ranging between 5.54 percent to 66.94 percent;
- vi. The domestic industry suffered material injury on account of volume of dumped imports, price undercutting, price suppression, decline in market share, decline in profits and profitability, negative effect on employment, cash flows and ROI in terms of Sections 15 and 17 of the Act; and
- vii. There is a causal relationship between dumped imports of the investigated product and the material injury faced by the domestic industry. The domestic industry also suffered some injury on account of increase in inventories, price suppression and profits due to factors other than dumped imports. However, other factors were not the prime cause of material injury to the domestic industry.

**F. IMPOSITION OF DEFINITIVE ANTIDUMPING DUTIES**

57. In view of the analysis and conclusions with regard to dumping of the investigated product, material injury to the domestic industry and causal link between dumping and injury, the Commission is required to impose antidumping duty on dumped imports of the investigated product under Section 50(1) of the Act.

58. For the purpose of imposition of lesser duty in accordance with Section 50(2) of the Act, the Commission has calculated injury margin to ascertain whether a lower duty would be adequate to remove injury being suffered by the domestic industry due to dumped imports of investigated product. The calculation of injury margin for the POI for dumping is given below:

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**Table-XXIII  
Injury Margin**

S. No	Description	Amount
i.	<b>Non-Injurious price of Domestic Product</b>	
	Cost to make and sell	100.00
	Less sales tax on inputs	10.41
	Net cost to make and sell	89.59
	Plus profit (5% of cost to make & sell)	4.48
	Non-injurious price	94.07
ii.	<b>Landed Cost of Investigated Product</b>	
	C&F Price	73.75
	Customs duty (@16%)	11.80
	Incidentals (@2%)	1.48
	Landed cost of investigated product	87.02
iii.	<b>Injury Margin in:</b>	
	Absolute	7.05
	Percentage of C&F price	9.56%

Source: the cooperating domestic producers and PRAL

**Note:** To maintain confidentiality actual figures have been indexed with reference to cost to make & sell by taking it equal to 100

59. Following table shows a comparison of the injury margin and individual dumping margin:

**Table-XXIV  
Comparison of Injury Margin and Dumping Margin**

S.No	Exporter Name	Injury margin (%)	C&F Dumping margin (%)
i.	Zhejiang Best Intenerated Pencil Wood Co. Ltd.	9.56	4.92
	Songxi Wanda Trading Co., Ltd.	9.56	4.92
ii.	Zhejiang Hongxing Stationery Co. Ltd.	9.56	18.95
	Zhejiang Dezhi Imp & Exp Co. Ltd	9.56	18.95
iii.	Zhejiang Shengming Stationery Co. Ltd.	9.56	34.50
iv.	Zhejiang Hongye Pencil Industry Co. Ltd.	9.56	61.58
v.	Fujian Songxi Huilian Stationery Co. Ltd.	9.56	22.82
vi.	Zhejiang Qingyuan Baolong Stationery Ltd.	9.56	25.59

60. The injury margin determined at C&F level is more than the dumping margin at C&F level except in case of Best Intenerated Pencil Wood Co. Ltd. and Songxi Wanda Trading Co., Ltd. Therefore, definitive antidumping duty for Best Intenerated Pencil Wood Co. Ltd. and for Songxi Wanda Trading Co., Ltd., if the Lead Pencils exported by Wanda are produced by the Best, will be equal to the dumping margin i.e. 4.92 percent *ad valorm* of the C&F value. For all other case the definitive antidumping duty will be equal to the injury margin i.e. 9.56 percent *ad valorm* of the C&F value. The definitive anti-dumping duty is imposed retroactively at the rates mentioned above on imports of Lead Pencils importable from China for a period of five years effective from the date of publication of notice of preliminary determination in the Official Gazette and in the press on June 06, 2018.

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61. Lead pencils imported from other sources (other than China) shall not be subject to the definitive antidumping duty. Further, in accordance with Section 51(1)(e) of the Act, antidumping duty will not be levied on imports of the investigated product that are used as input in products destined solely for exports and are covered under any scheme exempting customs duty for exports under the Customs Act, 1969

62. In accordance with Section 51 of the Act, the definitive antidumping duty shall take the form of *ad valorem* duty and be held in a non-lapsable personal ledger account established and maintained by the Commission for the purposes of antidumping duties. Release of the investigated product for free circulation in Pakistan shall be subject to the imposition of such antidumping duty.

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

64. 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.

65. The Commission had imposed provisional antidumping duties ranging from 4.55 percent to 51.39 percent on the investigated product vide official gazette (extra ordinary) dated June 06, 2018 for a period of four months. In terms of Section 55(2) of the Act, if definitive antidumping duty is lower than the amount of provisionally determined antidumping duty, the difference shall be refunded by the Commission. Therefore, importers of the investigated product may request for refund of the provisional antidumping duty (if any) on imports of the investigated product from China to the extent of the difference between the rate of definitive anti-dumping duty and the rate of provisional anti-dumping duty to the Secretary, National Tariff Commission, State Life Building No. 5, Blue Area, Islamabad within a period of *thirty* days of the publication of notice of this final determination.

(Tipu Sultan)  
Member  
October 09, 2018

(Robina Ather)  
Member  
October 09, 2018

(Abdul Khaliq)  
Chairman  
October 09, 2018

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**Annex-I**

**List of the interested parties attended the hearing**

- i. Embassy of China in Islamabad
- ii. Indus Pencils Industries Pvt. Ltd.
- iii. Mark Uni-star Industries
- iv. Sayyed Engineering Ltd.
- v. Pakistan Pencil Pvt. Ltd.
- vi. Salim& Company
- vii. Oro Industries
- viii. Dollar Industries Pvt. Ltd.
- ix. Zen Tax.
- x. Brother Pen Company
- xi. Real Enterprises
- xii. Salim& Co.
- xiii. Success Marketing Ways
- xiv. Sultan & Co.
- xv. China Writing Instrument Association
- xvi. China Chamber of Commerce for Import and Export of Light Industrial Products and Arts-Crafts
- xvii. Zhejiang Shengming Stationery Co. Ltd
- xviii. Zhejiang Hongye Pencil Industry Co. Ltd
- xix. Fujian Songxi Huilian Stationery Co. Ltd
- xx. Zhejiang Qingyuan Baolong Stationery Ltd
- xxi. Zhejiang Best Intenerated Pencil Wood Co. Ltd.
- xxii. Zhejiang Hongxing Stationery Co. Ltd

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**Views/Comments of Interested Parties**

<b>Interested Party(s)’s Name and Comments</b>	<b>NTC Response</b>
<b>Views/ Comments of the Government of China</b>	
<p>“.....It will be highly appreciated that Pakistani side handle and resolve the related anti-dumping cases on the basis of WTO rules and the traditional friendly relations between China and Pakistan.”</p>	<p>The Commission has conducted this investigation in accordance with provisions of the WTO Antidumping Agreement and the Act. However, the Government of Pakistan is available at any time to resolve such issues at mutually agreed solutions under relevant laws and rules</p>
<p>“the Commission made preliminary determination on June 6<sup>th</sup>, 2018, in which different dumping margins have been assigned to the involved Chinese exporters/producers. It is complained by the involved Chinese exporters/producers that some problems may exist in the investigation. First, the investigation authority may violate two important WTO legal obligations in its preliminary determination i.e. the obligation of fair comparison between normal value and export price as stipulated in Article 2.4 of the WTO Anti-Dumping Agreement and the Article 2.2.1.1 of the WTO Anti-Dumping Agreement which stipulates that costs shall normally be calculated on the basis of records kept by the exporter/producer under investigation.”</p>	<p>The dumping in this investigation for Chinese exporters has been determined on the basis of information provided by them in accordance with provisions of the WTO Antidumping Agreement as well as the Act including determination of cost of production of the Chinese producers, which is determined on the basis of their on record. Please refer Part B of the report of final determination.</p>
<p>“Second, the statement of injury to the domestic industry is of insufficient evidence. There is no correlation between the injury and Chinese exported products.”</p>	<p>The Commission has determined injury to the domestic industry in accordance with provisions of the WTO Antidumping Agreement as well as the Act. Please refer Part C of the report of final determination.</p>
<p>Third, the imposition of anti-dumping duties on the imports of lead pencils exported from China may increase the burden on Pakistani families since lead pencils are a necessity for national education. The Embassy herewith enclosed a document of detailed comments on this investigation along with this note.”</p>	<p>The Commission has taken care of public interest in this investigation and the antidumping duty is imposed less than the dumping margins. Please refer Paragraph 60 of the report of final determination.</p>
<p><b>Views/ Comments of:</b></p> <ul style="list-style-type: none"> <li>• <b>China Writing Instruments Association;</b></li> <li>• <b>China Chamber of Commerce for Import and Export of Light Industrial Products &amp; Arts – Crafts;</b></li> <li>• <b>M/s Dollar Industries Pvt. Ltd.;</b></li> <li>• <b>M/s Zen Tax;</b></li> <li>• <b>M/s Brother Pen Company;</b></li> <li>• <b>M/s Real Enterprises;</b></li> <li>• <b>M/s Success Marketing Ways;</b></li> <li>• <b>M/s Salim &amp; Company; and</b></li> </ul> <p><b>M/s Sultan &amp; Company.</b></p>	
<p><b><u>PENCIL PRODUCTION IN PAKISTAN</u></b></p>	
<p>“...Lead Pencils include many types and can broadly be categorized into Black Lead Pencils used for “writing” purposes and color pencils used for “coloring” purposes. Lead Pencils are made up of two components i.e. the Case (outer shell which forms the body of the product) and the Core (inner lead which actually is the writing part of the pencil). The Core of Pencil in Black Lead Pencils is made up of graphite whereas the core in color pencils is made up of wax and colors. The “outer shell” (Case) of the pencils both in Black Lead Pencils and Color Pencils can either be made up of wood</p>	<p>Like product in this investigation is determined keeping in view all relevant factors including the factors mentioned by the interested parties. After taking in to account all factors, the investigated product and the like product for the purposes of this investigation is defined</p>

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<p>or made up of plastic. Black Lead Pencils are not used for coloring and Colored Pencils are not used for writing purposes. Furthermore, Lead Pencils also vary in each category based on the specific type of pencil and the raw materials used which in either of the “Case” is wood or plastic. In addition, there is another type of Pencil which is known as “Clutch Pencil” (classified as sliding or propelling pencils), which are totally different from the other type of pencils mentioned herein. The clutch pencils are not currently being produced by the domestic industry”.</p> <p>“...Indus Pencil Industries manufacture both the wood case pencils and plastic case pencils. Furthermore, Indus Pencil has also been an importer of wood case pencils from China. It is estimated that during the period of 2016-17, wood case pencils manufactured by the Applicant (Indus Pencil) constituted around 25% of its total pencil production and rest of the 75% pencils manufactured by Indus Pencil were made from Plastics.</p> <p>“...Due to their inherent disadvantage, persisting weaknesses and insufficient technological expertise for producing wood case pencils, some of the major Pencil Producers in Pakistan have shifted their focus to making Plastic Pencils and anti-dumping cases in other countries rarely target at such products. Pakistani companies have since demonstrated their capability of making decent quality Plastic Pencils on their own because Pakistan domestically manufactures the basic raw materials used in Plastic Pencils including but not limited to General Purpose Polystyrene (GPPS) and other indigenously produced materials such as clay, talc and colorants which all are abundantly, consistently and economically available in Pakistan.”</p>	<p>as pencils with lead encased in a rigid (wood or plastic) sheath (“Lead Pencils”).</p>
<p><b><u>CHINESE WOOD CASE PENCIL PRODUCTION AND EXPORTS</u></b></p> <p>“...There are usually 19-22 production steps involved in making wood case pencils. While some of the Chinese wood-case pencils imported into Pakistan are in a completely finished and in a readymade form, duly packed into retail packs, however, <b>“most”</b> of the pencils imported in Pakistan are not in a final and finished form which are brought in bulk containers.....</p> <p>Steps include finishing, sorting, grading, printing, sharpening, coding, packaging, wrapping, cartonning and so on, which create substantial value addition, tax revenue and a multitude of local jobs in Pakistan.....”</p>	<p>The Commission’s investigation has revealed that similar production process is employed by the domestic industry to manufacture pencils in Pakistan. Therefore, the Commission has determined that the investigated product and the domestic like products are “like products”.</p>
<p>“Application filed by the Applicant domestic industry is vague and incomplete which does not provide adequate information to properly assess injury to the domestic industry....”</p>	<p>The application filed by the Applicant fulfills requirements of Section 20 of the Act.</p>
<p><b>Issues related to definition of Product under investigation:</b></p> <p>“...The product under investigation has come to be known as “Lead Pencils” “imported from China” which is “used for writing in schools, offices etc”. The term “Lead Pencil” is generic in nature whereas the “product imported from China” and its “intended use” make it a bit specific and requires proper definition....”.</p>	<p>Investigated product and the domestic like are determined keeping in view all relevant factors. The investigated product is pencils with lead encased in a rigid (wood or plastic) sheath.</p>
<p><b>Inclusion of Color Pencils and Black Lead Pencils in one investigation despite being separate and distinct products:</b></p> <p>“The Applicant has claimed both the black lead pencils and color pencils as the product under investigation. However, it seems that the NTC has included only black lead pencils as in the product concerned since the intended use is only provided for the black lead pencils which is “writing in schools”. Color pencils are not used for writing purposes they are only used for coloring by the children in schools. This means the product definition provided by the NTC excludes the color pencils and includes only black lead pencils. <u>Black lead pencils</u> and <u>color pencils</u> as indicated by their names are separate and distinct categories of the Pencils having different market and uses. Both employ <u>different raw materials</u>, <u>partially different manufacturing process</u>, <u>different sales prices and costs</u> as well as <u>different customers</u> and <u>serve different market segments</u> and therefore does not qualify to be like product as per the criteria used by the NTC in determination of like product.....</p> <p>“...The costs and prices of both the black lead pencils and color pencils are different</p>	<p>The investigated product was clearly defined for purposes of this investigation, which is pencils with lead (black or coloured) encased in a rigid (wood or plastic) sheath. Further, the distinction of black lead and colored lead is taken care of in determination of dumping and comparison of normal value and export price is made separately for same types i.e. coloured with coloured and black with black.</p>



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<p>with a different share in sales, both in imports as well as in the sales of the Applicant domestic industry.  “... NTC should either exclude color pencils from the scope of the investigated product or conduct separate injury analysis for both the types of pencils since neither of these are interchangeable in use nor the imports of color pencils can affect the domestic operations of black lead pencils, or vice versa.”</p>	
<p><b>Inclusion of plastic pencils in investigated product and domestic like product.</b>  “‘At the time of initiation of the investigation, the scope of the investigated product and domestic like product only included wood pencils since nowhere in the initiation memo there was any mention of the plastic pencils. Even raw materials and production process were identified with reference to wood pencils only. Therefore it implies that investigated product and domestic like product was only wood pencils. It was identified by the Chinese Associations in its preliminary comments that the applicant has included data for production and sales of plastic pencils in its application which is unlawful. The Commission, instead of excluding the data of plastic pencils, unlawfully included plastic pencils in the scope of the investigated product and domestic like product.....”</p>	<p>The investigated product was clearly defined in the notice of initiation of this investigation as <i>“The investigated product is Lead Pencils imported from China. It is classified under Pakistan Customs Tariff (“PCT”) Heading No. 9609.1000.”</i></p>
<p><b>No explicit exclusion of different types of Pencils:</b>  “...The wood case pencils and plastic case pencils employ different raw materials, have different manufacturing process, have different costs and sales prices, possess different quality and physical characteristics, have different appearances and have different in-use behavior (one can easily notice the difference in wood case pencils and plastic pencils). Only the aspect of same tariff classifications however does not necessarily make both the products as like products. As per Section 2(e) of the Act, since domestic like product is a “like product” produced by the domestic industry, domestic like product in this investigation can only be Wood Case Pencils which have very rightly been defined by the NTC as “product under consideration”.</p>	<p>Same kind of pencils (either wood pencils or plastic pencils) fetch different costs, prices, and consumer preferences within that particular type of pencils. likeness of the products is determined keeping in view and after careful review of all relevant factors, including the raw materials and production process.</p>
<p><b>Other types not produced by the domestic industry should be excluded from the scope of the investigated product:</b>  “Analysis of the import data provided by the Applicant in its application in Appendix-1 &amp; Appendix-2 has reflected that other types of pencils including “clutch pencils” are being imported under the same PCT Code i.e. 9609.1000. Clutch pencils are totally different from Wood Case Pencils having significantly higher cost and sales price and are not in competition with the Wood Case Pencils.”</p>	<p>The Commission has relied upon the information obtained from PRAL on imports of the investigated product, which is carefully reviewed and only lead pencils have been taken into account for the purposes of this investigation. Other products imported under this PCT No. have been excluded while analyzing the lead pencils</p>
<p><b>Correction of certain product related information:</b>  “‘As per para 7 of the initiation memo, it is mentioned that investigated product (lead pencils) is measured in gross. 1 gross contains 144 lead pencils. 1 gross is of 700 grams. Here, it is added for the kind consideration of the Commission that average weight of 1 gross is around 850 grams and not 700 grams...”</p>	<p>The Commission has used average weight of 800 grams for one gross</p>
<p><b>Unlawful determination of the standing of the Applicant at the time of initiation:</b>  “‘In the initiation memo the Commission has mentioned Mark Unistar as Mark Industries having share of 26.84% in domestic production during the period July 2016 – June 2017. Here, Dollar Industries would like to clarify that Mark Industries, in reality, is neither a producer of any kind of pencils nor have claimed itself to be a producer of pencils in its letter dated 29th December 2017, addressed to the Commission.”</p>	<p>Standing of the application is determined in accordance with provisions of the Act. It is worth mentioning that Mark Unistar is a manufacture of lead pencils, whereas Mark industries is not a manufacturer of lead pencils. The Commission has taken into account only Mark Unistar in this investigation. Please refer paragraphs 6 and 7 of the Report.</p>
<p><b>Incorrect information provided by the Applicant and used by the Commission for</b></p>	

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<p><b>determination of the standing of the Application:</b>  “...The Applicant produces both wood case pencils as well as plastic case pencils. The information on production provided by the Applicant does not categorically segregate between wood case and plastic case pencils. The data provided by the Applicant include both wood case and plastic case pencils hence is incorrect and misleading..... the Applicant’s production of wood case pencils is merely around 20% and the majority of production of the Applicant represents plastic case pencils...”</p>	<p>The investigated product and the domestic like product for the purposes of this investigation is defined as pencils with lead encased in a rigid (wood or plastic) sheath.</p>
<p><b>Mark Industries status disqualifies it to be treated either as manufacturer or importer as required under the Act:</b>  “...Mark Industries is neither a producer of any kind of pencils nor have claimed itself to be a producer of pencils.... Mark Industries has no locust standi neither to become a part of domestic industry as per Section 2(d) of the Act nor to become an interested party under the terms of the section 2(j) of the Act. Therefore, the name of Mark Industries should be excluded as a supporting producer.”</p>	<p>Mark Industries is not a producer of lead pencils and it is not part of domestic industry for the purposes of this investigation. Please refer paragraphs 6 and 7 of the Report.</p>
<p><b>Inclusion of Mark Unistar in the scope of domestic industry despite of its imports of the investigated product is in violation of Section 2(d) of the Act:</b>  “...Mark Unistar also imported substantial quantity of Wood Case Pencils from China during the POI. As per the market information, Mark Unistar imported around 150,000 Kgs of finished pencils from China during Jul 2014- June 2015 (first year of the POI). Therefore, in the interest of justice Mark Unistar (or Mark Industries) should not have been qualified as a part of domestic industry in terms of Section 2(d) of the Act...”</p>	<p>For the purposes of this investigation, the domestic industry and standing of the application are determined in accordance with provisions of the Act. Please refer paragraphs 6 and 7 of the Report.</p>
<p><b>Applicant does not qualify to be a part of domestic industry since it also imported the investigated product from China:</b>  “...Apart from Mark Unistar, the Applicant (Indus Pencil) also does not qualify to be a part of domestic industry since it, itself, imported Lead Pencils from China during the year 2014. As per the market information the Applicant imported around 12,000 Kgs of Lead Pencils during 2014 at a price which was prevalent and matches with that of other importers...”</p>	<p>For the purposes of this investigation, the domestic industry and standing of the application are determined in accordance with provisions of the Act. Please refer paragraphs 6 and 7 of the Report.</p>
<p><b>Unlawful determination of dumping for the purpose of initiation:</b>  “.....Evidence of dumping provided by the Applicant didn’t show dumping at all since many adjustments on account of finishing, sorting, grading, sharpening, coding, printing and packing etc were not accounted for while calculating the normal value. In addition normal value was also unlawful since simple average normal value for colored and black lead pencils have been used instead of weighted average normal value or separate normal value for color and black lead pencils.”  <b>Initiation of the investigation is in violation of Section 23 of the Act since there is no positive evidence of injury to the domestic industry:</b>  “The information provided in the initiation memo does not, at all, reflect any injury to the Applicant. Even if there is some injury to the Applicant, the same cannot be attributed to the dumped imports since there was no increase in volume of dumped imports either in absolute terms or relative to domestic production or consumption and there was no price effect to the Applicant which could have resulted in a conclusion that dumped imports were a cause of so called injury to the Applicant.</p>	<p>The Commission analysed the application in terms of Section 23 of the Act and determined that there was sufficient evidence of dumping of the investigated product and material injury to the domestic industry to justify initiation of an investigation in this case.</p>
<p><b>Material Injury:</b>  “Domestic industry did not face any injury due to alleged dumped imports. There was <b>NO</b> price undercutting, price depression or price suppression, neither there is any <b>reduction</b> in sales, production, capacity utilization, as well as profitability.”</p>	<p>Please refer determination of material injury to the domestic industry at part C of the final determination report.</p>
<p><b>Causal Link:</b>  “The Commission incorrectly established causal link between injury to the Applicant and alleged dumping since there was no increase in volume of dumped imports either in absolute terms or relative to domestic production or consumption and no price effect to the Applicant.”</p>	<p>Investigation has shown that there was a causal link between dumped imports of the investigated product and material injury to the domestic industry during the POI. Please refer part D of the</p>

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	Report.
<p><b>Other Factors:</b>          “Neither any information on other factors mentioned in Section 18(3) of the Act has been provided in the application nor has any evaluation of other factors been made by the Commission in its initiation memo.”          “Losses to the domestic industry were due to other factors including substantially reduced export sales, higher cost of production due to in-efficient production as a result of sales tax anomaly created by FBR vide Finance Act 2015.”</p>	<p>In accordance with Section 18(3) of the Act, the Commission has analysed other factors including the anomaly of sales tax. Please refer paragraph 55 of the report.</p>
<p><b>Comments of Zhejiang Hongxing Stationery Co. Ltd.</b></p>	
<p><b>Preliminary determination without issuing on-the-spot verification report.</b>          The Commission issued notice of preliminary determination on June 6, 2018 whereas the report of the preliminary determination was dated June 05, 2018. The Commission issued draft on-the-spot verification report on June 05, 2018 (after close of office hours) after signing the preliminary determination report which means that the Commission used information collected during on-the-spot verification report without letting the exporters know as to how and which of the collected information the Commission is going to use for its preliminary determination.....          “The very purpose of making the report for on-the-spot verification is to allow the exporter to know what information, collected during on-the-spot verification, the Commission is going to use for determination of dumping margin of the exporter/ producer. However, the Commission didn’t at all allowed Hongxing to see its information to be used for calculation of dumping margin nor did it provide any opportunity to give clarification before rejecting any information.”</p>	<p>Results of on-the-spot investigation in the form of a report was disclosed on 5 June 2018. Hongxing’s comments received in the Commission on 13 June 2018, which are duly considered by the Commission in this final determination. Further, Rule 7 of the Rule does not bar the Commission to issue its preliminary determination report before receiving any comments on the report of on-the-spot investigations.</p>
<p><b>Rejection of cost allocation of Hongxing in violation of section 8 of the act:</b>          “In questionnaire response, Hongxing provided type wise transactions for domestic sales and export sales to Pakistan. In addition, Hongxing provided separate cost of production for each type of pencils sold in the domestic market and exports to Pakistan. Hongxing also explained in its questionnaire response that these types were identified by the Hongxing based on the differences in physical characteristics including type of wood, type of packing, length, thickness, treatment of ends, treatment of woods and treatment of surface, all of which are differences in physical characteristics that significantly affect price comparability between export price and normal value so as to ensure fair comparison of normal value.          “During on-the-spot verification, the Commission’s investigating team verified the type wise cost of each type of pencils produced by Hongxing from its records which was calculated on the basis of standard cost allocation criteria <b>“historically”</b> used by Hongxing in its normal course of business.....          The Commission noted at para 14.2 of the draft verification report that <i>“this cost allocation criterion cannot be verified from any document, therefore, the Commission may not accept type-wise cost of production allocated by the Hongxing.”</i> As a reason for rejection, the Commission relied on the fact that Hongxing could not present “universally accepted criterion or input output ratios”. As a result thereof, the Commission rejected cost allocation of Hongxing for different types of pencils and used cost of production of only two broader categories of “Black Lead Pencil” and “Color Pencils”. This rejection of type wise cost allocation by the Commission is in violation of Section 8 of the Act which requires the Commission to calculate the costs “on the basis of records kept by the exporter or producer under investigation”, provided that two conditions are met, “such records are in accordance with the generally accepted accounting principles of the exporting country”, and “reasonably reflect the costs associated with the production and sale of the product under consideration.”.          “This reason relied by the Commission is totally misconceived since Section 8 of the</p>	<p>“The criterion/ mechanism of allocation of cost of production to different types of pencils by Hongxing is explained in the on-the-spot investigation report. During on-the-spot investigation Hongxing was asked to provide documentary evidence in support of cost allocation ratios used in the criterion. Hongxing was unable to provide any evidence on the basis of which cost is allocation ratios were devised for different types of pencils. As there was no document on record which confirms <b>ratios</b> of allocation of costs to different types of pencils. Thus, the investigating team was unable to check whether ratio assigned to a particular type of pencil is correct. Therefore, it was informed to Hongxing that its cost allocation criterion cannot be verified and could not be accepted.</p>

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<p>Act provides that the “records” (which means accounting records) of the exporters or producers should be maintained in accordance with the “Generally Accepted Accounting Principles” (GAAP)....</p> <p>“In its draft report, the Commission has not challenged that the records of Hongxing are not maintained in accordance with the GAAP since this fact is confirmed by the auditors in the audit report. This means that the “records of Hongxing are in accordance with GAAP”.The legal criteria is “reasonably reflect”, which never include that the cost system has to be based on the “universally accepted criterion or input output ratios”. The Commission has not challenged that costs allocation provided by Hongxing does not “reasonably reflect” the costs associated with production and sale of different types of pencils.</p>	
<p><b>Unlawful comparison of normal value with export price in violation of section 11 of the act.</b></p> <p>“For the purpose of preliminary determination, while comparing normal value with the export price for calculation of dumping margin for Hongxing, the Commission has separated the investigated product only into two groups i.e. Black Lead Pencil and Color Lead Pencil. The Commission ignored all other physical characteristics of the investigated product including type of wood, type of packing, length, thickness, treatment of ends, treatment of woods, treatment of surface, all of which are different in physical characteristics affecting price comparability between export price and normal value</p> <p>“In this investigation, Hongxing has fully demonstrated that there are differences in physical characteristics between domestic sales and export sales, more than just colors of the lead that affect price comparability between normal value and export price. Hongxing also demonstrated that there are multiple physical characteristics of the investigated products that differentiate products and affect the prices of the products....</p> <p>“All the above characteristics distinguish different types of Lead Pencils and affect their costs and prices. All the evidences on record also demonstrate and support such differences....</p> <p>“Even if the Commission assumes that type wise comparison of normal value and export price is not possible since the Commission could not verify type wise cost allocation (which is also challenged by Hongxing) and could not determine sales in ordinary course of trade for each type, the Commission is still obliged to ensure fair comparison of under Section 11 of the Act. This could be done by allowing adjustment on account of physical differences effecting the price comparability identified by Hongxing.....</p> <p>“Hongxing claimed adjustment for differences in physical characteristics by identified different product groups based on same physical characteristics which was not accepted by the Commission. Therefore, the Commission will have to make adjustment of due allowance for difference in physical characteristics to ensure fair comparison required under Section 11 of the Act.”</p>	<p>Differences in physical characteristics of different products carry different costs. However, Hongxing was unable to provide documentary evidence in support of allocation of cost of production of different types of pencils during on-the-spot investigation. Therefore, it was not possible for the Commission to determine “ordinary course of trade” for different types. Thus, the Commission divided investigated product into two groups i.e. black lead and coloured lead pencils and like to like comparison is made for dumping determination.</p> <p>Further, Section 11(1) of the Act clearly states, to ensure a fair comparison, <b>where possible</b>, with the same characteristics in terms of level of trade, time of sale, quantities, taxes, physical characteristics, conditions and terms of sale and for delivery at the same place which shall normally be at ex-factory level.</p>
<p><b>Unlawful calculation of expenses of trading exporter.</b></p> <p>“As per para 24.3 of the PD Report as well as 3.3 of the disclosure documents, the Commission has made adjustment on account of Dezhi operating cost and Dezhi’s profit to arrive at ex-factory prices. However, the basis for calculation for Dezhi’s operating cost has not been disclosed..... The expenses of Hongxing are actually the expenses before the factory gate. The only expense that constitute expenses after the ex-work price are the direct selling expenses incurred by Dezhi for domestic freight, brokerage, handling expenses, and ocean freight if applicable. All such expenses have already been reported in the Pakistan sales table and already deducted to reach the EXW prices. Hence deduction of such selling expenses again as an adjustment of Dezhi’s operating cost will be a duplication of deduction.”</p> <p>ation of Dezhi’s administration expenses on the basis of Ratio of Hongxing.</p>	<p>In final determination, only financial cost and profits of Dezhi are adjusted to reach at ex-works export price.</p>

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<p>“The structure of the administrative staff and expenses is very different between Hongxing and Dezhi. It would not be reasonable to assume the ratio of administrative expenses to the sales revenue would be the same for such different companies. The Commission should use the administrative expenses as recorded in Dezhi’s account.”</p>	
<p align="center">Exclusion of exchange gains from financial expenses and provision of no adjustment for such gains</p> <p>“For the purpose of calculation of financial expenses of Dezhi, the Commission’s investigation team excluded the exchange gains from financial cost..... Exchange gains and losses are part of the financial expenses for every company and is required to be included in the financial expenses as accounting rules, i.e., every company has exchange gains and losses in its financial expenses ledger. Such treatment of exchange gain/ (loss) is verified by the Auditors and is in accordance with the Generally Accepted Accounting Principles. Hence there are no legal basis for the Commission to exclude it from the financial expenses just because the fluctuation of the exchange rates during the relevant period happened to have the exchange gains.</p>	<p>As per Dezhi’s record exchange gain is recorded as “other income”. Therefore, “other income” is not included while calculating Dehzi’s financial expenses.</p>
<p><b>Rejection of verified data of the Hongxing.</b>          “The rejection of verified information of the Hongxing is in violation of Section 32(2) of the Act as well as paragraph 3 of the schedule to the Act. The Commission rejected cost allocation of Hongxing as well as information type wise domestic sales and export sales to Pakistan without affording any opportunity to Hongxing to provide explanation. This act of the Commission is in violation of Section 32(2) of the Act read with para 6 of the Schedule....”</p>	<p>No piece of information, which was verified by the Commission, is rejected. During on-the-spot investigation Hongxing was unable to provide documentary evidence of the cost allocation ratios. Therefore, type-wise costs claimed by it was not accepted.</p>
<p><b>Views/Comments of Zhejiang Best Intenerated Pencil Wood Co. Ltd.</b></p>	
<p><b>Rejection of cost of raw materials of Zhejiang Best</b>          “Zhejiang Best provided separate cost, verifiable from its accounting records, for black lead pencil and color lead pencil. During on-the-spot verification the Commission’s investigating team verified the cost provided by Zhejiang Best in its questionnaire response from its accounting records and found all the costs in order. It was explained to the Commission’s investigation team during on the spot verification that Zhejiang Best produces two types of wooden slates which are i) Poplar wood and ii) Brass Wood. However, only poplar wood was used to produce “pencils”.          “Despite the above explanation, the Commission incorrectly noted in its draft on the spot verification report that <i>“the major raw materials for the production of wood slate is wood and for pencils are wood slate and lead....</i> However only slates produced from poplar wood were used to produce lead pencils. Cost of production of Zhejiang Best was based on its respective sub-ledgers which was verified by the Commission’s investigating team. Cost of production in these sub-ledgers was recorded as actual consumption in company normal costing practices..... After verifying the cost of raw materials from sub-ledgers, the Commission was bound to use the same cost for the purpose of calculation of dumping margin. Therefore, there was no need to calculate cost of production on weighted average basis as was done by the Commission in its draft on-the-spot verification report.”</p>	<p>During on-the-spot investigation the Best explained that it produced wood slate, which is transferred for production of pencils. It also provided cost of production of wood slate, which was verified from Pencil slate ledger balances from the system (as best don’t have wood base ledger). This per unit cost of production of wood slate is transferred used to determine cost of production of the pencils, which reflect the actual cost. Further, the Best accounting system does not maintain separate cost of production for based on popular wood and Basswood, therefore, separate cost of production for popular wood was not verified during on-the-spot investigation.</p>
<p><b>Calculation of expenses of trading exporter.</b>          “While reaching at ex-factory export price for Zhejiang Best, the Commission has made an adjustment on account of Wanda’s cost. However, the basis of adjustment of Wanda’s cost is not provided in the disclosure documents. The Commission is requested to provide basis for adjustment of Wanda’s cost so that Zhejiang Best could properly comment on its calculation.”</p>	<p>Details of Wanda’s sales and cost of sales are provided at paragraph 10 of on-the-spot investigation report, which was provided to Best/Wanda. Wanda’s operating cost is determined on the basis on that information.</p>
<p><b>In correct calculation of sea freight for Wanda.</b>          “During the POI, Wanda exported the investigated product on FOB basis. However,</p>	<p>Wanda claimed that its all sales to Pakistan during POI were at FOB level,</p>

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<p>the Commission has itself calculated sea freight for Wanda and adjusted the same in the export price. Wanda would request the Commission, at first, not to calculate sea and adjust sea freight since all the sales were made at FOB basis. Secondly, the sea freight rate assumed by Commission is significantly higher than the actual sea freight rate during the POI.”</p>	<p>however, during on-the-spot investigation, certain sales were found at CIF level. Only these sales are considered at CIF level in calculation of export price. Its other sales are treated at FOB level.</p>
<p><b>Views/Comments of:</b></p> <ul style="list-style-type: none"><li>• <b>Zhejiang ShengMing Stationery Co., Limited</b></li><li>• <b>Zhejiang Hongye Pencil Industry Co. Limited, China</b></li><li>• <b>Fujian SongxiHuilian Stationery Co. Limited, China</b></li><li>• <b>Zhejiang QingYuanBaolong Stationery Co. Limited</b></li></ul>	
<p>“The conclusions of the PD Report, the imposition of Provisional Duties and Statement of Essential Facts have been made without considering the legitimacy of the information provided by the Applicant. The financial statements (Balance Sheet, Profit and Loss Account, Cash Flow Statements) are unaudited statements. Furthermore, the information provided as Cost to Make and Sell of Indus Pencils provided to the Commission is also not a verified information. Therefore, any conclusions based on such unaudited or unverified statements will not only be unfair to the exporters, but also not be a true reflection of facts.”</p>	<p>For the purposes of this investigation, the Commission has collected information from all relevant sources and has used verified information of Applicant, other domestic producers and exporters. Please refer paragraphs 13 and 14 of the report of final determination.</p>
<p>“Since the Applicant himself has been an importer for the first two years of the POI, i.e., 2014-2016, he cannot be included as the domestic industry for the purposes of the Duties Act. Therefore, any calculations made by the Commission to determine injury to the domestic industry in lieu of this information is illegal and against the provisions of the Duties Act.”</p>	<p>For the purposes of this investigation, the domestic industry and standing of the application are determined in accordance with provisions of the Act. Please refer paragraphs 6 and 7 of the Report.</p>
<p>“The Applicant imports raw materials from outside Pakistan in US Dollars, to manufacture the Investigated Product. The US Dollar continues to rise against the Pakistani Rupee in the forex market and hence the cost of manufacturing for the Applicant’s Investigated Product increased significantly for the POI. The injury being claimed by the Applicant is due to this rise in the Dollar price, and not due to any injury being caused to the domestic industry by any alleged dumped imports.”</p>	<p>As both the raw material as well as the investigated product are imported, therefore, effect of devaluation of Pak rupee (if any) was equally for both raw as well as finished product.</p>
<p>“It is significant to note that any material injury would have affected all the domestic producers in the same manner and none of the producers would have opposed the Application or would have chosen to remain indifferent. 45.43% of the Domestic Industry either opposed or chose to remain indifferent for the purposes of this Investigation.”</p>	<p>Out of seven producers in the domestic industry two have opposed and one remained indifferent. Please refer paragraph 7 of the report of final determination.</p>
<p>“The Applicant has ventured into the business of selling biscuits by launching “Teddy Choco – bite-sized chocolate flavoured biscuits”. This decision was taken by the Applicant in the year 2014, when it claims to have been experiencing material injury due to dumped imports. In actual, the Applicant is looking for ways to boost its profit margins in whatever manner they can, so they can sustain this new venture of theirs. For this reason, the Applicant decided to move with an Application to the Commission with malafide intentions, not based on true facts of any material injury being caused to the Applicant or the domestic industry regarding the Investigated Product.”</p>	<p>The Commission has determined material injury to the domestic industry in accordance with provisions of the Act for the domestic like product, which is Lead Pencils. Please refer part C of the report of final determination.</p>

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<p>“The Applicant also claims to have paid dividends of Rs. 5.69 (indexed figures as provided to the Commission) in the year 2016. Had there been any material injury caused to the Applicant or the domestic industry, the Applicant would not have had money to be distributed as dividends.”</p> <p>“The Applicant’s cash-flow statements, as provided to the Commission, state that their cash and cash equivalents at the end of year increased from Rs. 100 in the year 2015 to Rs. 107.61 in the year 2016 and Rs. 104.13 in the year 2017. Such healthy statements reflect and signify that there has been no material injury caused to the Applicant or to the domestic industry. On the contrary, the Applicant’s financial statements reflect an extremely healthy position which seems to be improving with every passing year.”</p>	<p>Material injury to the domestic industry is determined in accordance with provisions of the Act. Please refer part C of the report of final determination.</p>
<p>“The Applicant produces only plastic pencils and imports wood pencils (which is the Investigated Product) and sells it in the domestic industry. The annual audited accounts do not provide any bifurcation of profits/loss of plastic pencils and wood pencils, separately. It treats them as one product for the purposes of maintaining accounts, therefore, making it impossible for the Commission to determine any injury caused to the Investigated Product in the domestic industry.”</p>	<p>Investigation of the Commission has revealed that the domestic industry produced both types, wood and plastic, pencils during the POI. Further, these both types were defined as investigated product and the domestic like product.</p>
<p>“The Applicant has provided to the Commission its annual statements which are indexed when the audited accounts are a matter of public file and there exists no reason for the figures to be confidential or indexed..... In actual, the Applicant’s audited accounts reveal that they have been generating a profit in the north of PKR 16 million in the first two years of the POI, and a profit in the north of PKR 10 million in the last year of the POI.....Moreover, the Commission itself has not made any effort to validate whether the decrease was due to a fall in sales of the wood pencils, or for any other reason.”</p>	<p>Applicant is a private limited company and in terms of Section 31 of the Act, the Commission shall keep confidential any information submitted to it which is by nature confidential or determined by the Commission to be of confidential nature for any other reason or provided as confidential by the interested parties upon good cause shown to be kept confidential.</p>
<p>“In the Hearing the Commission was provided with the samples of pencil packaging. These samples included different types of packing used by Companies include packing with iron box, PVC bag, with eraser, with sharpener and so on. Due to different types of packing, sales value of the product being packed with iron box is higher than the product being packed with PVC bag. Expenses of iron box and PVC bag are significantly different. Therefore, such difference in packing costs should have been added as an adjustment.”</p>	<p>During on-the-spot verification visits of these companies the investigating team found that the packing cost was allocated on the basis of sales value. These exporters/ producers were asked to provide actual packing cost to determine whether it is different for domestic sales and export sales. However, they were unable to provide actual packing cost and record for packing cost. Therefore, Commission did not accept their claims for packing cost.</p>
<p>“For the purposes of calculating the export price and normal value, products which were/are not exported to Pakistan were included.... the Commission adopted a classification of black pencil and colour pencil, whereas the characteristics of pencils, in reality, are very complex, i.e., the type of wood used, for example, poplar wood, cotton wood, red wood, and other additions into the finished product, i.e., the inclusion of eraser onto the pencils etc.</p> <p>“.....Some products that are exported are not substitutable as some pencils are only meant for decoration and due to their size they do not have the same use.....Due to being incomparable products the same must note be made part of the domestic sales and/or export sales, as the case may be, as the inclusion of the same will result in unfair and irregular normal value and/or export price.”</p> <p>“The Commission did not consider the cost allocation for each type of product. The investigating team and the Commission applied one (combined) cost to calculate the normal value, which is not matched with the actual production of the company. It is</p>	<p>During on-the-spot investigation, these companies were unable to provide segregated data of raw material and cost of production of different variants of lead pencils. Therefore, the Commission was unable to determine “ordinary course of trade” separately for different types. Hence, a combined (total) cost of production, which was verified during on-the-spot investigations was applied for all types/ variants. Thus, the Commission was constrained to make broad categorization i.e. black and coloured</p>

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<p>unrealistic to expect these small new companies to equip themselves with a perfect ERP system. During the investigating team's verification, the companies provided to the teams detailed explanations of the different types of costs involved and allocated costs of products were verified...."</p>	<p>instead of types claimed by the exporters</p>
<p>"As per the WTO Agreement, the normal value shall be established on the basis of a comparison of a weighted average normal value with a weighted average of all comparable transactions, which was applied to all Companies, but Baolong, by the Commission. Baolong had provided to the Commission all the financial data available to it, however the last (third) transaction was not considered by the Commission for the purposes of the calculations. It is therefore requested that the third transaction can please be considered for the purposes of calculating the normal value."</p>	<p>During POI Baolong exported only 3 transactions. In order to calculate dumping margins for Baolong transaction to transaction method has been used which is in compliance with WTO Agreement.</p>
<p>"..... The Commission, however, did not investigate nor did the Commission gather further information or even consider the data/information submitted by the importers."</p>	<p>None of the importers have submitted data/information in response to the questionnaires sent to them. However, the comments received from the importers were thoroughly analyse and considered in making this determination.</p>
<p><b>Views/ Comments of Sayyed Engineers Limited.</b>                  "...Finished pencils from China are being exported to Pakistan at prices, which barely cover the cost of raw materials imported from the same source. This egregious situation has forced us over the last year to drastically reduce production at our pencil factory and shift the bulk of our business to import...."                  "...Antidumping duties are absolutely essential to save the local pencil industry and thousands of jobs in the country."</p>	<p>The Commission has determined dumping of the investigated product and material injury to the domestic industry in accordance with provisions of the Act.</p>
<p><b>Views/ Comments of Pakistan Pencils Pvt. Ltd.</b></p>	
<p>"The impugned preliminary determination and levy of provisional anti dumping duty at the rate of 51.39% on the import of lead pencil originating in and/or from China other than import from five (5) suppliers on which antidumping duty imposed at the rate ranging from 4.55% to 35.50% is in utter ignorance and in derogation of constitutional guarantee enshrined in the Constitution of Islamic Republic of Pakistan interalia, Article 9, 10A, 19A and 25A of the Constitution..."                  "The impugned preliminary determination and levy of provisional antidumping duty on the import of lead pencils from China at the rate to the extent of 51.39% is opposed to the national, economic and social interest as the fundamental social right of public at large of education is going to be subverted, abridged and taken away to facilitate the few individual manufacturers of pencils ignoring the settled law that public rights take precedent over the individual rights in case of competing rights protection. The protection of few individual manufacturers of pencils at the expenses of the consumers, State, education and literacy rate is not only against the national interest but also would deprive the consumer and State from right of quality pencils at competitive price...."</p>	<p>The Commission has conducted this investigation and has imposed anti-dumping duties in accordance with provisions of the Act.</p>
<p>"The complainant do not qualify to be "Domestic Industry" within the meaning and scope of section 2(d) of the Act and accordingly not competent to file complaint within the meaning of section 20 of the Act read with Rule 3 of the Anti Dumping Duties Rules, 2001. The complaint of the Complainant is not only incompetent but also invalid, illegal and outcome of arbitrariness as it does not fulfill the conditions and requirements laid down in section 20 and Rule 3 of Anti Dumping Duties Rules, 2001 as the information, qualitative and qualitative data, evidence and record, required to be given in the prescribed form is either missing or labeled as confidential even public information are required to be disclosed as per constitutional mandate besides inaccurate, inadequate, manipulated, self contradictory, arbitrary, estimated,</p>	<p>The domestic industry and standing of the application are determined in accordance with provisions of the Act. Please refer paragraphs 6 and 7 of the report.</p>



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<p>mere guess work, subjective and without any proof and support of substantial evidence and reliable independent source.”</p>	
<p>Concept of investigated product and domestic like product has been intermingled and plastic pencils unlike and dissimilar to wooden pencils having distinct properties, quality and not closely resembling has been treated as like product beyond the scope of section 2(e), 2(m) and 2(k) of the Act.</p>	<p>Please refer determination of the investigated product, domestic product and like product at paragraph 10 of the final determination report.</p>
<p>The basis and methodology adopted for determination of normal value and export price is defective and founded upon hypothetical, arbitrary and subjective information and data.</p>	<p>Please refer determination of dumping at part B of the final determination report</p>
<p><b>Views/Comments of Indus Pencils Industries Pvt. Ltd. &amp; Mark Uni-Star Industries</b></p>	
<p>“The National Tariff commission determined and imposed preliminary antidumping duty on C&amp;F value in ad val. Term. It was quite disturbing for the domestic industry to note that on the biggest exporter, namely Zhejiang Best Intenerated Pencil Wood Co. Ltd, only a meagre 4.55% anti-dumping duty was imposed, compared with 22.55% to 51.39% duty on other exporters.”</p>	<p>Dumping for cooperating exporters including the Best/Wanda is determined on the basis of verified information provided by them in accordance with provisions of the Act.</p>
<p><b>Artificial increase in declared value by Wanda</b>          “Analysis of import data reveals that in 2016-2017 (POI), declared unit price (Export price) of lead pencils, exported by Zhejiang Best Intenerated Pencil Wood Co. Ltd. (“Best Intenerated”), through their export company M/s Songxi Wanda Trading Co., Ltd (“Wanda”), has increased by 14.85% as compared to previous year i.e. 2015-2016.”          “In the next year 2017-2018 (11 months), declared unit price of Best Intenerated, though Wanda, has decreased by 10.19% as compared to previous year 2016-2017 (POI). A total increase of 4.66% in two years..... From the above trend, it appears that the declared unit price for WANDA in 2016-2017 has been manipulated, and artificially increased....”          “Average declared unit price, of Dollar industries import from Wanda, rose sharply, in 2016-2017 (POI). In 2017-2018 it again went down sharply. Comparing this trend, with other customers of Wanda (excluding Dollar Industries), we can see a steady trend of 2% and 4% increase in declared unit price in 2016-2017 (POI) and 2017-2018 respectively, which also corresponds to industry trend.          “It is also to be noted that, as per comments submitted by Dollar Industries, they Purchase loose Pencils form Wanda (without packing), therefore declared unit price of Dollar industries should be lower than other importers, when using the same exporter, and not higher.”          “Such stark difference in export price from Wanda, in case of Dollar Industries, when compared with other customers in Pakistan, shows that export prices have been manipulated.”          “As total exports of Wanda has 62.67% portion of Dollar, therefore the apparent manipulation of prices by Wanda, when exported to Dollar Industries, has had significant impact on, and has increased, the average declared unit price of Wanda (for all importers), in 2016-2017 (POI), by 15%, and again decrease by 10.3% in 2017-2018.”          “In the period of investigation the declared value used to calculate the dumping margin is therefore allegedly artificially increased, resulting in a much lower dumping margin.”</p>	<p>Claims of M/s Indus Pencils Industries Pvt. Ltd. &amp; Mark Uni-Star Industries with respect to artificial increase in export price of the Wanda are not established from the information obtained from PRAL. Further, no evidence has been provided for any compensatory arrangement between Wanda and Dollar Industries in support of their claim. Furthermore, Dumping for Best/Wanda is determined on the basis of verified information provided by them in accordance with provisions of the Act.</p>
<p><b>USD to RMB Devaluation Effect</b>          “....., the cost in US Dollar for Chinese exporters has increased; as they get Lesser RMB, against same amount of US Dollar. RMB has decrease from high of 6.94, in December 2016, to low of 6.2893, in January 2018. Naturally this means that the exporters would have increased their selling price in US Dollars.”          “Average RMB decrease is approximately 6%, which also reflects in industry Price</p>	<p>In dumping the normal value and export price is compared in same currency. For conversion of export price from US dollar to Chinese RMB, the exchange rate prevailed during the</p>

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<p>increase of 7% in 2017-2018. However, again when we analyze average declared unit price of Wanda to Dollar Industries, it has decreased in 2017-18 as compared to 2016-17, which is against logic. This only enforces and further establishes our conclusion of artificial manipulation in declared unit price.”</p>	<p>POI has been applied.</p>
<p><b>Export Price Manipulation</b></p> <p>In June 2016, Valuation for lead pencil per kg, was increased sharply, by 82%. Over the course of the year 2016-17 (POI), Valuation of Pencils fluctuated vastly from an average high of \$8.95/Kg to low of \$5.65Kg.</p> <p>The average declared unit price (Export Price) of Wanda, exported to Dollar industries in this period is following and highly correlated with valuation fixed by valuation department. As during 2016-2017 (POI) valuation of import of Pencils rose sharply, therefore the declared unit price of Dollar was as a result increased, and this in-effect increased the average export price of Wanda during the POI. The artificially increased export price, led to wrong assessment of dumping margin on Best Intenerated/Wanda.</p>	
<p><b>Sales Tax Anomaly</b></p> <p>“The cost to make and sell the locally manufactured lead pencils above is net off the impact of zero rating. The importers in their post-hearing comments have added back 12% to losses to show misleading profit due to sales tax anomaly in the first two years of POI which is absolutely invalid. The data provided by the local manufacturers in the first two years of POI shows losses after recovering the sales tax refund. Therefore, it is evident that the loss is purely attributable to dumped imports.</p> <p>In the final year of POI, 2016-17 exemption of sales tax at production stage was withdrawn whereas sales of stationery items including lead pencils remained exempted from payment of sales tax. This situation created an anomaly as raw materials/ inputs became liable to sales tax whereas the end product was not liable to sales tax. Thus, sales tax paid on raw materials/ inputs during the year 201617 became part of the cost of production. This anomaly was only in 1 out 3 years from POI for injury. Moreover, as per data verified by NTC, value of raw Materials/ Inputs liable to sales tax was approximately 54.75% of cost to make and sell. Thus, increase in cost to make and sale due to imposition of sales tax on inputs is around 9.30% and not 12%.</p> <p>The increase in ITP rate of Pencil during 2016-17 gave local industry a temporary boost by means of increase in selling price as well as caused the market share of Domestic Industry to slightly improve as well. This was purely because of reduced imports during this period due to increased ITP. The losses to Industry if the sales tax anomaly of 9% is added back in 2016-17 still gives a net loss of 4.58% to the industry.</p> <p>In addition to above it should be noted that an effect of 9% is highly inflated and practically due to inefficiencies in Government systems recovered amount is usually around 6-7%. Moreover, zero rating is a facility provided by the Government which could be withdrawn on FBR’s discretion leaving locally industry even more helpless.”</p>	<p>The Commission has determined material injury to the domestic industry in accordance with provisions of the Act. Please refer part C of the report of final determination.</p>