



**Government of Pakistan  
National Tariff Commission**

**REPORT**

**ON**

**Preliminary Determination and Levy of Provisional Anti-Dumping Duties on Dumped Imports of Tinplate into Pakistan Originating in and/or Exported from People's Republic of China, European Union, Republic of South Africa and the United States of America.**

**A.D.C No. 53/2018/NTC/TP**

**January 28, 2019**

**Preliminary Determination and Levy of Provisional Antidumping Duties on Dumped Imports of Tinplate Originating in and/or Exported from China, European Union, South Africa and United States of America**

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The National Tariff Commission (hereinafter referred to as the “Commission”) having regard to the Anti-Dumping Duties Act, 2015 (hereinafter referred to as the “Act.”) and the Anti-Dumping Duties Rules, 2001 (hereinafter referred to as the “Rules”) relating to investigation and determination of dumping of goods into the Islamic Republic of Pakistan (hereinafter referred to as “Pakistan”), material injury to the domestic industry caused by such imports, and imposition of anti-dumping duties to offset the impact of such injurious dumping, and to ensure fair competition thereof and to the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (hereinafter referred to as the “Agreement on Anti-dumping”).

2. The Commission is conducting an investigation on alleged dumping of Tin Plate of thickness of less than 0.5 mm and of a width of 600 mm or more (“Tinplate”) into Pakistan originating in and/or exported from People's Republic of China, European Union, Republic of South Africa and the United States of America (hereinafter referred to as the “Exporting Countries”), under the Act and the Rules. The Commission has made preliminary determination in this investigation under Section 37 of the Act. This report on preliminary determination is issued in accordance with the Rule 10 of the Rules.

**A. PROCEDURE**

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

**4. Receipt of Application**

4.1 On June 28, 2018, the Commission received a written application under Section 20 of the Act from Siddiqsons Tin Plate Limited, Karachi (the “Applicant”). The application has been filed by the Applicant, who is the sole producer of Tinplate in Pakistan.

4.2 The Applicant alleged that Tinplate is being exported to Pakistan at dumped prices from the Exporting Countries. According to the Applicant, alleged dumped imports of Tinplate from Exporting Countries have caused and are causing material injury to Pakistan’s domestic industry producing Tinplate.

4.3 The Embassies of Exporting Countries were notified on July 3, 2018 through Ministry of Foreign Affairs about receipt of the application under section 21 of the Act.

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

The examination of the application showed that it met the requirements of Section 20 of the Act as it contained sufficient evidence of alleged dumping of Tinplate into

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Pakistan from the Exporting Countries 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.

**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 of them whose collective output of that product constitutes a major proportion of the total domestic production of that product, except that when any such domestic producers are related to the exporters or importers, or are themselves importers of the allegedly dumped investigated product in such 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 and 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 information available with the Commission, the domestic industry manufacturing Tinplate comprises of only one unit i.e. the Applicant. The Applicant is not related to any importer or exporter. However, it imported Tinplate itself from Exporting Countries during the period of investigation.

6.3 The Applicant has imported XXX MT of Tinplate from the Exporting Countries during the period between July 1, 2017 to June 30, 2018. The Applicant has stated as follows in this regard:

*“At times there was either factory shut down or non-availability of its basic material at competitive prices. In order to maintain its existence in the market as well as satisfy the need of its customers small quantity of ETP was also imported by the applicant during the proposed dumping POI of April 2017 – March 2018. For the reason of import of meager quantity of the allegedly dumped investigated product, the applicant may not be excluded from the definition of domestic industry as it is*

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*the sole producer of the domestic like product and it has not behaved differently specially with reference to this antidumping application. The question of different behavior has already been decided by the National Tariff Commission (the commission) in a number of such cases.”*

6.4 Keeping in view relevant provisions of the Act, the WTO’s Antidumping Agreement and practices of other investigating authorities in the same/similar situations the Commission is of the view that:

- i. Section 2(d) of the Act as well as Article 4.1 of the WTO’s Anti-Dumping 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.
- ii. 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."*
- iii. 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.
- iv. The Applicant is the legitimate producer of Tinplate in Pakistan and has enough installed production capacity to fulfill entire Tinplate demand of the country. Therefore, Applicant’s primary objective lies in domestic production and sales of the domestic like product rather than in imports of the investigated product.
- v. The Applicant is the only unit who produces and sells the domestic like product in the domestic market. Therefore, the Applicant’s interest lies in

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domestic production instead of imports. However, for domestic production, a level playing field should be available to the domestic industry.

- vi. Quantity imported by the Applicant from the Exporting Countries accounts for 11.00 percent of dumped imports during POI and 10.52 percent of total imports. However, the quantity imported by the Applicant accounts for 31 percent and 32 percent of its production and domestic sales respectively during the year July 2017 to June 2018. Therefore, the Applicant has not gained significant financial benefit from the imports of the investigated product.

6.5 In view of the above, the Commission has determined that the Applicant is the domestic Tinplate industry and is eligible to file an application under Section 20 of the Act.

**7. Standing of the Application**

7.1 The application fulfils the requirements of Section 24 of the Act, which enjoins upon the Commission to assess the standing of the application on the basis of the degree of support for or opposition to the application expressed by domestic industry.

7.2 In terms of Section 24(1) of the Act, 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 domestic like product produced by the domestic industry.

7.3 The application has been filed by the Applicant, who is the sole producer of the Tinplate in the country and represents 100 percent of domestic production. Therefore, it is determined that the application has been made by the domestic industry as it fulfils the requirements of Section 24 of the Act.

**8. Applicant's View**

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

- i. Exporters/ producers from exporting countries are exporting Tinplate to Pakistan at dumped prices;
- ii. Tinplate imported from exporting countries and produced in Pakistan by the domestic industry are like products; and

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- iii. Exports of Tinplate by the exporters/producers from the Exporting Countries to Pakistan at dumped prices has caused and is causing material injury to the domestic industry producing Tinplate mainly through: -
  - a) Significant increase in alleged volume of dumped imports;
  - b) Price undercutting;
  - c) Price suppression;
  - d) Decline in market share;
  - e) Decline in sales;
  - f) Decline in profits;
  - g) Decline in production and capacity utilization;
  - h) Decline in return on investment;
  - i) Decline in cash flows;
  - j) Decline in employment;
  - k) Increase in salaries and wages; and
  - l) Increase in inventories.

8.2 The Applicant had made following requests to the Commission:

- i. Initiate an investigation against alleged dumping of Tinplate from the Exporting Countries under Section 23 of the Act;
- ii. Impose appropriate antidumping duties on alleged dumped imports of Tinplate 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. Exporters/Foreign Producers of Tinplate**

The Applicant identified 12 Exporters/Foreign Producers of Tinplate involved in alleged dumping of the Tinplate from the Exporting Countries. The Applicant have requested for imposition of anti-dumping duties on all imports of the investigated product originating in and/or exported from the Exporting Countries.

**10. Initiation of Investigation**

10.1 The Commission, in accordance with Section 23 of the Act examined the accuracy and adequacy of the evidence provided in application, and established that there was sufficient evidence of alleged dumping of Tinplate into Pakistan from the Exporting Countries and consequent material injury to the domestic industry. Accordingly, the Commission decided to initiate an investigation in the matter and issued a notice of initiation in accordance with Section 27 of the Act, which was published in the Official

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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 August 20, 2018. Investigation concerning alleged dumped imports of Tinplate into Pakistan classified under Pakistan Customs Tariff ("PCT") No<sup>3</sup>. 7210.1210 and 7210.1290 originating in and/or exported from the Exporting Countries was thus initiated on August 20, 2018.

10.2 In pursuance of Section 27 of the Act, the Commission notified the Embassies of the Exporting Countries in Islamabad of the initiation of investigation (by sending a copy of the notice of initiation) on August 20, 2018 with a request to forward it to all exporters/producers involved in production, sales and export of Tinplate from the Exporting Countries. Further, in accordance with Section 28 of the Act, the full text of non-confidential version of the application and exporters' questionnaire were also forwarded to the Embassies of Exporting Countries on August 28, 2018 with the request to forward these documents to the exporters/producers in their respective countries as the names and addresses of all the exporters are not known to the Commission.

10.3 Copy of the notice of initiation, non-confidential version of the application and exporters' questionnaire were also sent on August 29, 2018 to known exporters/producers of Tinplate from the Exporting Countries whose addresses were available with the Commission with a request to be registered themselves as an interested party in the investigation. Copy of the notice of initiation was also sent to known importers and the Applicant on August 29, 2018.

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

11.1 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, in the absence of such a product, another product which, although not alike in all*

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<sup>1</sup>The official Gazette of Pakistan (Extraordinary) dated August 20, 2018.

<sup>2</sup>"Dawn" and "Nawa-e-waqt" of August 20, 2018.

<sup>3</sup> PCT heading in is equivalent to Harmonized Commodity Description and Coding System up to six-digit level.

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*respects, has characteristics closely resembling those of the investigated product*’.

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

**11.3 Investigated Product:**

11.3.1 The investigated product is Tinplate of a width of 600 mm or more and of a thickness of less than 0.5 mm, (“Tinplate”) imported into Pakistan from the Exporting Countries. It is classified under PCT Heading Nos. 7210.1210 and 7210.1290.

11.3.2 Investigated product is mainly used to manufacture cans for packaging of edible oils, food stuff, paints and petroleum products etc. The steel sheet used for tinning is commonly known as Black Plate (Tin Mill Black Plate)

11.3.3 The customs tariff structure applicable to the investigated product for the four years is given in the table below:

**Table-I  
Tariff Structure**

Year	Custom Duty		Regulatory Duty	Sales Tax
	7210.1210	7210.1290		
2015-16	20%	10%	5%	17%
2016-17	20+2%	11+1%	5%	17%
2017-18	20+2%	11+1%	5%	17%
2018-19	20+2%	11+2%	5%	17%

Source: FBR

**11.4. Domestic Like Product**

11.4.2 The domestic like product is Tinplate of a width of 600 mm or more and of a thickness of less than 0.5 mm, (“Tinplate”), manufactured by the domestic industry. It is classified PCT Heading No. 7210.1210 and 7210.1290.

11.4.3 Domestic like product is mainly used to manufacture cans for packaging of edible oils, food stuff, paints and petroleum products etc. The steel sheet used for tinning is commonly known as Black Plate (Tin Mill Black Plate)

**11.5. Like Products**

11.5.1 In terms of Section 2(m) of the Act Like Product means a product, which is alike in all respects to an investigated product or, in the absence of such a product, another product which, although not alike in all respects, has characteristics

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closely resembling those of the investigated product.

11.5.2 There is no difference between the investigated product and the domestic like product. Both products are produced with same/similar inputs and manufacturing process. Both the products have same color and appearance. Both products are substitutable in use and application. Therefore, the Commission is satisfied that both products (investigated product and domestic like product) are alike products in terms of Section 2(m) of the Act.

**12. Period of Investigation**

12.1 In terms of Section 36 of the Act, Period of Investigation (hereinafter referred to as "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".*

12.2 The POI fixed by the Commission for dumping and injury for the purposes of this investigation as follows:

For determination of dumping:	July 01, 2017 to June 30, 2018
For determination of injury:	July 01, 2015 to June 30, 2018

**13. Information/Data Gathering**

13.1 The Commission sent questionnaire to all known exporters/foreign producers from the Exporting Countries whose addresses were available with the Commission in between August 29, 2018 to September 11, 2018 for collection of data/ information necessary for the investigation. The exporters/foreign producers were asked to respond within 37 days of dispatch of the questionnaire. No response was received from any exporter/ foreign producer within stipulated time period. Therefore, reminders were sent to the exporters/foreign producers on October 23, 2018 explaining them, the Commission will be constrained to make preliminary and/or final determination of dumping in this investigation on the basis of "Best Information Available" including those contained in the application

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submitted by the domestic industry, in terms of Section 32 of the Act, if no response of the questionnaire is submitted by the exporters/ foreign producers. However, no meaningful response has been received from any exporter/ foreign producer in this investigation.

**Aciers UK Limited**

13.2 Aciers UK Limited, United Kingdom submitted its response and explained that it is involved in trading business only and has exported the investigated product to Pakistan during the POI. The questionnaire response received from Aciers UK was substantially deficient as it did not contain, the requisite information. Therefore, a deficiency letter was sent to Aciers UK Limited on October 19, 2018 with an advice to submit requisite information till November 4, 2018. Response of the Aciers UK Limited received on November 04, 2018. Upon examination the response it was found deficient again as the vital information regarding domestic sales and cost of production was not provided. Aciers UK Limited has explained that it is a trading company and cannot force the producer to provide the required information. Aciers UK Limited has explained through a letter on November 09, 2018 if it fails to submit requisite information till November 18, 2018, the Commission will not determine individual dumping margin for Aciers UK Limited. However, no further response has been received from Aciers UK Limited.

**Gemcor International, USA**

13.3 Gemcor International, United States of America submitted its response to the questionnaire on November 05, 2018 and explained that it is involved in trading business only and has exported the investigated product to Pakistan during the POI. The questionnaire response received from Gemcor International was substantially deficient as it did not contain, the requisite information. Therefore, a deficiency letter was sent to Gemcor International on November 13, 2018 and was intimated if it fails to submit the vital information pertaining to domestic sales and cost of production till November 18, 2018, the Commission will not determine individual dumping margin for Gemcor International. However, no further response has been received from Gemcor International.

13.4 On August 29, 2018, questionnaires were also sent to the importers of the investigated product known to the Commission and these importers were asked to respond within 37 days of dispatch of the questionnaires. Reminder was sent to the importers on October 24, 2018 that the Commission would make preliminary and final determination of dumping in this investigation on the basis of “Best Information Available” including those contained in the application submitted by the domestic industry, in terms of Section 32 of the Act.

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13.5 A Commission's meeting on the request of Pakistan Tinplate Marchents Association (PTMA) was held on November 29, 2018, in which PTMA requested to extend the deadline for the submission of the importer questionnaire for fifteen days till December 14, 2018, PTMA has further agreed to convince their exporter to provide information on the exporter's questionnaire. The Commission in principle agreed to extend the deadline for submission of importers questionnaire. In response to the Commission's meeting dated November 29, 2018, PTMA has submitted same documents and views/ comments on December 12, 2018, which mostly relate to the process of purchase of the investigated product. However, requisite information necessary to determine the individual dumping margin is not submitted by any exporter/ foreign producer of the investigated product. Zamin Containers Industries (Pvt.) Ltd has submitted its importer questionnaire response on December 11, 2018.

13.6 The Commission has access to database of import statistics of Revenue Automation Limited (PRAL), the data processing arm of the Federal Board of Revenue, Government of Pakistan. For the purpose of this preliminary determination, the Commission has used import data obtained from PRAL in addition to the information provided by the Applicant and obtained from other publicly available sources.

13.7 Thus, the Commission has sought from all available sources the relevant data and information deemed necessary for the purposes of preliminary determination of dumping and injury therefrom 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 as to the accuracy and adequacy of information supplied by the interested parties to the extent possible for the purposes of this preliminary determination.

14.2 In order to verify information/data provided by the Applicant and to obtain further information (if any), officers of the Commission conducted on the spot investigation at the Applicant office on October 11 to 13, 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

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review and copying from Monday to Thursday between 1100 hours to 1300 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 parties to an investigation, upon good cause shown to be kept confidential.

16.2 The Applicant and certain other interested parties have requested to keep confidential the information, which is by nature confidential in terms of Section 31 of the Act. This information includes data relating to sales, sale prices, cost to make and sell, inventories.

16.3 On the basis of request made by the Applicant and other 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 Applicants made a request to keep it confidential.

16.4 However, in terms of Sub-Section (5) of Section 31, non-confidential summaries of all confidential information, which provides reasonable understanding of the substance, have been placed in public file.

**17. Views/Comments of Interested Parties**

17.1 Interested parties were also invited to make their views/comments and submit information (if any) relevant to this investigation within 45 days of initiation of the investigation. Following parties have submitted views/ Comments on this investigation:

<b>Sr No.</b>	<b>Name of Interested Party</b>
i.	Pakistan Tinplate Merchants Association
ii.	Pakistan Vanaspati Manufacturer's Association
iii.	Aciers UK Ltd, United Kingdom
iv.	Delegation of the European Commission, Pakistan
v.	Shamim Tin Merchant, Pakistan
vi.	O S Corporation, Pakistan
vii.	Metallurgy International, Pakistan
viii.	Royal Steel, Pakistan

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- ix. Hassan Steel, Pakistan
- x. Four Brother Trading, Pakistan
- xi. Zubair Steel, Pakistan
- xii. Ali Containers, Pakistan
- xiii. Titan Steel, Pakistan
- xiv. Gemcor International, USA
- xv. Ameritin International Corporation

17.2 View/ Comments of the above mentioned interested parties have been considered while reaching this preliminary determination. Views/Comments of the interested parties germane to this investigation and response of the Commission are given in annotated form at Annexure-I.

**B. DETERMINATION OF DUMPING**

**18. Dumping**

18.1 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”.*

**19. Normal Value**

19.1 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”.*

19.2 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 for profits.*

*“(2) Sales of a like product destined for consumption in domestic market of an exporting country or sales to an appropriate third country may be considered to be a sufficient quantity for the determination of normal value if such sales*

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*constitute five per cent or more of the sales of an investigated product to Pakistan.”*

19.3 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 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.”*

19.4 In case there is no cooperation from the exporters/foreign producers, the Commission may rely on best information available to reach preliminary or final determinations as identified in Section 32 of the Act. Section 32 of the Act states:

*“(1) Subject to Sub-section (2), if, at any time during an investigation, any interest party*

*(a) refuses access to or otherwise does not provide, necessary information within the period of times as may be prescribed; or*

*(b) otherwise significantly impedes the investigation.*

*The Commission may reach preliminary and final determinations, whether affirmative or negative, on the basis of the best information available.”*

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*“(2) The provisions of the Schedule to this Act shall be followed in the application of sub-section (1).”*

*“(3) The Commission shall take due account of any difficulties experienced by interested parties, in particular, small companies, in supplying information requested by it and may, where it deems fit, provide such assistance as is practicable including, but not limited to, extension of any time period prescribed submission of information under this Act.”*

**20. Determination of Dumping of the Investigated Product**

20.1 As stated earlier (paragraphs 13 supra) the Commission sent questionnaires to the exporters/ foreign producers of the investigated product for collection of data/information. Copy of the questionnaire was also provided to the Embassies of the Exporting Countries in Islamabad with a request to forward it to all exporters/foreign producers of the investigated product based in their countries to submit information to the Commission. However, the Commission did not receive information in response to the questionnaire from any of the exporter/ foreign producer of the investigated product in this investigation. Therefore, dumping of the investigated product in this preliminary determination is determined on the basis of best information available in accordance with Section 32 of the Act. Details of determination of normal value, export price and dumping margin are provided in the following paragraphs

**21. Determination of Normal Value**

21.1 Since none of the exporters/ producers from the Exporting Countries provided requisite information to the Commission in response to the questionnaire, the Commission is constrained to determine normal values of the investigated product from the Exporting Countries on the basis of the best information available to the Commission. For this purpose, the Commission has used monthly prices of Tinplate during the year 2017-18, published in various issues of the UK-based Metal Bulletin Research (“MBR”).

21.2 In MBR domestic prices of United States of America (“USA”) and China are available. To make these prices at ex-works level the same are adjusted on account of inland freight and value added tax (“VAT”). Inland freight is assumed as 2 percent of the price, whereas VAT for USA is 7 percent and for China is 17 percent. Domestic prices of all European countries are not available in the MBR, however, European export prices are available in it. The Commission has taken European export prices as normal value in accordance with Section 6(1)(a) of the Act. To reach at ex-works price, the same are adjusted on account of inland freight at the rate of 2 percent of the price. Prices for South Africa are not available in the MBR, the Commission has used the domestic prices of China as a normal value for South Africa.

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21.3 Imports of the investigated product from Exporting Countries during the POI were made under PCT Nos. 7210.1210 and 7210.1290. Under harmonized system (“HS”) Nomenclature 2017 edition, Tin Plate is defined as follows:

*“..... Flat-rolled products of a shape other than rectangular or square, of any size, are to be classified as products of a width of 600 mm or more, provided that they do not assume the character of articles or products of other headings.*

*“72.10 Flat-rolled products of iron or non-alloy steel, of a width of 600 mm or more, clad, plated or coated.*

*- Plated or coated with tin:*

*7210.12 -- Of a thickness of less than 0.5 mm”*

21.4 It may be noted from the above definition that there is no further difference and grading of the product in the harmonized system. However, in Pakistan the Tinplate is further divided into two grades i.e. secondary quality and others. Under Pakistan Customs Tariff (“PCT”) the investigated product is defined as follows:

72.10 Flat- rolled products of iron or non- alloy steel, of a width of 600 mm or more, clad, plated or coated.

- Plated or coated with tin:

- - Of a thickness of less than 0.5 mm:

7210.1210 - - - Of secondary quality

7210.1290 - - - Other

21.5 It is obvious from the above classification that such grades fall under Pakistan specific definition. The Applicant was asked to clarify difference between Secondary quality Tinplate and Other (Prime) quality Tinplate. The Applicant has stated as follows:

*“Other ETP product basically covers material manufactured according to the given thickness, width, length, temper, thickness, surface coating, standard, quality and quantity by purchaser. supported by Mill Test Certificate (MTC). Commercially it is mainly used for packaging of paints, petroleum, edible oils and foodstuff”*

*“Secondary quality ETP generally shipped in varying quality, thickness, width, length, temper, surface coating as Stock Lot/Ex-Stock. It, therefore, follows that the main criteria for identifying these goods has been that the consignments presented in mixed variety, size and thickness, that too, in small quantities not supported by manufacturers Invoice or Mill Test Certificate (MTC). Commercially it is mainly used for packaging of paints, petroleum, edible oils and foodstuff”*

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21.6 In view of the above classification and the explanation, both types of Tinplate are of similar kind and are used for the same/ similar purposes. The main difference between both types is that the Tinplate imported under PCT code No. 7210.1290 comes in standard lots confirming all requirements of the buyer (thickness, width, length, temper, surface coating, standard, quality and quantity by purchaser) and fetch relatively higher price. Tinplate imported under PCT code No. 7210.1210 comes under non-standard lots and fetch a relatively lower price. However, both types of Tin Plate are used for same/ similar purposes. This fact is also confirmed from the import data obtained from PRAL as the major quantity under PCT code No. 7210.1210 (secondary quality) is imported by the edible oil manufacturers.

21.7 As imports of iron and steel products categorized as “secondary” in Pakistan Customs Tariff fetch lower prices, therefore, the Federal Board of Revenue (“FBR”) has devised a mechanism to determine fair value of such imports. As per FBR’s valuation ruling No. 717/2015 dated 11 February 2015 the price of the different products of iron and steel published in MBR are discounted by 15 percent to determine minimum export price of imports under the category of “secondary”, therefore, to determine normal value of the investigated product for the imports under PCT No. 7210.1210, the respective prices obtained from MBR are lowered by 15 percent.

21.8 Normal values of the investigated product for the Exporting Countries, determined on the fore-going basis, are provided below:

**Table-II  
Normal Values**

S.No	Country Name	Normal values for imports under:	
		PCT 7210.1210	PCT 7210.1290
i.	China	100.00	115.01
ii.	European Union, including UK	117.20	134.72
iii.	South Africa	100.00	115.01
iv.	United States of America	117.52	135.16

Note: To maintain confidentiality actual figures have been indexed with respect to normal value of China by taking equal to 100.

**22. Determination of Export Price**

22.1 In terms of Section 10 of the Act, export price is a price actually paid or payable for the investigated product when sold for export from an exporting country to Pakistan.

22.2 As stated earlier (paragraph 13 supra) none of the exporter/ producers from the Exporting Countries provided information in response to the questionnaire, therefore,

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export price has been worked out on the basis of information/data obtained from Pakistan Revenue Automation Limited (“PRAL”).

22.3 The data obtained from PRAL shows prices at C & F level. These prices have been adjusted to reach at ex-factory level by deducting domestic freight, ocean freight and insurance. Information on these adjustments is provided by the Applicant. On the basis of information obtained from PRAL and the Applicant, the export prices of the investigated product for the Exporting Countries during the POI are given in the following table.

**Table-III  
Export Prices**

Country	CIF Prices of PCT No:		Adjustments	Adjusted Price of PCT No:	
	7210.1210	7210.1290		7210.1210	7210.1290
China	100.00	109.75	8.97	91.03	100.78
EU (including UK)	98.96	-	10.79	88.17	-
South Africa	95.84	95.45	9.62	86.22	85.83
United States of America	97.66	95.32	13.78	83.88	81.53

Note: To maintain confidentiality actual figures have been indexed with respect to dumped imports of investigated product from china by taking equal to 100.

**23. Dumping Margin**

23.1 Section 2(f) of the Act defines “dumping margin” in relation to a product means the amount by which its normal value exceeds its export price. Section 11 of the Act requires the export price and normal value to be compared with the same characteristics in terms of level of trade, time of sale, quantities, taxes, physical characteristics, conditions and terms of sale and delivery at the same place.

23.2 The Commission has 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. Dumping margins for the Exporting Countries work out as follows. Calculations are attached at Annex-II:

**Table-IV  
Dumping Margins**

Country	Dumping Margins at:	
	Ex-works	At C&F
China	35.48%	32.60%
EU (including UK)	57.82%	51.52%
South Africa	37.77%	33.97%
United States of America	66.47%	57.04%

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**24. Negligible Dumping Margin and Volume of Dumped Imports**

24.1 In terms 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 determined for the dumped imports of the investigated product from the Exporting Countries, set out in paragraph 23.2 supra, are above negligible level.

24.2 As regards the volume of dumped imports, Section 41(3)(b) of the Act provides that the volume of such imports shall normally be regarded as negligible if the volume of dumped imports of an investigated product is found to account for less than three percent of total imports of a like product unless imports of the investigated product from all countries under investigation which individually account for less than three percent of the total imports of a like product collectively account for more than seven per cent of the imports of like product. The information/data on imports of the investigated product from the dumped sources and import of Tinplate from other sources has been obtained from PRAL. Volume of the dumped imports of the investigated product and the Tinplate imported from other sources during the POI (July 01, 2017 to June 30, 2018) is given in a table below

**Table-V  
Volume of Imports of Tinplate during POI**

Country	Volume of Imports in:	
	Quantity (MT)	Percentage
China	13,006	25.41
European Union	13,558	26.49
South Africa	8,423	16.46
United Sates of America	13,832	27.03
Other Sources	2,361	4.61
Total	51,180	100.00

Source: PRAL

24.3 It is evident from the above table that the volume of the dumped imports of the investigated product from the Exporting Countries is above the negligible threshold set out in Section 41(3)(b) of the Act.

**C. INJURY TO DOMESTIC INDUSTRY**

**25. Determination of Injury**

25.1 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*

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- c. *consequent impact of dumped imports on domestic producers of such products...*

25.2 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”.*

25.3 The Commission has taken into account all factors in order to determine whether the 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.

25.4 Analysis of injury factors carried out in this preliminary determination in the following paragraphs is based on the verified information of the Applicant.

**26. Cumulation of Dumped Imports**

26.1 Section 16 of the Act states that: *“where imports of a like product from more than one country are the subject of simultaneous investigation under this Act, the Commission may cumulatively assess the effects of such imports on the domestic industry only if it determines that*

*“(a) dumping margin in relation to an investigated product from each country is more than the negligible amount as specified...., and volume of dumped imports from each investigated country is not less than the negligible quantity as specified.....; and*

*“(b) a cumulative assessment of the effects of the imports is appropriate in the light of*

*(i) the conditions of competition between the imports; and*

*(ii) the conditions of competition between the imports and a domestic like product”.*

26.2 Investigation of the Commission has revealed that the dumping margin for each Exporting Country is more than the negligible amount (i.e. less than 2 percent of export price) (paragraph 23.2 supra). Further, the volume of dumped imports during the POI from each Exporting Country individually was also well above the negligible quantity (i.e. less than 3 percent of total imports of Tinplate) (paragraph 24.2 supra).

26.3 It is evident that the weighted average C&F export price of the investigated product imported from the Exporting Countries during the POI were in the same range, therefore,

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there was a price competition between the imports of the investigated product during the POI. Weighted average C&F export price of the investigated product during the POI for dumping from the Exporting Countries is given in the table below:

**Table-VI  
Weighted Average C&F Export Price**

Country	US\$/MT
China	100.00
European Union	90.17
South Africa	87.32
United States of America	89.10

Source: PRAL

Note: To maintain confidentiality actual figures have been indexed with respect to weighted avg C&F export price from China by taking equal to 100.

26.4 The investigation has also revealed that there was a competition between investigated product and the domestic like product. Conditions of competition between imports of the investigated product and the domestic like product are discussed in detail in the following paragraphs.

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

**27 Volume of Dumped Imports**

27.1 With regard to the volume of dumped imports, in terms of Section 15(2) of the Act, the Commission considered whether there has been a significant increase in dumped imports, either in absolute terms or relative to domestic production during the POI.

27.2 In order to assess the impact of volume of dumped imports of the investigated product, the information obtained from PRAL has been used. Following table shows the change in imports of the investigated product in absolute terms during POI:

**Table-VII  
Volume of Dumped Imports**

Year	Volume (MT)	Increase/(Decrease) in imports:		Domestic Production (MT)	Imports as % of domestic production
		Absolute	Percentage		
2015-16	27,317	---	--	24,491	111.54%
2016-17	36,734	9,417	34.47%	19,600	187.42%
2017-18	48,919	12,185	33.17%	18,618	262.75%

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Source: The PRAL and the Applicant Year is from July to June

27.3 It appears from the above table that the dumped imports witnessed significant increase in absolute terms as it increased by 34 percent and 33 percent in the years 2016-17 and 2017-18 respectively.

27.4 Dumped imports of the investigated product also increased significantly relative to domestic production during the POI, as it increased from 112 percent of the domestic production in the year 2015-16 to 187 percent and 263 percent in the years 2016-17 and 2017-18 respectively.

**28. Price Effects**

28.1 Effect of dumped imports on sales price of 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 domestic like product over time), or price suppression (the extent to which increased cost of production 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:

**28.2 Price undercutting**

28.2.1 Price undercutting is calculated in the following table on the basis of the information provided by the Applicant on ex-factory price of the domestic like product and landed cost of the investigated product:

**Table-VIII  
Price Undercutting**

Year	Average Domestic Price	Average Landed Cost of Dumped Imports	Price Undercutting in: Percentage
2015-16	100.00	93.01	7.52
2016-17	108.19	107.07	1.04
2017-18	124.30	122.54	1.43

Source: the Applicant and PRAL Year is from July to June.

Note: To maintain confidentiality actual figures have been indexed with respect to Average Domestic Price for year 2015-16 by taking equal to 100.

28.2.2 The information provided in the above table shows that the weighted average landed cost of the investigated product imported from the Exporting Countries was lower than ex-factory price of the domestic like product throughout the POI for injury. Resultantly,

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the investigated product undercut prices of the domestic like product at the rate of 3.39 percent and 3.25 percent in 2015-16 and 2017-18 respectively.

**28.3 Price Depression**

28.3.1 The weighted average ex-factory price of the domestic like product for the POI is given in the following table:

**Table-IX  
Price of Domestic Like Product**

Year	Price of domestic like product	Price Depression (%)
2015-16	100.00	-
2016-17	108.19	-
2017-18	124.30	-

Source: the Applicant Year is from July to June

Note: To maintain confidentiality actual figures have been indexed with respect to price of domestic like product for year 2015-16 by taking equal to 100.

28.3.2 The above table shows that ex-factory sales price of the domestic like product witnessed increase throughout the POI. Thus, there is no price depression during this period.

**28.4 Price Suppression**

28.4.1 Information on weighted average cost to make and sell and ex-factory price of the domestic like product during the POI is given in the following table: -

**Table-X  
Cost to Make and Sell and Price of the Domestic Like Product**

Year	Average Cost to Make & Sell	Domestic Average Price	Increase/ (Decrease) in:		Price Suppression
			Cost to Make and Sell	Price	
2015-16	100.00	103.87	--	--	--
2016-17	104.09	112.38	4.09	8.51	
2017-18	131.56	129.11	27.46	16.73	8.22

Source: the Applicant Year is from July to June.

Note: To maintain confidentiality actual figures have been indexed with respect to average cost to make & sell for year 2015-16 by taking equal to 100.

28.4.2 The above table shows that in the year 2016-17 the domestic industry was able to raise its prices more than the increase in the weighted average cost to make and sell. However, during 2017-18 the domestic industry's cost to make and sell increased more

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than the increase in the prices hence the domestic industry suffered price suppression in the year 2017-18.

**29. Effects on Market Share**

29.1 The total domestic demand of the Tinplate in Pakistan is met through local production and imports. The sales made by the domestic industry and the market share of domestic industry in the domestic market during POI for injury are given in the table below.

**Table-XI  
Market Share**

Year	Domestic industry's sales	Dumped Imports	Other Imports	Total Domestic Market
2015-16	44.01 (44.01%)	52.40 (52.40%)	3.59 (3.59%)	100.00
2016-17	35.42 (30.46%)	67.16 (57.76%)	13.70 (11.78%)	116.28
2017-18	30.70 (24.68%)	89.38 (71.85%)	4.31 (3.47%)	124.39

Source: the Applicant and PRAL

Year is from July to June

Note: To maintain confidentiality actual figures have been indexed with respect to total domestic market for year 2015-16 by taking equal to 100.

29.2 The above table shows that the domestic market of Tinplate expanded by 16.28 percent and 6.97 percent in the years 2016-17 and 2017-18 respectively. Hence experiencing an overall 24.39 percent increase throughout the POI. It is evident from the table above that despite the expanding market, share of the domestic industry decreased. In the year 2015-16, share of the domestic industry was 44.01 percent which decreased to 30.47 percent in the year 2016-17 that further decreased to 24.68 percent. On the other hand, the share of dumped sources increased substantially from 52.40 percent to 71.85 percent during the POI. Share of imports from other sources increased in the year 2016-17, however, it decreased in the year 2017-18.

**30. Effects on Sales**

30.1 Sales of the domestic like product in the domestic market during the POI are given in the following table:

**Table-XII  
Domestic Sales of the Applicant**

Year	Sales of the Applicant
2015-16	100.00
2016-17	80.49
2017-18	69.76

Source: the Applicant Year is from July to June

Note: To maintain confidentiality actual figures have been indexed with respect to sales of the applicant for year 2015-16 by taking equal to 100.

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30.2 The above table shows that the sales by the domestic like product decreased throughout the POI. Therefore, the domestic industry faced significant decline in sales during the POI for injury.

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

31.1 The installed capacity and the capacity utilization of the domestic industry during the POI are provided in following table:

**Table-XIII  
Installed Capacity and Capacity Utilization**

Year	Installed Capacity	Capacity Utilization
2015-16	120,000	20.41%
2016-17	120,000	16.33%
2017-18	120,000	15.52%

Source: the Applicant

Year is from July to June

31.2 The capacity of Applicant remained the same over the POI, i.e. 120,000 MT. The above table shows that the capacity unitization fell from 20.41 percent in the year 2015-16 to 15.52 percent in the year 2017-18.

**32. Effects on Inventories**

32.1 Data for opening and closing inventories, production and sales of the domestic like product during the POI is given in the following table: -

**Table-XIV  
Inventories**

Year	Opening inventory	Production	Sales		Closing Inventory
			Domestic	Export	
2015-16	14	100	98	1	15
2016-17	15	80	79	3	13
2017-18	13	76	69	4	16

Source: the Applicant

Year is from July to June

Note: To maintain confidentiality actual figures have been indexed with respect to production for year 2015-16 by taking equal to 100.

32.2 The above table shows that closing inventory of the domestic like product declined in the year 2015-16. However, closing inventory increased in the year 2017-18.

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32.3 As the production of domestic like product declined during the POI, the closing inventories relative to the production in the respective years were 15 percent, 16 percent and 21 percent in the years 2015-16, 2016-17 and 2017-18 respectively.

**33. Effects on Profit/Loss**

33.1 The profit/(Loss) position of the domestic industry pertaining to the business of domestic like product during the POI is stated below:

**Table-XV**  
**Profit/(Loss) Position of Tinplate**

Year	Profit/(Loss)
2015-16	100.00
2016-17	160.29
2017-18	-85.18

Source: the Applicant                      Year is from July to June

Note: To maintain confidentiality actual figures have been indexed with respect to profit/(loss) for year 2015-16 by taking equal to 100.

33.2 It appears from the above table that the Applicant was making profits from its Tinplate business during the years 2015-16 and 2016-17. However, it experiences losses during the year 2017-18.

**34. Effects on Cash Flow**

34.1 The applicant is a multi-product firm. and the cash flows operations cannot be determined separately for different products, as number of factors are combine for all products. However, the major operations of the company (95% in terms of revenues) is based on Tinplate.

34.2 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.”*

34.3 Keeping in view the above the cash flows are assessed for entire operations of the Applicant. Further, as its major operations are of the domestic like product, therefore, overall cash situation of the company is a representative of the cash flow situation of Tinplate business. Cash flows of the Applicant are provided in the following table:

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**Table-XVI  
Operating Cash Flows**

Year	Rs. In 000
2015-16	257,340
2016-17	(92,245)
2017-18	(447,403)

Source: The Applicant Year is from July to June

34.2 The cash flow of the Applicant decreased during the year 2016-17 over 2015-16 and became negative, which further decreased in the year 2017-18.

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

35.1 The Applicant's employment, production and the salaries and wages for production of the domestic like product during the POI are given in following table: -

**Table-XVII  
Employment, productivity and wages**

Year	Number of Employees	Salaries & Wages	Production	Productivity Per Worker in	Salaries and Wages Rs. Per MT
2015-16	100.00	100.00	100.00	100.00	100.00
2016-17	104.49	105.09	80.03	76.59	131.31
2017-18	106.37	115.72	76.02	71.47	152.22

Source: The Applicant Year is from July to June

Note: To maintain confidentiality actual figures have been indexed with respect to the figures in the year 2015-16 by taking them equal to 100.

35.2 The above table shows that the employment in the domestic industry increased during the POI. However, productivity per worker decreased in the year 2016-17 as compared to the year 2015-16. Productivity per worker further decreased in the year 2017-18. Although the number of employees increased, the decline in productivity at the same time has caused the decline in the productivity per worker.

35.3 Salaries and wages per MT, on the other hand, increased significantly during the year 2016-17 and 2017-18 which coupled with low production lead to higher cost of salaries and wages per MT.

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**36. Effects on Return on Investment**

36.1 The Applicant is a multi-product company and the investment and return on investment cannot be determined separately for different products as number of factors are combine for all products. Therefore, keeping in view provisions of the Section 17(2) of the Act, the return on investment of the domestic industry for its entire operations during the POI is given in following table:

**Table-XVIII  
Return on Investment**

Year	Return on investment (%)
2015-16	9.72
2016-17	17.29
2017-18	(4.77)

Source: The Applicant Year is from July to June

36.2 The above table shows that the return on investment increased in the year 2016-17. The return on investment was 9.72 percent and 17.29 percent in 2015-16 and 2016-17 respectively. However, the return on investment became negative 4.77 percent the year 2017-18.

**37. Ability to Raise Capital**

In application, the Applicant has stated, “In the presence of continued losses by the domestic industry, its ability to raise investment has definitely been eroded. It is also a known fact that the losses are mainly due to continued dumping from various sources. In order to provide protection to the domestic industry against unfair trade practices of foreign producers/exporters, the Commission is requested to impose anti-dumping duty on dumped imports from the Exporting Countries, to avoid further losses to the domestic industry.” As the Applicant has not provided evidence in this regard, the Commission is inconclusive about the effects of dumped imports on ability to raise capital.

**38. Effects on Growth and Investment**

The domestic industry manufacturing Tinplate 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. During POI the domestic industry was able to attain 25 percent market share (paragraph 28 supra). The installed production capacity of the domestic industry is more than the total demand of Tinplate,

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therefore, there was no chance of further growth and new investment in the domestic industry manufacturing in this situation.

**39. Summing up of Material Injury**

39.1 It appears from above that volume of dumped imports has increased significantly during the POI for injury. Dumped imports are undercutting prices of the domestic industry throughout the POI for injury. The domestic industry also suffered price suppression during the year 2017-18 which was partially due to increase in the prices of raw materials and partially due to the pressure of price undercutting on the domestic industry which forced it to keep its prices low. Market share of the dumped imports is continuously increasing and the domestic industry could not maintain market share despite the suppressed prices to compete dumped imports. Profits and return on investment have declined during the POI for injury.

39.2 This clearly reveals that domestic industry suffered material injury during the POI. The effect of dumped imports on various injury factors is summarized in the table below;

**Table-XIX  
Effects of Dumped Imports**

<b>Year</b>	<b>2015-16</b>	<b>2016-17</b>	<b>2017-18</b>
Volume of Dumped Imports (MT)	28,681	36,758	48,919
Price Undercutting (%)	7.52	1.04	1.43
Market Share (%)	44.01	30.47	24.68
Inventory (indexed)	100	87	107
Profit & Loss (Tinplate) (indexed)	100	160	-85
ROI (%)	9.72	17.29	-4.77
Capacity Utilization (%)	20.41	16.33	15.52

Note: To maintain confidentiality actual figures have been indexed for inventory, Profit & Loss (Tinplate) with respect to the year 2015-16 by taking them equal to 100.

39.3 Apart from above, the domestic industry had also faced negative effect on account of cash flow, return of investment and profits.

39.4 The above effects are significant enough on the basis of which it is determined that domestic industry has suffered material injury due to dumped imports of the investigated product.

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**D. CAUSATION**

**40. Effect of Dumped Imports**

40.1 On the basis of the analysis and conclusions, the Commission has concluded that there was a causal link between dumped imports of the investigated product and material injury suffered by the domestic industry.

40.2 The investigation has revealed that the following happened simultaneously during the POI:

- i. Volume of dumped imports of the investigated product increased significantly in absolute terms;
- ii. Domestic industry experienced price undercutting due to dumped imports of the investigated product;
- iii. Domestic industry experienced price suppression in 2017-18 partially due to dumped imports of the investigated product;
- iv. Market share of dumped imports of the investigated product increased significantly whereas market share of the domestic like product declined simultaneously;
- v. Domestic industry faced negative effect on inventories, and return on investment; and
- vi. Domestic industry faced decline in capacity utilization and profits.

**41. Other Factors**

41.1 In accordance with Section 18(2) of the Act, the Commission also examined factors, other than dumped imports of the investigated product, 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 dumped imports.

41.2 The Commission's investigation showed that the domestic industry did not suffer injury due to imports of the like product from sources other than the Exporting Countries during the POI for dumping. Following table shows volume and landed cost of Tinplate imported from other sources during the POI:

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**Table-XX  
Imports from Other Sources**

<b>Year</b>	<b>Volume of Dumped Imports</b>	<b>Imports from Other Sources</b>	<b>Landed Cost from dumped source</b>	<b>Landed cost from other sources</b>
2013-14	100.00	6.85	100.00	99.76
2014-15	128.16	26.14	115.12	88.35
2015-16	170.56	8.23	131.75	124.41

Source: PRAL

Note: To maintain confidentiality actual figures have been indexed with respect to volume and landed cost of dumped imports of investigated product for year 2015-16 by taking equal to 100.

41.3 The above table shows that the imports from sources other than the Exporting Countries were in lesser quantities despite the fact that the landed cost of such imports was significantly lower than the ex-factory price of the domestic like product and landed cost of investigated product throughout the POI for injury. The Commission is of the view that the imports from other sources are too small in quantities to have any significant effects on Applicant's injury factors.

41.4 The factors mentioned in Section 18(3) of the Act were also examined and it was determined that:

- i. There was no contraction in demand; rather there is increase in demand of Tinplate in Pakistan paragraph 28 supra.
- ii. There was no change in technology to produce Tinplate and
- iii. The export performance of the domestic industry did not change during the POI. On the contrary it exported small quantities of Tinplate during the POI for injury.
- iv. During the POI there was no change in trade restrictive practices.

41.5 The Commission is of the view that the dumped imports are the only factor which are causing and has caused injury to the domestic industry.

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**E. CONCLUSIONS**

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

- i. the application was filed on behalf of the domestic industry as the Applicants represent 100% of the domestic production.
- ii. the investigated product and the domestic like product are like products;
- iii. the volume of dumped imports of the investigated product and the dumping margins established for the exporters/producers of the investigated product from the Exporting Countries were above the negligible and *de minimis* levels respectively.
- iv. the domestic industry suffered material injury during the POI on account of increase in volume of dumped imports, price undercutting, price suppression, decline in market share, capacity utilization, profits and negative effect on inventories, return on investment and growth in terms of Section 15 and 17 of the Act; and
- v. there was a causal relationship between dumped imports of the investigated product and the material injury suffered by the domestic industry.

**F. IMPOSITION OF PROVISIONAL ANTI-DUMPING DUTY**

43. In view of the analysis and conclusions with regard to dumping, injury, and causation, imposition of provisional anti-dumping duty on dumped imports of the investigated product is needed to prevent injury being caused to the domestic industry during the course of this investigation in accordance with Section 43 of the Act.

44. As there was no cooperation from exporters/foreign producers, therefore, individual dumping margins could not be determined. Dumping margins and anti-dumping duty rates for the Exporting Countries is determined on the basis of best available information in terms of Section 32 of the Act.

45. For the purpose of imposition of lesser duty in terms of Section 43(1) of the Act injury margins have been calculated for the Exporting Countries to ascertain whether a lower duty would be adequate to remove injury being suffered by the domestic industry due to dumped imports of the investigated product. The calculation of injury margin is as under:

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**Table-XXI  
Injury Margin**

<b>Injury Margin for Each Exporting Country</b>	
China	6.87%
European Union	10.88%
South Africa	14.75%
United States of America	12.27%

46. It may be observed that injury margin calculated for the exporters/foreign producers of the investigated product from the Exporting Countries is less than the respective dumping margin. In terms of Section 43(1) of the Act, therefore, lesser duty is applied where it is adequate to remove injury of the domestic industry.

47. Following provisional anti-dumping duties are hereby imposed on the dumped imports of the investigated product importable from the Exporting Countries for a period of four months effective from January 29, 2019 under Section 43 of the Act. The dumped investigated product is classified under PCT heading No. 7210.1210 and 7210.1290.

**Table-XXII  
Provisional Antidumping Duty Rates**

<b>Exporting Countries</b>	<b>Provisional Antidumping Duty Rate (%)</b>
China	6.87
European Union	10.88
South Africa	14.75
United States of America	12.27

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

49. Provisional anti-dumping duties levied would be in addition to other taxes and duties livable on import of the investigated product under any other law.

50. The provisional anti-dumping duties would be collected in the same manner as customs duty is collected under the Customs Act, 1969 (IV of 1969) and would be

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deposited in Commission's Non-lapsable PLD account No. 187 with Federal Treasury Office, Islamabad.

(Anjum Asad Amin)  
Member  
January 28, 2019

(Tipu Sultan)  
Member  
January 28, 2019

(Robina Athar)  
Member  
January 28, 2019

(Abdul Khaliq)  
Chairman  
January 28, 2019

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**Annex-I**

**IEWS/COMMENTS OF THE INTERESTED PARTIES**

<b>Comments Received</b>	<b>NTC Response</b>
<b>Views/Comments of Pakistan Vanaspati Manufacturer Association (PVMA)</b>	
<p><b><u>Prime and Secondary Product</u></b>                      “Secondary Quality Tinplate is generally presented in mixed variety, size, thickness and small quantities not supported by an invoice and Mill Test Certificates. Therefore, the pricing structure between both prime and secondary quality tinplate may vary, which the Commission ought to take into account.”</p>	<p>The Commission has taken into account the difference between the two types/grades of the investigated product in dumping determination while making this preliminary determination.</p>
<p><b><u>Duty Structure</u></b>                      “It is pertinent to state here that for import of secondary quality tin plate there is already a much higher duty placed than the prime quality tin plate. Furthermore, an important aspect to be highlighted here is that Pakistan’s duty structure is notably higher than the duties imposed on imports of the Investigated Product in various other jurisdictions. India is an exception, however, there too, until recently, it was 15%, and in all these jurisdictions there is no distinction in the treatment for the purposes of levying custom duty between secondary and prime quality tin plate.”</p>	<p>To determine effect of dumped imports on prices in the domestic market, the Landed cost of the investigated product is determined on the basis of applicable customs duties of the both types/grades.</p>
<p><b><u>Normal Value Calculation</u></b>                      “To the contrary, without prejudice to the fact that the Respondent has not been given any specific particulars or figures for such calculations, the principle forming premise with such calculations are not even in accordance with law. Section 5 and Section 6 of the Act provide the framework for determination of the Normal Value, which has certain pre-conditions before the fair valuation on the basis of the constructed value could be done. It is not clear as to how these pre-conditions are met or not applicable in the present proceedings.”</p>	<p>The Commission has fulfilled all requirements of the Act in this investigation including the provisions of Sections 5 and 6 of the Act. Please refer Section B of the report for determination of dumping of the investigated product.</p>
<p><b><u>Normal Value and Dumping Margin</u></b>                      “As it stands established in the preceding paragraph (F-1.2) that the Applicant has not complied with the statutory method of evaluating Normal Value of the Investigated Product, therefore, the Dumping Margin calculated on the basis of the flawed Normal Value would also be of no legal effect. It is an established principle of law that when the edifice or the basis of the</p>	<p>The Commission evaluated the application under Sections 20 and 23 of the Act and found that there was, <i>prima facie</i>, sufficient evidence submitted in application, which justified initiation of an investigation.</p>

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<p>act is illegal, the whole superstructure built thereupon would also fall flat.”</p>	
<p><b><u>Non-Confidential information</u></b> “The Applicant has, in the garb of confidentiality, unfairly withheld crucial information from the interested parties. The non-confidential version of the Application is replete with shortcomings and is not in accordance with the standards laid down by the law. As against the requirement of the Act, the non-confidential version does not permit a reasonable understanding of the substance of the information submitted in confidence. Moreover, the Applicant has, in violation of Section 31 (2) (c) of the Act, failed to show good cause as to why the information provided should be kept confidential. Therefore, the Commission is duty-bound to have declared the information provided as non-confidential.”</p>	<p>The application filed by the Applicant fulfills requirements of Sections 20 and 31 of the Act. Further, the Commission, in its Initiation Memo and in this Preliminary Determination has disclosed all the information in accordance with provisions of the Act.</p>
<p><b><u>Domestic Industry</u></b> “It is an admitted fact that the Applicant is a monopoly. It has attained a position where it can manipulate prices. Therefore, if the product becomes available at a lesser price, as compared to the monopolistic and manipulated price, imports will naturally increase.”</p>	<p>The functions of the Commission and the scope of this investigation is limited to dumping, injury and causal link which does not include competition and monopoly control.</p>
<p><b><u>Applicant Financial Information</u></b> “In 2015, as compared to 2014, the Applicant recorded an increase in its sales, amounting to Rs. 249,254,771. In 2016, however, there was an admitted decrease. But in 2017, the Applicant recorded an increase in sales, which was even higher than the sales recorded in the year 2015, which the Applicant has rounded off to 100 (maximum) in its application to the Commission. This is an increase of Rs. 196,331,093 as compared to the sales of 2015, which the Applicant considers the highest. It is worth noting that this continuous increase is more than the period when anti-dumping duty was in place, thus, it is clear that the Applicant’s performance vis-à-vis its sales has been better when there was no dumping duty in place and in the years when there was dumping duty on the secondary quality tin plate, comparatively the Applicant incurred losses.”</p>	<p>The Commission has determined injury to the domestic industry including the effect of dumped imports on sales of the domestic like product on the basis of the verified information, in accordance with provisions of the Act. Please refer part C of the report.</p>
<p><b><u>Applicant Annual Report</u></b> “Thus, in view of the admission of the Applicant in its Annual Report and observations of the Commission, the decline in production and capacity utilization, if</p>	<p>The Commission has determined injury to the domestic industry including the effect of dumped</p>

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<p>there is any, cannot be attributed to the alleged dumping of the investigated product. In fact, among other factors, it is also the non-availability of raw material due to imposition of anti-dumping duty and “replacement of tin packaging with plastic packaging,” which has caused the alleged decline. The contention of the Applicant is therefore without force and merit.”</p>	<p>imports on production and capacity utilization in accordance with provisions of the Act. Further, the Commission has also analysed effects of “other factors” in accordance with Section 18(2) of the Act. Please refer part C and D of the report.</p>
<p><b><u>Applicant Financial Information</u></b> “The Applicant has not provided any substantial or intelligible information regarding the decline in Return on Investment, if there is any. However, it is interesting to note from its Annual Reports that the profitability ratios such as Earnings per Share and Return on Equity have recorded consistent increase during the Period of Investigation.”</p>	<p>The Commission has determined injury to the domestic industry including the effect of dumped imports on return on investment in accordance with provisions of the Act. Please refer part C of the report.</p>
<p><b><u>Duty Structure</u></b> “...as per our understanding, the Applicant has, for a long period of ten (10) years, enjoyed tax exemptions. Therefore, reduction in profits, if any, could also be attributable to the revocation of the said exemptions.”</p>	<p>The Commission has analysed effects of “other factors” in accordance with Section 18(2) of the Act. Please refer part D of the report.</p>
<p><b><u>Views/ Comments of Pakistan Tinplate Marchant’s Association (PTMA)</u></b></p>	
<p>“As it is evident from PRAL data (July 2017 to June 2018) that Applicant is also major importers of alleged product hence their presumption of requesting imposition of Anti-dumping duty not remain valid”.</p>	<p>The Commission has taken into account this fact. Please refer paragraph 6 of the report regarding status of the Applicant as domestic industry.</p>
<p>“It is evident that these (auctions) are offered globally and not limited to Pakistan, through auction and bidding process having short validity”.</p>	<p>The Commission has determined dumping in this investigation in accordance with provisions of the Act. Please refer part B of the report.</p>
<p>“Being manufacturer, Applicant in NTC questionnaire has not provided significant data specifically in calculation Ex-factory prices of alleged product. Their presentation is more focus on declaring company’s financial loss only”.</p>	<p>The Commission evaluated the application under Sections 20 and 23 of the Act and found that there was, <i>prima facie</i>, sufficient evidence of dumping of the investigated product and injury to the domestic industry, which</p>

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	justified initiation of an investigation.
"We request the Learned Commission to review Applicant's claimed losses of losing market shares, return on equity and earning per share from their annual audited books of accounts which is in total contradiction of what has shown in their questionnaire".	The Commission has determined injury to the domestic industry including the effect of dumped imports on market share, sales of the domestic like product and return on investment on the basis of the verified information, in accordance with provisions of the Act. Please refer part C of the report.
"Applicant claimed to be a sole manufacturer of alleged product and has the right to enjoy a fair market share. Custom's defined ITP for Electrolytic Tinplate.....are already in place to protect their alike domestic product.	The Commission has complied with all provisions of the Act in this investigation. Further, fixation of ITP does not fall under purview of the Commission.
<b>Views/ Comments of Ameritin International Corporation</b>	
"The custom records should also reflect that the entity initiating the anti-dumping investigation.....importing ETP from the same supplier"	The Commission has complied with all provisions of the Act in this investigation.
"Everyone in secondary market is purchasing these materials at high prices in order to win the material.....no margin for local importers to be "dumping" these products at lower rate..."	The Commission has determined dumping of the investigated product in this investigation in accordance with provisions of the Act. Please refer part B of the report.
<b>Views/ Comments of: Metallurgy International/Royal Steel/ Hassan Steels/ Four Brother Trading/ Zubair Steel/ Ali Containers (Pvt.) Ltd./ Shamim Tin Merchant/ O S Corporation/</b>	
"M/S Siddiqsons Tinplate has not provided true correct picture in their application. We are following all rules/ regulation of custom tariff of investigative product. All documents being submitted to custom authorities at the clearance of Tinplate and paying custom duties / Anomalies as assessment by the customs on the basis of DATA VALUTION instead of DECLARED VALUE".	The Commission has determined dumping of the investigated product and injury to the domestic industry in this investigation in accordance with provisions of the Act. Please refer part B, C and D of the report.