



**Government of Pakistan
National Tariff Commission**

REPORT

ON

**FINAL DETERMINATION AND LEVY OF DEFINITIVE ANTIDUMPING
DUTY ON IMPORT OF UREA FORMALDEHYDE MOULDING
COMPOUND ORIGINATING IN AND/OR EXPORTED FROM THE
PEOPLE'S REPUBLIC OF CHINA**

A.D.C No.06/2004/NTC/UFMC

November 19, 2005

The National Tariff Commission (hereinafter referred to as the "Commission") having regard to the Anti-Dumping Duties Ordinance, 2000 (LXV of 2000) (hereinafter referred to as the "Ordinance"), the Anti-Dumping Duties Rules, 2001 (hereinafter referred to as the "Rules") and to the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (hereinafter referred to as the "Agreement on Antidumping") relating to investigation and determination of dumping of goods into the Islamic Republic of Pakistan (hereinafter referred to as "Pakistan"), material injury to the domestic industry caused by such imports, and imposition of antidumping duties to offset the impact of such injurious dumping, and to ensure fair competition thereof has conducted an investigation and made a final determination under the above mentioned Ordinance and Rules.

A. PROCEDURE

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

1. Receipt of Application

The Commission received a written application from Dynea Pakistan Ltd., 1st Floor, Siddiqsons Tower 3, Jinnah Co-operative Housing Society, Block-7/8, Shakra-e-Faisal, Karachi (the "Applicant") on behalf of the domestic industry producing Urea Formaldehyde Moulding Compound ("UFMC") on December 31, 2004. The Applicant alleged that UFMC produced in the People's Republic of China (hereinafter referred to as "China") is exported to Pakistan at dumped prices. The Embassy of China in Islamabad was informed through a note verbale dated January 1, 2005, sent through the Ministry of Foreign Affairs, Pakistan, of the receipt of application in accordance with the requirements of Section 21 of the Ordinance.

2. Evaluation and Examination of the Application

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

2.2 The application fulfils the requirements of Section 24 of the Ordinance which enjoins upon the Commission to assess the standing of the domestic industry on the

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

2.3 The Domestic industry manufacturing UFMC consists of three units. Following are the details of domestic industry's capacity and production during the Financial Year ("FY") 2004 with regard to standing of this antidumping application:

Name of the Unit	Installed Capacity MT	Domestic Production MT	Percentage Share in Domestic Production	Status
Dynea Pakistan Ltd.	10,000	11,551	83	Applicant
K.S Enterprises	1,000	300	2	Supporting
AHN Colloids Chemicals (Pvt.) Ltd	2,000	2,000 (estimated)	15	Indifferent
	13,000	13,851		

2.4 The Applicant is the major domestic producer of UFMC in Pakistan representing 83 percent of domestic production, whereas, the other two units represent 17 percent of domestic production. The application has been filed by the Applicant and is supported by K.S Enterprises. None of the units in the domestic industry has opposed the filing of antidumping application. Therefore, the application is considered to be made by the domestic industry as it is supported by 100 percent of the total production of the like product produced by that portion of the domestic industry expressing its opinion. The application, therefore, fulfils the requirement of Section 24(1) of the Ordinance.

2.5 The application also fulfilled the requirements of Section 24 (2) of the Ordinance, as the domestic producers expressly supporting this application account for 85 percent of total production of the domestic product produced by domestic industry.

3. Foreign Exporters of the UFMC

The Applicant identified 31 Chinese exporters involved in alleged dumping of UFMC; the list is attached at Annex I. The Applicant provided complete addresses of only 12 Chinese exporters. Upon initiation of investigation copy of the notice of initiation was sent to 12 Chinese exporters (whose complete addresses were available) on January 12, 2005.

4. Applicant's Views

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

- "i. UFMC imported from China into Pakistan and the UFMC produced in Pakistan by the domestic industry are like products;
- ii. the Chinese Exporters are exporting the investigated product to Pakistan at dumped prices; and
- iii. export of the UFMC by the Chinese Exporters to Pakistan at dumped prices has caused and is causing material injury to the domestic industry producing UFMC, mainly through:
 - a. price suppression;
 - b. decline in profits;
 - c. negative effect on inventories
 - d. negative effect on growth and investment".

5. Initiation of Investigation

5.1 The Commission upon examining the accuracy and adequacy of the evidence provided in the application established that there is sufficient evidence of alleged dumping and injury to justify initiation of an investigation. Consequently, the Commission decided to initiate an investigation on January 10, 2005. In terms of Section 27 of the Ordinance, the Commission issued a Notice of Initiation, which was published in the Official Gazette¹ of Pakistan and in two widely circulated national newspapers² (one in English language and one in Urdu Language) on January 12, 2005. Investigation concerning imports into Pakistan of UFMC (classified under PCT³ No. 3909.1010) contained in the First schedule of Customs Act, 1969 (IV of 1969) originating in and/or exported from China was thus initiated on January 12, 2005 (pursuant to Commission's decision of January 10, 2005 to initiate the investigation).

¹ The official Gazette of Pakistan (Extraordinary) dated January 12, 2005.

² The 'Daily Times' and the 'Nawa-I- Waqat' of January 12, 2005 issue.

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

5.2 The Commission notified the Embassy of China in Pakistan (by sending a copy of the Notice of Initiation through Ministry of Foreign Affairs, Pakistan on January 12, 2005). Copies of Notice of Initiation were also sent to the 12 Chinese Exporters whose complete addresses were available with the Commission, the known Pakistani importers, and the Applicant on January 12, 2005, in accordance with the requirements of Section 27 of the Ordinance.

In accordance with Section 28 of the Ordinance, on January 17, 2005, the Commission also sent copies of full text of the written application (non-confidential version) to the Embassy of China in Pakistan through the Ministry of Foreign Affairs, Pakistan.

6. Sampling and Information/Data Gathering

6.1 Sampling

6.1.1 In view of the apparent large number of exporters/producers from China involved in this investigation (paragraph 3 supra), it is impracticable to determine individual margin of dumping for each known exporter or producer concerned of UFMC. Therefore, the Commission resorted to the use of sampling, in accordance with Section 14(2) of the Ordinance, on the basis of a reasonable number of exporters or producers to be investigated in this case.

6.1.2 To facilitated sample selection, all exporters/producers of UFMC from China were requested through the notice of initiation, to make themselves known to the Commission and to provide the requisite information within 15 days of the publication of Notice of Initiation in the press in Pakistan.

6.1.3 Two Chinese exporters namely Bluestar International Chemicals Co., Ltd, Beijing, China ("Bluestar") and Sinochem Tianjin Import & Export Corporation, Tianjin, China ("Sinochem") responded within the given time period of fifteen days (i.e., till January 26, 2005). Bluestar provided the requisite information through its facsimile message dated January 27, 2005. Sinochem provided some of the requested information vide its facsimile message dated January 21, 2005.

6.1.4 On the basis of the criteria set out in Section 14 (2) of the Ordinance⁴ and the information provided by both the exporters through the facsimile messages and other

⁴ Criteria/provisions of Section 14(2): "Notwithstanding anything contained in sub-section (1), where the Commission is satisfied that the number of exporters, producers or importers, or type of products involved is so large as to make it impracticable to determine an individual dumping margin for each known exporter or producer concerned of an investigated product, the Commission may limit its examination to a reasonable number of interested parties or investigated products using samples which are statistically valid on the basis of information available to the Commission at the time of selection, or to the largest percentage of volume of exports from the country in question which can reasonably be investigated.

information available to the Commission, the Commission's selected sample comprises the following three major exporters of UFMC from China:

- i) Bluestar International Chemical Co., Ltd.,
(former China National Bluestar (Group) Corporation);
No. 19, Beisanhuan East Road, Chaoyang District,
Beijing, China.
- ii) Sinochem Tianjin Import & Export Corporation,
58, Nanjing Road, Tianjin-300042, China
- iii) Yixing Yuntong Chemical Industry Inc.,
88, Far East Road, Fandao Town,
Yixing, Jiangsu, China

6.1.5 The exporters selected in the sample represent the largest volume of exports⁵, which could reasonably be investigated within the time available.

6.2 **Information Gathering**

6.2.1 The Commission sent questionnaires alongwith full text of written application (non confidential version) to three Chinese exporters selected in the sample for submission of data and information on January 31, 2005, and were asked to respond within 37 days of the dispatch of the questionnaires i.e by March 7, 2005.

6.2.2 Bluestar requested for an extension in time period for submission of information till March 24, 2005. The Commission acceded to the request after taking into account the reasons given by Bluestar in its request. Filled-in exporter questionnaire from Bluestar was received at the Commission on March 26, 2005.

6.2.3 Sinochem also requested for an extension in the time period for submission of the required information till May 31, 2005. The Commission, however, permitted Sinochem to respond by March 31, 2005, keeping in view the time constraints of the investigation. Filled-in exporter questionnaire from Sinochem was received at the Commission on April 4, 2005.

⁵ According to the import data of total imports of UFMC from China provided by the Applicant and individual exports of two exporters verified during on-the-spot-verification, Bluestar's exports account for 42% of total imports of UFMC from China, while Sinochem's exports account for 20% of total imports of UFMC from China during POI. The third Chinese exporter Yixing Yuntong Chemical Industry Inc., selected in sample accounted for 13% of total imports of UFMC from China during the POI. Together these three exporters selected in the sample account for approximately 73% of total imports into Pakistan of UFMC from China during POI. These three exporters represent the largest volume of exports from China and were therefore selected in sample.

6.2.4 Yixing Yuntong Chemical Industry Inc., ("Yixing") did not respond to the Commission's questionnaire. Consequently, the Commission after expiry of the 37 days time period, informed Yixing through a letter dated April 4, 2005 that the Commission is constrained to make a determination in Yixing case on the basis of 'Best Information Available' in terms of Section 32 of the Ordinance and Article 6.8 of the Agreement on Antidumping ("ADA") and Annex II thereto because of the "non-response".

6.2.5 On January 26, 2005 questionnaires were sent to Pakistani importers known to the Commission and these importers were asked to respond to the Commission within 37 days of the dispatch of the questionnaires. None of the Pakistani importers responded.

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

6.2.7 An on-the-spot investigation was conducted at the premises of the Applicant from February 14 to 16, 2005 at Karachi and on February 22, 2005 at the Applicant's premises at Gadoon Amazai in order to verify the information provided by the Applicant and to obtain further information. On the spot investigations were also conducted at the premises of the two Chinese exporters (i.e. Bluestar and Sinochem) who responded to the Commission's request for data on exporters questionnaire and the two Chinese producers who supplied UFMC to the above exporters during the POI.

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

7. Public File

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

8. Confidentiality

In terms of Section 31 of the Ordinance, any information, which is marked confidential by the interested parties in their submissions and considered confidential by the Commission, shall, during and after the investigation, be kept confidential.

9. Period of Investigation

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

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

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

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

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

Investigation of dumping	from July 1, 2003 to September 30, 2004;
Investigation of injury	from July 1, 2001 to September 30, 2004.

10. Investigated Product, Domestic Like Product

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

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Investigated Product:

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

Domestic Like Product:

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

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

i. Investigated Product:

The investigated product is UFMC originating in and/or exported from China into Pakistan. It is classified under PCT Heading No. 3909.1010. The investigated product is an industrial raw material mainly used in the manufacture of tableware, kitchenware and electrical switches.

ii. Domestic Like Product

The domestic like product is UFMC produced by the domestic industry in Pakistan. The domestic like product is also classified under PCT Heading No. 3909.1010. The domestic like product is used for the manufacture of tableware, kitchenware and electrical switches. Major uses of the domestic like product are therefore, identical to those of the investigated product.

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

- i. the basic raw materials used in the production the investigated product, and the domestic like product, are identical (Formaldehyde, Urea, Hexamine, and Cellulose).
- ii. both the products are produced with a similar manufacturing process.
- iii. both the products have same/similar colours and appearance.
- iv. both the products are substitutable in use. These are mainly used as raw material in the manufacturing of tableware, kitchenware and electrical switches.

- v. both the products are classified under the same PCT sub-heading 3909.1010.

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

11. Negligible Volume of Imports

In terms of Section 41(3) of the Ordinance, the volume of imports shall normally be regarded as negligible if the volume of imports of an investigated product is found to account for less than 3 percent of total imports of the like product. In this regard, data and information provided by the Applicant (which is based on PRAL data) reveals that 94% and 96% of the total imports of the investigated product into Pakistan during FY 2003, and for the period from July to September 2004, respectively, fall in POI were from China. Thus this percentage is well above the percentage for “negligible” volume (less than three percent) of imports of the like product.

12. Response to the Questionnaire by Exporters

(i) Questionnaire response by Bluestar

12.1 Filled-in exporter questionnaire from Bluestar, a subsidiary company of China National Bluestar (Group) was received at the Commission on March 26, 2005. According to the information submitted by Bluestar, it is a limited liability company and is involved in the exports of the investigated product to Pakistan. It does not manufacture the investigated product itself. It purchased the investigated product from Liyang Yongan Thermoset Co., Ltd., (“Liyang”), a Chinese producer, for onward exports to Pakistan during POI.

12.2 According to the information provided by Bluestar, it exported ****⁶ MT of the investigated product to Pakistan during the POI. Bluestar also provided information on domestic sales of its supplier Liyang.

12.3 All the information submitted by Bluestar in the exporter questionnaire was analyzed at the Commission and certain deficiencies were identified. Accordingly, the following data deficiencies were communicated to Bluestar vide Commission’s letter dated April 11, 2005:

- “i) Copies of audited balance sheets and profit and loss statement of Bluestar International Chemical Co. Ltd., as well as for China National Bluestar (Group) for the last three years;

⁶ Actual figures have been omitted to maintain confidentiality.

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- ii) Copy of contract between the Bluestar and Liyang;
- iii) An explanation why the figures for gross value of export sales to Pakistan given in Attachment C-3 and Attachment C-4 do not reconcile;
- iv) Why the interest cost regarding credit has been calculated by using LIBOR instead of interest rate prevailing in China during POI (Attachment C-3);
- v) The Commission margin on investigated product by Liyang to Bluestar for export to Pakistan (Attachment C-3). A copy of sales contract between Bluestar and Liyang;
- vi) A reconciliation of the audited profit and loss account with the cost of production table; and
- vii) The non-confidential summary furnished did not cover all the information provided on confidential basis."

12.4 Bluestar was asked to provide the deficient information/data no later than April 19, 2005, so as to enable the Commission to consider and analyze the same for the purposes of this investigation. Bluestar was also informed that if it fails to provide the requisite information by April 19, 2005, the Commission may make a preliminary determination on the basis of "best information available" in terms of Section 32 of the Ordinance and Article 6.8 of the WTO Agreement on Antidumping.

12.5 Bluestar in its response dated April 16, 2005 to deficiency letter provided the following information:

- i. Copies of financial statement of both Bluestar and China National Bluestar (Group);
- ii. Revised Attachment C- 4;
- iii. Revised calculation of credit cost on the basis of "lending rate of US\$" of China Central Bank;
- iv. Provided the gross profit for all export sales to Pakistan during POI in the revised Attachment C- 3; and

- v. Provided a revised non-confidential version of the questionnaire response.

(ii) Questionnaire response by Sinochem

12.6 Filled-in exporter questionnaire from Sinochem was received in the Commission on April 4, 2005. Although the information provided by Sinochem was received after the expiry of the time period (i.e. 31 March 2005) set out for submission of the filled in exporter questionnaire, nonetheless, the Commission considered the same for the purposes of this investigation without prejudice. According to the information provided in response to the exporter questionnaire by Sinochem, it is a body corporate registered in China, with limited liability and independent legal status. It is a state-owned enterprise. It purchased the investigated product from two Chinese producers Liyang and Shanghai Wujing Chemicals Co. Ltd., (hereinafter referred to as "Wujing") and exported to Pakistani during POI.

12.7 According to the information provided by Sinochem in the exporter questionnaire, Sinochem exported ****⁷MT of the investigated product to Pakistan during POI. Sinochem claimed adjustment in export price for ocean freight, inland transportation cost and bank charges.

12.8 The information submitted by Sinochem on domestic sales of its supplier Liyang in Attachment D-3-L showed that Liyang sold ****⁸ MT of the investigated product in the domestic market during POI. Liyang requested for adjustment on account of domestic freight charges.

12.9 The total domestic sales of Wujing (the other Chinese producer selling the investigated product to Sinochem) during POI were ****⁹MT. Wujing requested adjustment on account of domestic freight charges.

12.10 The information submitted by Sinochem in response to the exporter questionnaire was analyzed at the Commission and certain deficiencies were identified. Accordingly, the following data deficiencies were communicated to Sinochem vide Commission's letter dated April 16, 2005:

- "i) The export price figure given in Section B-2.1 of exporter questionnaire for UFMC in powder form is found to be different than the export price

⁷ Actual figures have been omitted to maintain confidentiality.

⁸ Actual figures have been omitted to maintain confidentiality.

⁹ Actual figures have been omitted to maintain confidentiality

figure given in the Attachment C-3. The difference in export price may kindly be explained;

- ii) In response to the question in Section B-2.1 it has been stated that due different usages of powder and granule form of UFMC, the powder form should not be listed as investigated product in this antidumping case. This point is not established unless the total exports of China to Pakistan are segregated between powder and granule form and it is established that powder is not dumped, therefore, it may not be considered as like product in this antidumping case. You are requested to kindly provide total exports sales to Pakistan separately for powder and granule form during the POI, (which were not provided);
- iii) In response to question C-1.2, it has been stated that "Once there is a reasonable margin, we confirm order with both manufacturer and customer, but this margin has not been shown in Attachment C-3. It is requested that the said margin may kindly be provided in Attachment C-3;
- iv) Reference question C-2.3 please provide packing cost incurred on domestic and export sales separately;
- v) Reference Attachment C-3, the net value in column AK does not reconcile with the amount of gross value in column L minus all adjustments in column AA, AB and AF. Please reconcile the same and explain the difference;
- vi) The total value of domestic sales of Liyang Yongan Thermoset Chemicals Co., Ltd., in the table under Section E-2 is different than the total value of domestic sales given in Attachment D-3-L, Please reconcile the figures;
- vii) It has been observed that English translation of audited reports on the accounts of three companies has been given while the English translation has not been given for balance sheets, income statements, cash flows and explanatory note. It is, therefore, requested that the English translation (in full set) of the same may kindly be provided; and
- viii) It has been observed that non-confidential summary furnished by Sinochem does not contain non-confidential summary of all the

information provided on confidential basis. Sinochem was asked to provide a complete non-confidential summary of all the information including cost of production and the audited profit/loss statement."

12.11 Sinochem was asked to provide the deficient information/data no later than April 25, 2005, so as to enable the Commission to consider and analyze the same for the purposes of this investigation. Sinochem was also informed that if it fails to provide the requisite information by April 25, 2005, the Commission may make preliminary determination on the basis of "best information available" in terms of Section 32 of the Ordinance and Article 6.8 of the WTO Agreement on Antidumping.

12.12 Sinochem in its response dated April 16, 2005 to the Commission's deficiency letter provided the following information:

- i. In Section B-2.1, the usages for both specifications (Powder and Granular) are quite different, which makes it different in prices;
- ii. The UFMC Granular Form should not be included in this anti-dumping case;
- iii. The prices used by Sinochem consist of packing materials. So Sinochem could not calculate the specific packing cost for export sales;
- iv. We will provide the amended Attachment D-3.L, D-4.L and Section E."

13. Response to the questionnaire by the Importers/Industrial Users

13.1 None of the importers responded to the importer's questionnaire. However, the Commission received comments/views on application filed by the domestic industry through attorneys for the following importers and industrial users:

Importers

- i) M/s Melcrock Traders; and
- ii) M/s Chaudhry Traders.

Industrial users

- i) M/s Marine Industry;
- ii) P.R Industry;
- iii) R.R Melamine Industries; and
- iv) AZR Melamine Industries

13.2 Views/comments of the importers and industrial users as received through their attorney, are summarized below:

- “(i) The total domestic market demand of the product concerned⁶ was 17,204 MT in the year 2003-04. Installed capacity of the domestic producers cannot meet the total domestic demand;
- (ii) The product concerned is produced in two forms (i) powder, and (ii) granule. Like product imported is in the form of powder and therefore any so called injury claimed by the Applicant should be analyzed separately for powder form and granule form because only then an appropriate causal link could be established;
- (iii) The quotations provided for the determination of normal value are not relevant, as they did not relate to the relevant producers from whom the concerned exporters purchased UFMC;
- (iv) The dumping began in the year 1993, but no proof of such dumping is provided;
- (v) The average landed cost of imports of the product concerned has always remained above the average sales price of the Applicant in the domestic market;
- (vi) Production of the Applicant has increased continuously from the year 2001-2002 till the last quarter included in the Period of Investigation (POI) i.e July - Sept 2004. Sales of the Applicant have also increased continuously from the year 2001-2002 till the last quarter included in the POI i.e July - Sept 2004. Minor reduction in the Applicant's domestic market share is due to the fact that increased domestic market demand could not be fulfilled by domestic producers, as it has to be fulfilled in any way through imports only.”

The importers have also refuted claims made by the Applicant in the application regarding injury.

⁶ Here product concerned means investigated product.

14. Preliminary Determination and Levy of Provisional Antidumping Duty

14.1 The Commission made its preliminary determination in this case on July 11, 2005 and in terms of Section 37 of the Ordinance, the Commission issued a notice of preliminary determination, which was published in the official Gazette of Pakistan⁷ and in two widely circulated national newspapers⁸ (one English language and one Urdu Language) on July 18, 2005 notifying the imposition of provisional antidumping duty on the investigated product @ 12.15 percent ad val of C&F price importable from Bluestar, @ 4.31 percent ad val of C&F importable from Sinochem, @ 14.89 percent ad val of C&F price importable from Yixing and @ 9.77 percent ad val of C&F price importable from other exporters from China for a period of four months effective from July 18, 2005. The Commission besides sending copy of notice of preliminary determination to the Embassy of China in Islamabad also sent copy of notice of preliminary determination to the Exporters, the Known Pakistani importers, and the Applicant in accordance with the requirements of Section 37(4) of the Ordinance.

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

- i. the Applicant represents the domestic industry being the major producer of domestic like product;
- ii. the investigated product and the domestic like product are alike products;
- iii. during the POI, the investigated product was exported to Pakistan by the Exporters from China, at prices below its normal value;
- iv. the volume of dumped imports of the investigated product and the dumping margins established are above the negligible and de minimis levels, respectively;
- v. the domestic industry suffered injury during the POI on account of, price depression, price suppression, loss in profits, decline in return on investment and increase in inventories, loss of market share, negative effect on cash flow, ability to raise capital (in terms of Section 15 and 17 of the Ordinance); and
- vi. the dumping margin expressed as a percentage of weighted average C&F export price works out to be 12.15 percent ad val for Bluestar, 4.31

⁷ The official Gazette of Pakistan (Extraordinary) of July 18, 2005 issue.

⁸ Daily Times and Daily Express of July 18, 2005.

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percent ad val for Sinochem, 14.89 percent ad val for Yixing and 9.77 percent ad val for other exporters from China.

15. **Hearing**

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

15.2 Hearing in this investigation was held on August 29, 2005 at 11:00 a.m upon the request of the importers and the industrial users of UFMC mentioned in para 13.1 supra. The hearing was attended by the importers of UFMC, Attorney of Importers, the Applicant (Dynea), representatives of Sinochem (the Chinese exporter) and First Secretary, Embassy of China in Islamabad. Record of hearing is placed on the public file.

16. **Written Submissions by the Interested Parties on the Preliminary Determination**

The Commission did not receive any written submission/comments from any interested party after the preliminary determination made by the Commission in this investigation. However, the importers and the industrial users mentioned in paragraph 13.1 supra through their Attorney (S.U. Khan Associates) submitted comments in hearing on the Report of Preliminary Determination. The comments of the importers and industrial users are reproduced in Column A below and the Commission's analysis and findings in respect of these comments are set out in Column B as follows:

Column A

Comments of the importers and industrial users

LIKE PRODUCT:

“UFMC imported from China and UFMC produced locally have been considered like products by the Commission without considering differences in two different types as well as varying quality among each type of UFMC. However, our submissions in this regard are as follows:

i) The UFMC is being imported in powder as well as granule form. The powder is mainly used by tableware/kitchenware industry, whereas, granules are used by the industry manufacturing electrical switches. Hence, both have different uses, different prices and therefore granules should not be mixed/compared with powder and separate (dumping/injury) should be made for both the products.

ii) Even the UFMC imported in powder form and UFMC locally produced in powder form are of different types. We were told by our clients that shelf life of imported product is around six months, whereas, the shelf life of domestic product is only 15 days. That is why the importer/user industry prefers to pay higher price for the imported product. For the same reason the Commission has rightly observed at para 18.11 of the Report under the head price undercutting that landed cost of imported product was always higher than the ex-factory price of domestic product. In addition the Commission has also observed at para 18.36 of the Report that old stock (inventory) of finished goods was valued at net realizable value and its impact was of ***** million against the profit. **This revaluation of finished stock has a direct impact on the profit and loss for the FY 2004, and the loss that year is not on account of dumped imports.** It shows that huge stocks of finished goods were lying unsold because of lower shelf life.

iii) Our clients told us that the imported product is also used for manufacturing end products for export purposes, and therefore imposition of antidumping duty (based on misleading facts) on imported product would create in competitiveness in export market.”

Column B

Analysis/findings of the Commission

LIKE PRODUCT:

To ascertain whether the domestic like product is alike in all respects or, has characteristics closely resembling those of the investigated product, a comparison is usually made in terms of the following:

- i) Raw materials used
- ii) Manufacturing process
- iii) Tariff classification
- iii) End-uses
- iv) Quality

Upon preliminary investigation the Commission determined the following:

- 1) Raw materials used by the domestic industry for the production of UFMC in powder and granule form are; (i) Methanol; (ii) Cellulose; (iii) Melamine; and (iv) Hexamine.

The producers in China also produce the investigated product by using the same raw materials.

- 2) The investigated product and domestic like products are produced by a similar manufacturing process.

- 3) The investigated product and domestic like products are classified under the same H.S Code No. 3909.1010. The investigated product and the domestic like product are used as raw material in the manufacture of tableware, kitchenware and electrical switches.

- 4) Even though the usages of powder and granule forms of UFMC may vary, the identical raw materials used, the single tariff classification for both forms, and the identical manufacturing process as well as the fact that one can be converted into the other quite easily argue for the two forms (granule & Powder) of UFMC being like products.

The comment at S.No.1(iii) does not relate to like product, however, it may be mentioned here that all taxes and duties are refunded to the exporters (under duty drawback).

Normal Value

“Determination of normal value both for Bluestar and Sinochem has been made on the basis of domestic sales prices of Liyang and Wujing. As per para 15.8 of the Report net domestic sales value per MT of each sales transaction during POI was compared with the average cost of production of Liyang during POI. As per para 15.9 this resulted in 69% of domestic sales below cost.

Similarly as per para 15.14 in case of Wujing the ex-factory sales value per MT of each transaction was compared with the average cost of production during POI. As per same para this resulted in 99.8% of domestic sales at below cost.

In both these calculations instead of ex-factory/net domestic sales price gross domestic sales price should have been compared with the cost of production of domestic sales, which would have resulted in lower sales below cost and may result in lower dumping margin for all exporters/producers. The Commission may look into this aspect and rectify the errors at preliminary stage i.e before finalizing the final determination.”

Injury Factors

Volume of Alleged Dumped Imports

“As per para 18.6 and 18.7 of the Report the imports from China are showing an increase of 27% during 2004 over last year of 2003. At the same time during 2004 as per para 18.27, the domestic industry achieved capacity utilization of 116% as against 100% during last year of 2003. It shows that overall domestic market expanded and imports from China of high quality increased and at the same time domestic industry production also increased. Since installed capacity of domestic industry is lower than the overall domestic demand, the portion of domestic demand which cannot be fulfilled by the domestic industry is required to be met by imports. Thus imports from China are helping the user domestic industry for the required quality of material, which the domestic applicant industry is unable to produce. **Hence there is no injury to domestic applicant industry on this account.**”

Normal Value

In the preliminary determination the Commission has erroneously compared ex-factory domestic sales price of Liyang and Wujing with their gross value of cost of production (instead of net cost of production) to ascertain whether sales made in the domestic market by Liyang and Wujing during POI were in the ordinary course of trade, as per Article 2.1 of Agreement on Antidumping and Sections 5 and 7 of Antidumping Duties Ordinance 2000.

In the final determination the Commission has corrected this by making necessary adjustment in the gross cost of production of Liyang and Wujing. The net domestic sales price of Liyang and Wujing will then be compared with net cost of production of Liyang and Wujing respectively.

Volume of Alleged Dumped Imports

In terms of Section 15 (2) of the Ordinance, the Commission is required to consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in Pakistan.

Accordingly, the Commission in paragraph 18.6 to 18.8 of the Report of Preliminary Determination has considered the volume of imports of UFMC during POI and on the basis of information before it concluded that dumped imports from China increased in absolute terms by 32% in FY 2004 over FY 2003 and by 27% during the period from July to September 2004. This shows that dumped imports increased in absolute terms.

The issue relating to capacity utilization is discussed below against comment No. 8 and the domestic market of UFMC and share of domestic industry in domestic market is discussed below against the comment No. 7 on market share and sales.

Price undercutting

"It has rightly been observed by the Commission that the weighted average landed cost of investigated product was always higher than the weighted average ex-factory price of domestic like product. This shows that there was no price undercutting. It should have been as such, since quality of imported product is better than the domestic product."

Price depression

"In paras 18.16 and 18.17 of the report it has been observed by the Commission that price depression was 7% during 2004, whereas, actually it was 1% (94 - 93). Even this reduction in price of 1% during 2004 was at the domestic industry's own policy because as per para 18.11 during 2004 landed cost increased by 1% over last year rather than any decrease. **Hence, so-called injury on this account should not be attributed to the alleged dumping from China.**"

Price Suppression

"As per table under para 18.19 of the Report, there was price reduction of 2% by the domestic industry during 2004 (94-92) over last year. Whereas, actual figures are 93 instead 92 as can be seen from table under para 18.16 of the Report. Again as identified in previous para even 1% reduction in price was due to the policy of domestic industry, as landed cost during this period increased by 1% as evident from table under para 18.11 of the Report. **Hence, so-called injury on this account should not be attributed to the alleged dumping from China.**"

Market Share and Sales

"Para 18.23 of the Report is showing expansion in domestic market. It is also revealing that the domestic industry sales are increasing in absolute terms during the POI. Since domestic industry has lesser capacity than the domestic demand and there is also a portion of demand, which pertains to quality product, obviously domestic industry is unable to meet this portion of the demand and that is being met by imports from

Price undercutting

The importers and industrial users accept Commission's analysis in preliminary determination.

No comments.

Price depression

Price depression means the extent to which the Applicant industry experiences a decrease in its selling prices over time.

The weighted average ex-factory price of domestic like product decreased by 5.83 percent during FY 2003 and in FY 2004 it decreased by 1.78 percent. Thus the Applicant faced price depression during part of the POI i.e. in FY 2003 and FY 2004. The price depression is actually 1.78% in FY 2004 and the figure of 7% given in para 18.17 of Report of Preliminary Determination is a typing error.

The Applicant has stated that the reason for keeping its sales price lower than the landed cost of dumped imports from China is not to loose the customers. Had the Chinese UFMC imported at normal price the Applicant would have charged a price at which it would have earned reasonable profit.

Price Suppression

Price suppression means the extent to which increases in the cost of production cannot be recovered through increase in selling price.

Comment therefore, does not relate to price suppression

Market Share and Sales

The Applicant has stated in the Application that Pak Melamine with capacity of 3000 MT could not operationalize. It has been confirmed by Pak Malamine Chemicals Ltd., itself through a letter to the Commission stating that it has completed a UFMC manufacturing unit with installed capacity of 3000 MT per annum in

China. **Thus these imports are not causing any injury to the domestic industry.** In concluding para 18.26 of the Report, the Commission has also noted that the domestic industry is producing to its full capacity. However the applicant has stated that Pak Melamine with capacity of 3000 MT could not operationalize. **The Commission has yet to confirm this aspect, however, as per the same para (18.26) it is stated that the Commission would endeavor to confirm this before the final determination.** Hence at this stage loss of market share by the domestic industry cannot be claimed. It is however obvious that the reasons for closure of Pak Melamine are other than the imports from China, since landed cost of imports from China has always remained higher than the domestic industry prices. Thus the driving force for the closure of Pak Melamine might be the lower prices of applicant industry and not the alleged dumping at higher prices.”

Production, capacity utilization

“As per para 18.27 of the Report, the capacity utilization of the domestic applicant industry is showing increasing trend and in July – Sept 2004 it was 120% of the installed capacity. Para 18.30 of the Report concludes that the **domestic industry did not suffer on account of production, capacity utilization and sales. This**

2000. The total cost of the project is Rs.110 million, out of which Rs.53 million is equity and Rs.57 million is long-term loan from NDFC. The plant is presently closed, because it cannot compete with dumped imports from China. The Applicant also claimed that its expansion plan did not materialize due to dumping of UFMC.

Had there been no dumping of UFMC from China the Applicant would have increased its capacity by making further investment. The Applicant mentioned in the hearing held on August 29, 2005 that it increased the installed capacity from 1500 MT per annum in 1986. In 1989, the Applicant added another plant with same capacity i.e. 1500 MT per annum, thereby increasing its installed capacity to 3000/MT per annum. In the year 2001, the Applicant enhanced its plant capacity for grinding of granules, due to which the production capacity increased to approximately 4000 MT per annum. In 1993, the Applicant set up another plant at Gadoon Amazai for production of UFMC with a capacity of 6000 MT per annum. The total installed capacity of the Applicant is now at 10,000MT per annum. The Applicant has plans to further enhance its installed capacity, provided there is no unfair competition from imports.

The Applicant claims that its lower price is also due to dumped imports from China. Pak Melamine in its letter written in 2002 stated that China is dumping UFMC into Pakistan and the landed cost of these dumped imports is much less than their cost of production. Given that the Pak Melamine plant was closed at the beginning of POI and also at the end of POI, however, it does not effect the analysis made by the Commission.

Production, Capacity Utilization

True, the Applicant did not suffer injury on account of production, capacity utilization and sales, nonetheless, the Applicant has stated that the plant was operated at the maximum output to reduce the cost of production and to maintain its market share through adjustments in its prices. Therefore, the capacity utilization of the Applicant did not suffer. However, the

implies that the Commission has concluded that the domestic industry did not suffer injury on account of market share as well."

Effect on Inventories

"The inventories were showing increasing trend upto FY 2004. However, these were reduced by 14% during July - Sept 2004. As obvious from para 18.36 of the Report, the domestic industry was always carrying old stock (inventory) of finished goods of millions of rupees, which were not saleable at full prices. Hence, increase in inventories was the result of poor quality/shelf life of the domestic product, which in no way can be attributed to the imports of better quality product from China. This fact i.e poor quality/lower shelf life has already been pointed out at subpara (ii) of point (1) of this submission."

Profit & Loss

"Under para 18.34 of the Report, there was a loss of (58) during 2004 against profit of 100 in base year of 2002. It was observed by the Commission that this loss was due to revaluation of old stocks (inventory) of finished product at net realizable value. After making necessary corrections, the same year of 2004 is showing profit of 6,256 against loss of (58) before rectification. **It was also observed by the Commission that this revaluation of finished stock has a direct impact on the profit & loss for the FY 2004, and the loss that year is not on account of dumped imports.** Thus, again attributing reduction in profit, which is many times higher than the base year, is not understandable. Hence, so-called injury on this account is not justified."

Applicant has stated that had there been no dumping, it could have increased its installed capacity and production.

Effect on Inventories

The importers and industrial users have not clearly established the point regarding inventories and the issue of quality and shelf life has also not been properly argued.

Therefore, no comment is warranted on this point.

Profit & Loss

The importers and industrial users have discussed the indexed number of profit & loss as given in the non-confidential report of preliminary determination.

The actual figures of the Applicant show that it earned a profit of Rs.*** in FY 2002 and Rs.*** in FY2003. The Applicant suffered a loss of Rs.*** in FY2004. During the period from July to September 2004 the Applicant suffered a loss of Rs.***.

However, the audited accounts of the Applicant for FY 2004 show that the old stock (inventory) of finished product was revalued at net realizable value and its impact of Rs.*** was charged against the profit of FY 2004. This revaluation of finished stock has a direct impact on the profit and loss for the FY 2004, and the loss that year is not on account of dumped imports. The charge of entire cumulated loss to one year was distributed over past three years. After making adjustment, the Profit and Loss figures of the Applicant for FY 2002 were Rs.***, which increased to Rs.*** in FY 2003. However, the profit declined to Rs.*** in FY 2004 and during the period from Jul - Sep-04 the Applicant incurred a loss of Rs.***.

The decline in profit in FY 2004 after adjustment on account of revaluation of inventories and incurring loss of Rs.*** was due to dumped imports, as there was no other factor, which caused this loss.

Cash Flow

“Para 18.38 of the Report shows negative cash generation from operations during 2004, however, it is still better than 2003. So during the POI there is an improvement in cash generation. Probably this cash is showing results of losses shown during 2004. When loss has been converted into profit with adjustments of revaluation of inventory of finished goods, there would definitely be positive change in cash flow and many other injury factors like price suppression, where weighted average cost of production during 2004 was higher than the weighted average sales price. That could be the situation in case of loss and not in case of profit as worked out by the Commission after adjustment on account of revaluation of old stocks (inventory) of finished goods. Hence, analysis made by the Commission in respect of cash flows is not reflecting the true picture, as it doesn't cater for adjustment, which is made by the Commission itself.”

Ability to raise capital

It was observed that the applicant's foreign and local shareholders have not received a return on their investment for the past two years. This could have been the position before adjustment on account of revaluation of old stocks. But after revaluation during last two years the profits are far more than the base year of 2002 as evident from table under para 18.36 of the Report. **Hence, after inventory adjustment the applicant's ability to raise capital has rather increased manifold.**

Investments

As per para 10.1 of the applicant's questionnaire the dumping and injury began in 1993. Thereafter, the applicant has increased its capacity, which shows that investment was not affected by imports from China. Rather closure of Pak Melamine was due to reasons other than imports from China. As imports from China has always been at a higher landed cost and quality of Chinese product was far better than the

Cash Flow

(i) Revaluation of inventories (on account of which the profits have been adjusted in para 18.36 of the report of preliminary determination) is a non-cash item. Therefore, it does not affect cash generation through operations. Adjustments in para 18.36 of the report of preliminary determination does affect the profits, but not cash generation.

(ii) The comparison of FY 2003 with FY 2004 made by importers and industrial users falls short of the entire POI. If the entire POI is considered, there is a reduction in cash generation through operations cash generation was positive in FY 2001 and FY 2002 while it was negative in FY 2003 and FY 2004.

(iii) The comments by importers and industrial users therefore do not change the conclusions arrived at by the Commission in the report of preliminary determination.

Ability to raise capital

The Applicant profits declined in FY 2004 and during the period from July- Sep. 2004 it suffered losses. Its financial credibility has therefore suffered, both with its shareholders and the lending banks. The Applicant has faced difficulty in obtaining running finance from the banks.

Losses cited are after adjustment for inventories revaluation.

Investments

The issue raised by importers and industrial users relates to a period not covered by the POI.

domestic product, therefore it clearly indicates that imports from China are catering a special quality material and thus not in any way hampering domestic investment in this industry.

Employment

The Commission itself concludes that the applicant was not materially injured on productivity and employment during the POI.

Growth

As stated earlier, imports from China are not hampering investment and growth in this industry; rather high quality imports from China are encouraging the growth of user industry, especially for export purposes.

Employment

No Comment

Growth

The importers and industrial users have not substantiated its alternative point of view.

17. Disclosure of Essential Facts

17.1 In terms of Rule 14(8) of the Rules and Article 6.9 of Agreement on Antidumping, the Commission disclosed the essential facts, and in this context dispatched Statement of Essential Facts (hereinafter referred to as the "SEF") on September 27, 2005 to all interested parties including the Applicant, the Exporters, the importers, and to the Embassy of China in Pakistan.

17.2 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. One Chinese exporter i.e. Bluestar, an importer i.e. Star Corporation and the Applicant submitted views/comments on the SEF. Such comments received and germane to the investigation under the Ordinance are reproduced in Column A below and the Commission's analysis and findings in respect of these comments are set out in Column B as follows:

Column A	Column B
<p><u>Comments of Bluestar</u> Comment 1</p> <p>Determination of normal Value</p> <p>"It has been mentioned in the paragraph 15.8 of the Report of preliminary determination that "In order to determine whether sales of Liyang in the domestic market were made in the ordinary course of trade in terms of Section 7 of the Ordinance, the net domestic sales value per MT of each sales transaction (given in the revised attached D-3) during POI was compared with the average cost of production of Liyang during POI."</p>	<p><u>Analysis/finding of the Commission</u></p> <p>The Commission has revised its calculation of normal value for Liyang. Freight charges have been deducted from gross domestic sales price, to arrive at net domestic sales price. Similarly the cost of production of Liyang has also been adjusted for domestic freight charges. Net domestic sales prices of Liyang during POI have been compared with net cost of production during POI in order to determine whether sales of Liyang in the domestic market were made in the ordinary course of trade in</p>

In the calculations for whether or not sales are made below COP, the Commission used "net domestic sales" to compare with the unit COP. Moreover, the Commission compared the weighted average COP of the entire POI with the "net domestic price" transaction by transaction. We believe that the comparison should be made at the same level and in a reasonable period of time.

To that end, the domestic sales price and COP used in the comparison shall contain the similar cost components. That is, if the domestic sales price contains "freight" then the COP shall also contain "freight", value vice versa.

The "net domestic sales" used by the Commission is the value net of domestic transportation fee, however, on the other hand, the COP contains transportation fee it is component in the manufacturing cost. Thus the NTC has been conducted comparison in an uneven way, by reason that the COP contains transportation fee but the "net domestic price" does not.

Further, "a reasonable period of time" requirement means that the cost fluctuation should also be take into account in the comparison.

Comment 2

Adjustment on export price

1) We did not report the Commission/margin in Attachment C-3 when submitted the Questionnaire first time. After receiving deficiency letter from the Commission dated April 11, 2005, we explained the reason why not reporting the Commission/margin. However, we reported figures under the column "Commission/gross profit" on transaction-by-transaction basis, because we believed that the mark-up received by Bluestar would result in an unfair comparison between Normal Value and Export price.

terms of Section 7 of the Ordinance.

As regards the comparison of the average COP for the entire POI with that of net sales price with on transaction by transaction basis, it may be mentioned that Bluestar provided an average COP for entire POI and not separate cost. It may be mentioned that the cost recorded in the ledger for overheads and labour normally is taken on the basis of yearly averages. The cost of raw materials may change due to change in prices of raw materials. But in this case the cost of raw materials charged in the ledger does not reconcile with the average monthly purchase price and imports for monthly production. Hence average cost has been used.

It is true that Bluestar did not give details of Commission/Gross Profit in its initial response. In its response, Bluestar in Attachment C-3 showed Gross Profit/commission at US\$****, which worked out to be US\$****/MT. During on the spot verification the figure of Gross Profit/commission was verified, which worked out to be US\$****/MT. The verification visit report, which had details of these calculations, was sent to Bluestar and was accepted. The net export price works out to be sale price of Liyang plus four percent of VAT.

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The above mentioned mark-up is the amount added to the purchase cost of Bluestar to cover overheads incurred in the progress of export sales and to provide profit. So we can use the following formula to list the components of the mark-up:

Mark-up = Overheads + Profit

Overheads = Inland freight + Ocean freight + Bank charge + other expenses

Mark-up = Inland freight + Ocean freight + Bank charge + Other expenses + Profit

When we calculate the net export price, we use the following formula:

Net export price = Gross Value - Credit Cost - Inland freight - Ocean freight - Bank charge - Commission/Gross Profit

If the Commission/Gross Profit is equal to Mark-up, we can unfold the formula of Net export price as follows:

Net export price = Gross Value - Credit Cost - Inland freight - Ocean freight - Bank Charge - Inland freight - Ocean freight - Bank charge - Other expenses - Profit

Obviously, the Inland freight, Ocean freight and Bank charge overlap in the formula and are deducted twice when calculating the Net export price.

This would violate Article 2.4 of Agreement on Implementation of Article VI of the General Agreement of Tariffs and Trade 1994, and caused unfair comparison between Normal Value and Export Price. So we request that all of the Inland freight, Ocean freight and Bank charge be deducted from the Commission/Gross Profit.

2) Except the difference in Bank Charge, we still found that the "Commission/Gross Profit" used by Commission to calculate the export price was so high that we cannot get it even using your formula. After analyzing all the figures you have used, we believed that you must have used a wrong number of Purchase price of Bluestar when calculating the "Commission/Gross Profit." We would

Even conceptually bank charges are reported in net profit section after Gross Profit. Therefore, the plea of exporter in this regard is not properly grounded. Please also refer to para 11.1 of on the spot verification report, which shows the formula for Gross Profit/commission. It does not include bank charges. Hence there is no double counting.

respectfully request the Commission to check the correct data of purchase price we have submitted in our comments dated August 17, 2005.

Comment 3

Market share and Sales

“Paragraph 18.25 of the report states that the domestic producer’s market share has declined and jumps to a conclusion in its paragraph 18.26 that there exists injury of the domestic industry.

In fact, under the circumstances of the increase of both the absolute production volume and the sales volume of the Pakistani domestically manufactured product, the decrease of its market share is merely the result of its slightly lagging behind in taking up the newly developed market share than that of the imported products, rather than the imported product substitute the market held by the Pakistani domestically manufactured product. The reason that the domestically manufactured product lags behind in catching up newly developed market than that of the imported product is not due to the surge in imports and the dumping of low sales prices rather is the result of limitation caused by its own capacity restraints.

The report clearly pointed out that the production capacity of Pakistani domestic industry has increased continuously and the production has sometime exceeded the production capacity. Although its capacity utilization reaches as high as 120%, it still cannot meet the ever growing market demands, so the imported product has timely made up for gap caused by the new demands.

All in all, the increase in imports of the product from China is to fill up the ever-growing domestic consumption, rather than to substitute the market share held by the domestic industry, so it will by no means cause injury to the Pakistani domestic industry.”

The Applicant informed in the hearing held on August 29, 2005 that it increased the installed capacity from 1500 MT per annum in 1986. In 1989, the Applicant added another plant with same capacity i.e. 1500 MT per annum, thereby increasing its installed capacity to 3000/MT per annum. In the year 2001, the Applicant enhanced its plant capacity for grinding of granules, due to which the production capacity increased to approximately 4000MT per annum. It set up another plant at Gadoon Amazai having capacity of 6000 MT per annum. The total installed capacity of the Applicant is now at 10,000MT per annum. Had there been no dumping of UFMC from China the Applicant would have increased its capacity by making further investment. The Applicant has also claimed that its expansion plan did not materialize due to dumping of UFMC.

Pak Malamine Chemicals Ltd., informed the Commission through a letter that it has established a UFMC manufacturing unit with installed capacity of 3000 MT per annum in 2000. The total cost of the project is Rs.*** , out of which Rs.*** is equity and Rs.*** is long term loan from NDFC. The plant is presently closed, because it cannot compete with dumped imports from China.

Comment 4

Price Depression

“Data in paragraph 18.16 of the Report show that the sales price of domestically manufactured product in FY 2003 and FY 2004 declined slightly, and increased in the July – September in 2004, which only manifests the fluctuation of the product price.

From paragraph 18.19 of the Report, we find that the cost of production from FY 2003 to 2004 for Pakistani domestic industry has declined and later began to rebound in July – Sep. of 2004, such trend is closely corresponding to the sales price changes.

For instance, from FY 2002 to FY 2003, the cost of production (“COP”) for domestically manufactured product had decreased by 10%, in the same period of time, the domestic product price decrease by 6%, from FY 2004 to July – Sep. 2004, the COP increased by 5%, and the price also increased by 5%.

Thus, such decrease in sales price of domestic product is because of the decline of cost, it should in no case be attributed to the imports of Chinese products.”

Comment 5

Profit & Loss Analysis

“Paragraph 18.34 – 18.36 of the Report makes an analysis of its domestic industry’s profit and loss condition and deduces that the domestic industry suffers injury. But through the following analysis, we can see the findings of injury not supported by facts.

It can be inferred from paragraph 18.36 of the Report that the petitioners made an adjustment of the inventory value based on its net realizable value in FY 2004 only, so such adjustment of value of stocks of finished product at the end of accounting period is not the normal accounting practice for the petitioner. The petitioner may hide its real financial status to produce a false image of bad

Analysis of figures in paragraphs 18.16 to 18.21 shows that average COP of Applicant decreased by Rs.****/MT, a decrease of 9.27 percent in FY 2003 vis-à-vis previous year’s COP, whereas, the average ex-factory price of the domestic like product decreased by Rs.****/MT, a decrease of 5.83 percent in the same period. Thus in 2003 the Applicant’s sales and profit increased. Had there been no dumping the Applicant would not have lowered the price and would have earned higher profit.

In FY 2004 the average COP of Applicant increased by Rs.****/MT or 4.04 percent, while the average ex-factory sales price decreased by Rs.***/MT a reduction of 1.79%. Thus, the Applicant was unable to recover the increase in COP, rather it was forced to reduce the average sales price by 1.79%. The Concluded that the Applicant has suffered price depression and suppression in FY 2004.

The COP increased by Rs.****/MT (an increase of 4.66 percent) during the period from July to September 2004, whereas, average ex-factory price increased by 4.45%, showing a slight price suppression.

The information provided by the Applicant shows that it earned a profit of Rs.**** in FY 2002. The profit increased to Rs.**** in FY 2003 (an increase of 348%). However, in FY 2004 the Applicant’s profit turned into loss of Rs.****. The audited accounts of the Applicant for FY 2004 show that the old inventory of finished product (accumulated over last three years) was revalued at net realizable value and it has a direct impact on the profit.

In order to evaluate the impact of dumped imports on profit and loss of the Applicant, its profit/loss was adjusted on account of revaluation of inventory stock at net realizable

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profit or even negative profit position, by changing its continuously applied accounting principles to create a false image of loss.

Besides, we consider it unreasonable for Commission to allocate the amount of adjusted stocks value of FY 2004 to the two previous fiscal years and FY 2004.

Firstly, the stock value adjustment is only for the inventory loss at the end of FY 2004 only, rather than for the entire cumulated loss for the three successive fiscal years, since there should be stock value and its corresponding loss at the end of each fiscal year, so the practice of allocating this term's loss into the previous fiscal year's account is baseless and against the accounting principles.

Secondly, the adjustment for stock value at the end of the period is not the continuous accounting practice applied by the petitioner. In conformity with the consistency principle of accounting practice, the petitioner shall neither make an adjustment of the stock value at the end of FY 2004, nor shall it make an adjustment of the stock value for any previous financial accounts for the antidumping investigation purposes.

Based on the aforesaid analysis, we believe that the petitioner's real profit and loss status is the status prior to such adjustment of stock value, i.e., the Commission shall neither make an adjustment of the stock value at the end of FY 2004, nor make an allocation of the difference between stock book value and realizable value at the end of FY 2004 to over three years.

Thus, we would respectfully ask the Commission to reevaluate the profit and loss condition of the petitioner to reflect the petitioner's authentic financial position and thus a reasonable conclusion, such conclusion shall be made by the Commission with a full consideration of all the factors having a bearing on the petitioner's profit and loss position".

value. The profit and loss figures after adjustment shows that Applicant's profit increased by 14712% in FY 2003 and then decreased in FY 2004 by 57.76%. During the period from July to September 2004 the Applicant suffered loss of Rs.**** million.

The Commission has analyzed all the factors having a bearing on the Applicant's profit and loss position and concluded that the decline in profit in FY 2004 and suffering a loss during the period from July to September 2004 is on account of dumping of UFMC from China.

Comment 6

Cash Flow Analysis

“Paragraph 18.38-18.40 of the Report makes an analysis of its domestic industry’s cash flow condition and deduces that the domestic industry suffers injury. But though the following analysis, we can see the finding of injury is only based on the superficialities rather on detailed analysis.

In paragraph 10.7 of the Application, the petitioner asserted that “before dumping started sales of moulding compound were on payment in advance/cash basis... and now we have to give 20-30 days credit to maintain our market share”, and the petitioner also asserted in paragraph 10.1 of the Application that “Dumping began in year 1993...”.

That is to say, the payment terms were in advance/cash basis before 1993, and then turn to 20-30 days credit after 1993. So we can deduce that the payment term was the same 20-30 days credit during FY 2002, FY 2003 and FY 2004.

Our further deduction is, according to Appendix-9 of the Application, since the ex-factory sales increased yearly, the cash inflows from the sales revenue should increase yearly under the same payment terms. But the paragraph 18.38 of the report shows that the cash flow from operations in 2002 was positive, why they were all negative during 2003, 2004 and Jul-Sep 2004?

The only examination for the negative cash flow shown on paragraph 18.38 of the Report is there must be abnormal cash outflows which can not be attributed to the dumped imports. So the cash flow has not been influenced by the dumped imports. We require Commission to further review all the factors having a bearing on the cash flow.”

The Applicant mentioned in the application that dumping of UFMC started since 1993, but for the purpose of this investigation the POI for determination of injury is from July 1, 2001 to September 30, 2004. Therefore, the period from 1993 to 2000 has not been analyzed in this investigation (being outside POI).

The cash generation of the Applicant during POI has been analyzed in paragraph 18.39 of the preliminary report which shows that cash generated has reduced over time and the trade debtors have increased over time which confirms the Applicant’s claim that to maintain market share it had to rely more on credit sales due to dumping.

Comment 7

Ability to Raise Capital Analysis

All the petitioner's assertion related to this issue lacks concrete evidence. We are of opinion that the conclusion shall be on the basis of a comprehensive analysis of all the pertinent indicators in the petitioner's financial reports concerning its capital raising ability, rather than on an unproved assertion. The finding reached by the Commission in the paragraph 18.41-18.42 may not be in consistence with the stipulation of Article 3.7 of the WTO Antidumping Agreement, which states that a determination of a threat of material injury shall be based on facts and not merely on allegation, conjecture or possibility.

The financial reports of the Applicant have been analyzed in the Commission, which show that its profit (after making adjustment on account of revaluation of inventory at net realizable value) declined in FY 2004 and it suffered loss during the period from July to September 2004.

Due to poor financial results of the Applicant the banks have reduced their credit lines, some by as much as 50%.

Comment 8

Investment Analysis

As for injury analysis from the investment aspect, the petitioner has raised two issues; the first is the domestic industry's to establish a new factory due to the dumped

Commission's analysis/finding against comment 3 referred.

imports; the second is the newly established factory couldn't begin its normal production because of the dumped imports. We found no evidence is in support of these assertions and no substantive analysis has been made, thus, an injury finding should not be simply based on the petitioner's assertion.

We note that the Commission states in paragraph 18.26 of the Report that the conditions of Pak Melamine Factory is merely the petitioner's assertion which is yet to be verified by the Commission the Report failed to make a sound judgment with respect to the petitioner's first assertion, in particular, it does not explain why Pakistani domestic industry is unable to make investment to enlarge its production capacity given the fact that the domestic industry enjoys booming production and sales, its utilization exceeds production capacity, and its sales price is much lower than that of Chinese imported product.

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Star Corporation (Importer)

Comment 1

In our letter of 6th Sept. we have mentioned about Pak Melamine, to enquire where is this project situated & had Rs.120 million invested on it & than why it is a dormant project, if it is situated, somewhere.

Commission's analysis/finding against comment 3 of Bluestar referred.

Comment 2

We mentioned earlier in our letter that M/s Dynea plant is based on obsolete technology & the Chinese plants use the modern technology.

The officials of the Commission visited the plants of the Dynea as well as of the Chinese producers, the production technology used by Dynea and Chinese producers is almost the same. Dynea has set up a new plant at Gadoon Amazi with a capacity of 6000MT per annum, which is based on relatively new technology.

Due to the technology difference M/s Dynea will always show losses, as their cost input of raw material is more.

Comment 3

M/s Dynea has production capacity of 10,000 MT/year but they produced 11200 MT & sold all what they produced.

Dynea has not claimed injury on account of production and capacity utilization and there is no finding of the Commission either in this regard.

They still claim that they are injured by the Chinese imports.

Dynea Pakistan Limited (Applicant)

Comment 1

You have based the calculation of export price on the export invoices provided by the exporters. Since it is obvious from your investigations that there was association and compensatory arrangement between the exporters and the importers, the export price should be constructed on the basis of the price at which imported products were first resold to an independent buyer.

Commission has calculated the export price for Bluestar and Sinochem on the basis of information provided by them on the Exporter Questionnaire, which was verified during on the spot investigation at the premises of Chinese exporters.

The information available with the Commission does not establish any relationship between the exporters and importers, therefore, all export sales transaction of Chinese exporters have been considered to be at arms length.

Comment 2

The invoices provided by the Chinese exporters have not been placed in the public file so that they can be examined by interested parties. This is against the principle of transparency, which is the guiding principle of antidumping investigations. No information will be divulged from these invoices, which is not available from the non-confidential information supplied by the exporters.

The invoices of export sales were provided by Chinese exporters on confidential basis in terms of section 32 of the Ordinance and therefore, cannot be placed in the public file.

B. DETERMINATION OF DUMPING

18. Determination of Dumping

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

19. Normal Value

19.1 In terms of Section 5 of the Ordinance “normal value” is defined as follows:

“a comparable price paid or payable, in the ordinary course of trade, for sales of a like product when destined for consumption in an exporting country”.

However, Section 6 of the Ordinance states:

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

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

19.2 As stated in paragraph 6.2.1 supra the Commission sent questionnaires to three Chinese exporters, selected in the sample, to gather information/data, including data relating to their sales in the domestic market, export sales and cost of production. Two exporters (i.e. Bluestar and Sinochem) provided information on the exporters questionnaire, and the normal value for these two exporters is determined on the basis of domestic sales price information relating to Chinese Producers i.e., Liyang and Wujing. While the third exporter i.e. Yixing did not respond to the exporters questionnaire. Thus, the normal value for the purposes of this final determination for Yixing is determined on the basis of the best information available in terms of Section 32 of the Ordinance and Article 6.8 and Annex II of the Agreement on Antidumping. Section 32 of the Ordinance provides as follows:

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

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

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- (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".

19.3 It is important to identify here that the Commission duly informed Yixing of its resort to the best information available in its letters of April 4, 2005 due to Yixing "non-response".

Determination of Normal Value for Bluestar:

19.4 In order to determine the normal value for Bluestar, the information of domestic sales made by Liyang during POI (provided in Attachment D-3 of the exporters questionnaire response) was analyzed. According to this information, Liyang's total domestic sales during the POI were ****¹⁰MT. Bluestar claimed adjustment for domestic freight charges. By deducting the average domestic freight charges, the net weighted average domestic sales price (ex-factory) works out to be ****¹¹/MT.

19.5 Sinochem also purchased the investigated product from Liyang for export to Pakistan during POI. However, Sinochem in Attachment D-3 of its exporters questionnaire response reported Liyang's total domestic sales during POI to be ****¹²MT. These domestic sales figures did not correspond with the figures provided by Bluestar.

19.6 During on the spot investigation at the offices of Liyang, the difference in the domestic sales figures provided by Bluestar and Sinochem in their respective Attachment D-3 was identified and Liyang was asked to provide a revised Attachment D-3. Liyang provided a revised Attachment D-3 (which was verified during on-the-spot investigation), after making corrections for the following:

- i) Attachment D-3 furnished with questionnaire response contained some domestic sales of Melamine Moulding Powder, which were deleted (as these sales were not sales of the investigated product); and
- ii) Some typographic errors in Attachment D-3.

19.7 According to the revised Attachment D-3, (after verification by Commission staff) the total domestic sales of Liyang during POI were ****¹³ MT. Sales made to Sinochem for export to Pakistan of 87MT were also reflected in the revised Attachment D-3. These sales have also been excluded and total domestic sales of Liyang thus worked out to ****¹⁴ MT. In case of transaction Sr. No. 708 in the revised Attachment D-3, the value of sales is negative while the

¹⁰ Actual figures have been omitted to maintain confidentiality.

¹¹ Actual figures have been omitted to maintain confidentiality.

¹² Actual figures have been omitted to maintain confidentiality.

¹³ Actual figures have been omitted to maintain confidentiality.

¹⁴ Actual figures have been omitted to maintain confidentiality.

quantity is positive by ****¹⁵ MT. This transaction appears to be a sales return. Hence, the total domestic sales have been further reduced and the net domestic sales after these adjustments were ****¹⁶MT during the POI. The cost of production of Liyang during POI, as verified during on the spot investigation, works out to RMB ****¹⁷/MT.

19.8 In order to determine whether sales of Liyang in the domestic market were made in the ordinary course of trade in terms of Section 7 of the Ordinance, the net domestic sales value per MT of each sales transaction (given in the revised Attachment D-3) during POI was compared with the net cost of production (after deduction of domestic freight charges) of Liyang during POI. Section 7 of the Ordinance provides as follows:

“(1) The Commission may treat sales of a like product in domestic market of an exporting country or sales to 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:

- i. a weighted average selling price of transactions under consideration for the determination of normal value is below a weighted average cost; or
- ii. 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 all 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.”

¹⁵ Actual figures have been omitted to maintain confidentiality

¹⁶ Actual figures have been omitted to maintain confidentiality.

¹⁷ Actual figures have been omitted to maintain confidentiality.

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19.9 The analysis showed that out of total domestic sales of ****¹⁸ MT during POI, 51% of total domestic sales were made;

- i) at prices that were below cost;
- ii) over an extended period of time; and
- iii) at prices which do not provide for the recovery of all costs within a reasonable period of time

Therefore, sales below cost of ****¹⁹MT are excluded from the total domestic sale of Bluestar in pursuance of Sections 7(1) and 7(2) of the Ordinance for the purpose of determination of normal value as these sales were made out side the ordinary course of trade. The remaining domestic sales of Liyang of ****²⁰MT made in the ordinary course of trade have been used for determining normal value. These domestic sales made in the ordinary course of trade are above the threshold of 5% of export sales of Bluestar to Pakistan.

19.10 The total value of these domestic sales was RMB ****²¹. Deducting the average domestic freight charges of RMB ****²²/MT from the gross domestic price of ****MT the weighted average adjusted ex-factory normal value works out to be ****²³MT.

Determination of Normal Value for Sinochem

19.11 As stated in paragraph 19.5 above, Sinochem purchased the investigated product from Liyang in powder form and from Wujing in granule form. In order to determine normal value for Sinochem, the information on domestic sales made by Liyang and Wujing during POI (provided in Attachment D-3 of the exporter questionnaire response of Sinochem) was, therefore, analyzed.

19.12 As, the weighted average adjusted ex-factory normal value of ****²⁴MT has been established for Liyang in paragraph 19.6 to 19.10 above, the same has been used for Sinochem. The domestic sales of Liyang of ****²⁵MT were also greater than the threshold of 5% of exports sales of Sinochem to Pakistan as required under Section 7 of the Ordinance.

19.13 As regards Wujing, Sinochem provided information of Wujing's domestic sales of granules during POI in Attachment D-3-W. Wujing sold ****²⁶MT in the domestic market

¹⁸ Actual figures have been omitted to maintain confidentiality.

¹⁹ Actual figures have been omitted to maintain confidentiality.

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²¹ Actual figures have been omitted to maintain confidentiality.

²² Actual figures have been omitted to maintain confidentiality.

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²⁴ Actual figures have been omitted to maintain confidentiality.

²⁵ Actual figures have been omitted to maintain confidentiality.

²⁶ Actual figures have been omitted to maintain confidentiality.

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during POI. This information was verified during on the spot investigation conducted at the premises of Wujing.

19.14 The weighted average domestic sales price of Wujing works out to ****²⁷MT. The cost of production of Wujing during POI was ****²⁸/MT. In order to determine that the sales in the domestic market are made in the ordinary course of trade in terms of Section 7 of the Ordinance, the ex-factory sales value per MT (after deduction of domestic freight charges) of each domestic sales transaction (given in the revised Attachment D-3-W) during POI was compared with the net cost of production (after deduction of domestic freight charges) during POI. The analysis showed that out of total domestic sales of ****²⁹MT during POI, ****³⁰MT (99.8% of total domestic sales) were made at prices that were below cost over an extended period of time and which did not provide for recovery of all costs within a reasonable period of time. The remaining domestic sales of 0.14% of total domestic sales were in the ordinary course of trade. Since the sales below cost are more than 20% of total domestic sales during POI, these will be excluded for the purposes of determining normal value, in terms of Section 7 of the Ordinance. Thus normal value for Wujing has been determined in accordance with Section 6 (1) of the Ordinance, which reads as follows:

- “(1) When there are no sales of a 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) a 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 profit.”

19.15 Since there were no export sales of the investigated product by Wujing to a third country during the POI, the normal value for Wujing has been constructed. While constructing the normal value, raw materials cost has been calculated on the basis of average purchase price of formaldehyde, urea, wood pulp and urotropine of Wujing and its average usage in the production of one MT of UFMC, as given by Wujing. Since Wujing has provided information on only these raw materials, the cost of other raw materials, as used by Liyang, have been used in construction of raw materials cost. All other expenses have been taken on the basis of data furnished by Wujing. The profit margin on sales of Liyang has been taken. On these assumptions, the constructed normal value for Wujing works out to ****³¹

²⁷ Actual figures have been omitted to maintain confidentiality

²⁸ Actual figures have been omitted to maintain confidentiality

²⁹ Actual figures have been omitted to maintain confidentiality.

³⁰ Actual figures have been omitted to maintain confidentiality

³¹ Actual figures have been omitted to maintain confidentiality.

Determination of Normal Value for Yixing

19.16 Since Yixing did not respond to the exporters questionnaire, the normal value for the purposes of this finaldetermination for Yixing is determined on the basis of the best information available in terms of Section 32 of the Ordinance and Article 6.8 and Annex II of the Agreement on Antidumping.

19.17 During POI Yixing exported the investigated product to Pakistan in powder form. As Liyang also produces the investigated product in powder form, the weighted average ex-factory domestic sales price of ****³²/MT of Liyang has been used, being the "best information available".

20. Export Price

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

Determination of Export Price for Bluestar:

20.2 To determine export price charged by Bluestar from Pakistani importers during the POI, the Commission has used the information provided in Bluestar's response to the exporters questionnaire and further information obtained during on-the-spot investigation.

20.3 According to the information provided to the Commission in Attachment C-3 of the exporters questionnaire, Bluestar exported ****³³MT of the investigated product to Pakistan during POI at weighted average C&F price of ****³⁴/MT. Bluestar exported most of the quantity of the investigated product to Pakistan at 30 days credit. Therefore, it has claimed adjustment for credit cost. Bluestar also claimed adjustment for ocean freight, inland transportation and export ancillary cost. After making adjustment for credit cost, ocean freight and inland transportation cost, the adjusted export price works out to be ****³⁵/MT at the ex-factory level. Bluestar claimed that the packing cost of the investigated product exported to Pakistan was higher by ****³⁶/MT. By deducting the difference in packing cost between domestic and export sales the weighted average export price at ex-factory level comes to ****³⁷/MT.

20.4 The information provided by Bluestar was deficient, and the Commission communicated these deficiencies to Bluestar (para 11.4 supra). In response to which Bluestar

³² Actual figures have been omitted to maintain confidentiality.

³³ Actual figures have been omitted to maintain confidentiality.

³⁴ Actual figures have been omitted to maintain confidentiality.

³⁵ Actual figures have been omitted to maintain confidentiality.

³⁶ Actual figures have been omitted to maintain confidentiality.

³⁷ Actual figures have been omitted to maintain confidentiality.

revised its Attachment C-3. The Attachment C-3 as revised was verified during on the spot investigation.

20.5 According to the information/data received from Bluestar (revised Attachment C-3) in response to the Commission's data deficiency letter of April 11, 2005 and the information verified during on-the-spot investigation, it exported ****³⁸MT of the investigated product to Pakistan during the POI. Bluestar sold the investigated product to Pakistani importers on C&F, Karachi basis. The weighted average C&F export price charged by Bluestar from Pakistani importers during the POI was ****³⁹MT. All export sales were made to un-related parties.

20.6 To arrive at ex-factory export price, Bluestar reported adjustments in the revised Attachment C-3 on account of, (i) inland freight (ii) ocean freight (iii) bank charges, (iv) interest cost and (v) gross profit/commission. Bluestar also stated in the questionnaire response that the packing cost of UFMC exported to Pakistan is higher by ****⁴⁰MT as compared to cost of packing material of UFMC sold in the domestic market. There is 17% VAT on the domestic sale of UFMC in China. The price charged by Liyang from Bluestar on the sale of UFMC includes 17% VAT. However, on export of UFMC 13% VAT is refunded and 4% VAT remains included in the export price charged by Bluestar from the Pakistani importer. To make an adjustment for 4% VAT an amount of ****⁴¹MT is also deducted from the weighted average export price. After making these adjustments, the weighted average adjusted export price at ex-factory level, for Bluestar, works out to ****⁴²MT.

Determination of Export Price for Sinochem:

20.7 To determine export price charged by Sinochem from Pakistani importers during the POI, the Commission has used the information provided by Sinochem in its response to the exporters questionnaire and further information obtained during on-the-spot investigation.

20.8 According to the information provided to the Commission in Attachment C-3 of the exporters questionnaire, Sinochem exported ****⁴³MT of the investigated product to Pakistan during POI.

20.9 The ex-factory export price is calculated by making adjustments for inland transportation cost, ocean freight and bank charges from the weighted average C&F price. The export price at the ex-factory level works out to ****⁴⁴MT.

³⁸ Actual figures have been omitted to maintain confidentiality.

³⁹ Actual figures have been omitted to maintain confidentiality.

⁴⁰ Actual figures have been omitted to maintain confidentiality.

⁴¹ Actual figures have been omitted to maintain confidentiality.

⁴² Actual figures have been omitted to maintain confidentiality.

⁴³ Actual figures have been omitted to maintain confidentiality.

⁴⁴ Actual figures have been omitted to maintain confidentiality.

20.10 During on-the-spot investigation a number of mistakes were identified. Sinochem provided a revised Attachment C-3, which was also verified.

20.11 According to the information/data provided by Sinochem in the revised Attachment C-3, as verified by the Commission's staff, Sinochem exported ****⁴⁵MT of the investigated product to Pakistan during the POI. Sinochem sold the investigated product to Pakistani importers on C&F, Karachi basis. Out of ****⁴⁶MT of investigated product exported by Sinochem, ****⁴⁷MT were in powder form (purchased from Liyang) and ****⁴⁸MT in granule form (purchased from Wujing). The weighted average C&F export price charged by Sinochem from Pakistani importers during the POI for investigated product in powder form was ****⁴⁹MT and for granule form was ****⁵⁰MT. All export sales were made to un-related parties.

20.12 To arrive at ex-factory export price, Sinochem sought adjustments on account of: (i) inland freight (ii) ocean freight (iii) bank charges and (iv) gross profit/commission. There is 17% VAT on the domestic sale of UFMC in China. The price charged by Liyang from Bluestar on the sale of UFMC includes 17% VAT. However, on export of UFMC 13% VAT is refunded and 4% VAT remains included in the export price charged by Bluestar from the Pakistani importer. To make an adjustment for 4% VAT an amount of ****⁴¹MT is also deducted from the weighted average export price. After making these adjustments, the weighted average adjusted export price at ex-factory level, for Sinochem works out to ****⁵¹MT and ****⁵²MT respectively for UFMC in Powder Form and Granule Form.

Determination of Export Price for Yixing

20.13 Since Yixing did not respond to the exporters questionnaire, export price for Yixing has been calculated on the basis of best available information, which is the import data obtain from PRAL. According to PRAL data, during POI Yixing exported ****⁵³. The weighted average C&F price of Yixing works out to be ****⁵⁴MT. The adjustments in export price claimed by Bluestar have been used to arrive at ex-factory export price of Yixing. Bluestar claimed and verified adjustments on account of: (i) inland freight, (ii) ocean freight (iii) bank charges, (iv) interest cost and (v) gross profit/commission. Bluestar also stated in the exporters questionnaire response that the packing cost of the investigated product exported to Pakistan is higher by US\$ ****⁵⁵MT as compared to cost of packing material of the investigated product

⁴⁵ Actual figures have been omitted to maintain confidentiality.

⁴⁶ Actual figures have been omitted to maintain confidentiality.

⁴⁷ Actual figures have been omitted to maintain confidentiality.

⁴⁸ Actual figures have been omitted to maintain confidentiality.

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⁵⁴ Actual figures have been omitted to maintain confidentiality.

⁵⁵ Actual figures have been omitted to maintain confidentiality.

sold in the domestic market. There is 17% VAT on the domestic sale of UFMC in China. The price charged by Liyang from Bluestar on the sale of UFMC includes 17% VAT. However, on export of UFMC 13% VAT is refunded and 4% VAT remains included in the export price charged by Bluestar from the Pakistani importer. To make an adjustment for 4% VAT an amount of ****⁴¹MT is also deducted from the weighted average export price. After making these adjustments, the weighted average adjusted export price at ex-factory level, for Yixing works out to ****⁵⁶MT.

20.14 The information provided by Bluestar and Sinochem in the exporters questionnaire response and further information obtain during on-the-spot investigation at the premises of these two Chinese exporters revealed that the value of exports has been under-reported by PRAL, apparently in error, to the extent of 4.68% by Bluestar and 21.74% by Sinochem. It is assumed that the export price of Yixing is also under-reported by PRAL, apparently in error, by 4.68% and accordingly the export price of Yixing has been increased by 4.68%.

21. Dumping Margin

21.1 Section 12 of the Ordinance provides three methods for fair comparison of normal value and export price in order to establish dumping margin. The Commission has established dumping margin by comparing weighted average normal value with weighted average export price at ex-factory level.

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

21.3 The Commission has limited its investigation to three exporters from China. Individual dumping margins have been determined for the three exporters who are selected in sample and the rate for antidumping duty for these exporters is established on the basis of individual dumping margins. Rate of antidumping duty for the other exporters/foreign producers from China who have not been investigated in this investigation, is established in accordance with Section 51(3) of the Ordinance.

⁴¹ Actual figures have been omitted to maintain confidentiality.

⁵⁶ Actual figures have been omitted to maintain confidentiality.

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

21.5 Taking into account all requirements set out above, the dumping margin has been calculated as follows:

	Dumping margin as percentage of C&F export price (%)
Bluestar	10.61
Sinochem	3.43
Yixing	11.58
Other Chinese Exporters	7.80

C. INJURY TO DOMESTIC INDUSTRY

22. Determination of Injury

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

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

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

Alleged material injury to the domestic industry is summarized in the following paragraphs.

Domestic Industry

22.2 In terms of Section 2(d) of the Ordinance, domestic industry is defined as follows:

“domestic producers as a whole of a domestic like product or those of them whose collective output of that product constitutes a major proportion of the total domestic production of that product.”

22.3 The Applicant is the major producer of domestic like product in Pakistan and represents 83 percent of the total domestic production of domestic like product and hence the major portion of the domestic industry. It started its commercial production in 1983. The

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Applicant's installed production capacity of the domestic like product is 10,000MT per annum.

Name of the Unit	Installed Capacity MT	Domestic Production MT
Dynea Pakistan Ltd.	10,000	11,551
K.S Enterprises	1,000	300
AHN Colloids Chemicals (Pvt.) Ltd	2,000	2,000 (estimated)
	13,000	13,851

22.4 The other two units namely K.S Enterprises and AHN Colloids Chemicals (Pvt.) Ltd, which represent 17 percent of domestic production, were asked to provide information on injury factors. Neither of them provided the requisite information within the stipulated time period. Therefore, the injury analysis carried out below is based on the information provided by the Applicant only.

Volume of Alleged Dumped Imports

Facts

22.5 In order to ascertain the volume of dumped imports of the investigated product, the Commission obtained import data from PRAL, Bluestar, Sinochem and the Applicant.

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

(MT)

Year	Imports from China	Imports from other Countries	Total Imports*	Production of Applicant industry
FY 2002	92	8	100	100
FY 2003	87	6	93	119
FY 2004	115	7	127	129
Jul-Sep-04	157	7	164	134

Source: PRAL and figures given by Applicant

* Actual figures indexed by taking FY 2002 as base year

Analysis

22.7 The dumped imports from China decreased by 5 percent in FY 2003. The imports increased 27 percent FY 2004. The imports during the quarter from July to September 2004 also show an increase of 42 percent.

22.8 On an annualized basis 92% to 96% imports during POI were from China. Imports from other countries fell by 14 percent over POI on an annualized basis. To this extent the dumped imports have substituted imports from other countries also.

Conclusion

22.9 On the basis of the above analysis, the Commission has concluded that the dumped imports increased in absolute terms in FY 2004 and were also higher in first quarter of FY 2005 as compared to average imports during first quarter of FY 2004.

Price Effects

22.10 The effect of dumped imports on the domestic sales price of UFMC in the domestic market has been examined to establish whether there has been significant price undercutting (the extent to which the price of the imported product is lower than the price of the Applicant industry), price depression (the extent to which the Applicant industry experiences a decrease in its selling prices over time), and price suppression (the extent to which increases in the cost of production cannot be recovered in selling price).

Price undercutting

Facts

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

(Rs./MT)

Period	Weighted Average ex-factory price of domestic like product	Weighted Average landed cost of investigated product	Price under-cutting in	
			Absolute terms	Percentage
FY 2002	100	111	--	--
FY 2003	94	98	--	--
FY 2004	93	99	--	--
Jul. - Sep. 04	97	102	--	--

* Actual figures indexed by taking FY 2002 as base year

Analysis

22.12 It appears from the above table that the landed cost of the investigated product was higher than the average ex-factory price of the domestic like product throughout POI.

Conclusion

22.15 On the basis of the above, the Commission has concluded that the price of the investigated product did not undercut the price of domestic like product during POI.

Price Depression**Facts**

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

(Rs./MT)

Period	Weighted Average ex-factory price of domestic like product *	Price depression
FY 2002	100	-
FY 2003	94	(5.83%)
FY 2004	93	(1.78%)
Jul.-Sep. 04	97	4.45 %

* Actual figures are indexed by taking FY 2002 as base year

Analysis

22.17 Analysis of the above facts shows that weighted average ex-factory price of domestic like product decreased by 5.83 percent during FY 2003. In FY 2004 weighted average ex-factory price decreased by 1.78 percent. Thus the Applicant faced price depression in FY 2003 and FY 2004. During the period from July to September 2004, the Applicant increased its sales price by 3 percent.

Conclusion

22.18 The Commission has concluded on the basis of the above analysis that there was price depression during part of the POI, which caused injury to the domestic industry.

Price Suppression**Facts**

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

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(Rs./MT)

Period	Weighted Average COP of domestic like product*	Weighted Average ex-factory price of domestic like product	Price Suppression	
			Increase/ (decrease) in COP	Increase in price
FY 2002	99	100	--	--
FY 2003	89	94	(10 %)	(5.83%)
FY 2004	94	92	5%	(1.78%)
Jul - Sep. 04	99	97	5%	4.45%

* Actual figures indexed by taking FY 2002 as base year

Analysis

22.19 The above table shows that the average COP of domestic like product decreased by 10 percent in FY 2003 vis-à-vis previous year's COP. However, the COP increased by 5 percent in FY 2004 over the previous year, and further increased by 5 percent during the period from July to September 2004 vis-à-vis previous year's COP.

22.20 The weighted average ex-factory price of the domestic like product decreased by 6 percent during the FY 2003 and in the FY 2004 the price further fell by 2 percent. During the period from July to September 2004 weighted average ex-factory price of the domestic like product increased by 5 percent as compared to increase in COP of 5 percent.

Conclusion

22.21 In the FY 2004 the COP increased over the previous year by 5 in percentage terms, and selling price of the domestic like product decreased over the same period by 2 percent, thus the domestic industry suffered price suppression during the FY 2004, and also from July to September 2004. On the basis of the above analysis, the Commission has concluded that the domestic industry suffered material injury on account of price suppression during part of the POI.

Market Share and Sales

Facts

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

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(MT)

Year	Quantity sold by domestic industry (all units)	Imports from China	Imports from other countries	Total domestic market
FY 2002	78	20	2	100
FY 2003	81	18	1	108
FY 2004	79	20	1	127
Jul - Sep-04	74	25	1	140

* Actual figures are indexed by taking FY 2002 as base year

Analysis

22.23 The above table shows that the total domestic market of UFMC grew by 8 percent during FY 2003 (over the previous fiscal year) and 19 percent FY 2004 (over the previous fiscal year). The total domestic market for UFMC increased by 13 percent during the period from July to September 2004 (on an annualized basis and vis-a-vis the previous fiscal year).

22.24 The above table shows that the market share of domestic industry increased from 78 percent in FY 2002 to 81% percent in FY 2003 and fell to 79% during FY 2004, and fell, yet again, to 74% during the period from July to September 2004. Market share of dumped imports remained static between 18 to 20% during the FY 2002 to FY 2004. During the period from July to September 2004, the share of dumped imports increased to 25% of the total domestic market. The imports from all other sources account for 1 to 2% of total domestic consumption during POI.

Conclusion

22.25 On the basis of the above analysis, the Commission has concluded that the domestic industry lost its share of domestic market share to dumped imports and as such suffered injury on this account. An important point to note here is that the domestic industry (the part being analyzed in this determination) is producing to its full capacity. However, the Applicant has stated that an industrial unit i.e. Pak Melamine with capacity of 3000 MT could not operationalize. The Applicant has also claimed that its expansion plan did not materialize due to dumping of UFMC.

Production, Capacity Utilization

Facts

22.26 The installed production capacity of the Applicant to produce domestic like product is 10,000 MT per annum. The quantity produced, the capacity utilized and sales during the POI are given in the table below:

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	Capacity utilization (%)
FY 2002	96
FY 2003	106
FY 2004	116
Jul. - Sep. 2004	120

* Actual figures are indexed by taking FY 2002 as base year

Analysis

22.27 It may be noted from the table above that the capacity utilization levels of the Applicant increased throughout the POI. The Applicant has stated that the plant was operated at the maximum output to reduce the cost of production and to maintain its market share through adjustments in its prices. Therefore, the capacity utilization of the Applicant did not suffer. However, the Applicant has stated that had there been no dumping, it could have increased its installed capacity and production.

22.28 The sales of the domestic industry also increased throughout the POI.

Conclusion

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

Effects on Inventories

Facts

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

(MT)

Year	Opening Inventories	Closing inventory
FY 2002	100	303
FY 2003	303	364
FY 2004	364	455
Jul - Sep-04	455	441

* Actual figures are indexed by taking FY 2002 as base year

Analysis

22.31 The data given in table above shows that the inventory level of the domestic like product increased during FY 2003 and FY 2004. However, the inventories decreased by

14 percent during the period from July to September 2004.

Conclusion

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

Profit and Loss

Facts

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

(Million Rs.)

	Profit/Loss*
FY 2002	100
FY 2003	448
FY 2004	(58)
Jul - Sep-04	(85)

* Actual figures are indexed by taking FY 2002 as base year

Analysis

22.34 The Applicant's profit increased by 348% in FY 2003. The Applicant however, suffered a loss in FY 2004 and during the period from July to September 2004.

22.35 However, the audited accounts of the Applicant for FY 2004 show that the old stock (inventory) of finished product was revalued at net realizable value and its impact was of charge of ****⁵⁷ million against the profit. This revaluation of finished stock has a direct impact on the profit and loss for the FY 2004, and the loss that year is not on account of dumped imports. However, the charge of entire cumulated loss to one year was distributed over three years. After making adjustment, the Profit and Loss figures of the Applicant for the POI are as follows:

(Million Rs.)

	Profit/Loss*
FY 2002	100
FY 2003	14,811
FY 2004	6,256
Jul - Sep-04	(906)

* Actual figures are indexed by taking FY 2002 as base year

⁵⁷ Actual figures have been omitted to maintain confidentiality.

Conclusions:

22.36 On the basis of available facts, the Commission has concluded that the Applicant suffered material injury on account of decline in profit during the FY 2004 and loss increased during the period from July to September 2004.

Cash Flow

Facts/Analysis

22.37 According to the Applicant sales of the domestic like product were made on payment in advance/cash basis before dumping started. The cash flow position has deteriorated and now the Applicant has to give 20-30 days credit to maintain its market share. This has imposed a burden of additional running finance of **** million.

Year	Cash Generated Through Operations*
FY 2002	100
FY 2003	(160)
FY 2004	(42)
Jul - Sep 2004	(74)

* Actual figures are indexed by taking FY 2002 as base year

22.38 The above table shows a mix trend of cash generated from operations and the overall impact over POI reflects a negative effect on cash flow. The cash generated through operations have changed from positive to negative in the first quarter of FY 2005.

Conclusions

22.39 On the basis of the above, the Commission has concluded that the Applicant suffered material injury on account of cash flow due to dumped imports of the investigated product.

Ability to raise capital

Facts/analysis

22.40 Since the profit of Applicant declined during the FY 2004, and suffered losses during the period from July to September 2004, the financial credibility of the Applicant has suffered, both with the shareholders and banks. The Applicants foreign and local shareholders have not received a return on their investment for the past two years. The banks have reduced their credit lines, some by as much as 50%. The Applicant has also faced difficulty in obtaining running finance from the banks.

Conclusions

22.41 The Commission has concluded that the Applicant suffered material injury in respect of its ability to raise capital.

Investments**Facts/analysis**

22.42 The Applicant has stated that it did not invest during financial FY 2003 and FY 2004. At present total domestic demand of UFMC is more than the installed capacity of the domestic industry, which justifies increase in the local manufacturing capacity of UFMC. Unfortunately, due to dumping by the Chinese exporters, it is not feasible for the local industry to set up a new plant to meet the increased demand arising from the expansion in the tableware industry. A new plant i.e. Pak Melamine which was set up at Lahore at a cost of Rs.120 million in FY 2001, failed to start commercial production in face of imports of investigated product at dumped prices.

Conclusions

22.43 On the basis of the above, the Commission has concluded that the Applicant suffered material injury on account of its ability to invest.

Employment**Facts**

22.44 The number of employees of the Applicant changed only marginally during the POI, as, according to the Applicant, the same numbers of employees were required to run the plant. The effects on productivity, salaries and wages of the domestic industry were as follows:

Period	No. of Employees	Total salaries and wages (RS. In 000)	Production (MT)	Productivity per worker (MT)	Salaries & wages Rs. per MT
FY 2002	100	100	100	100	100
FY 2003	100	114	111	111	103
FY 2004	99	129	121	122	107
Jul - Sep. 2004	99	129	125	126	103

* Actual figures are indexed by taking FY 2002 as base year.

Analysis

22.45 The above table shows that the number of employees of the Applicant decreased by 1 percent during the POI.

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

Conclusion

22.47 Based on the above analysis, the Commission has concluded that the Applicant was not materially injured during the POI on account of productivity and employment, as the productivity per worker increased while employment remained some what static.

Growth

Facts/analysis

22.48 The Applicant stated that the growth potential of the downstream industries using UFMC is around 15% annually as the use of tableware, kitchenware made of UFMC is very popular in developing countries. This would lead to the same growth potential in UFMC industry. Further, it is also expected that Pakistan's exports of tableware, kitchenware to Afghanistan would increase further which would lead to more demand of UFMC. But due to the alleged dumping of Chinese UFMC, there is little likelihood of further investment in this industry. Thus the growth potential of industry has been restrained due to dumped imports.

23. Summing up of Material Injury

23.1 The analysis in the preceding paragraphs shows that:

- i) there was significant increase in volume of dumped imports in absolute terms;
- ii) there was a significant price suppression and price depression.

23.2 As a result, the domestic industry suffered material injury on account of:-

- i) Loss of market share to dumped imports;
- ii) Increase in inventories during POI;
- iii) Negative effects on cash flow, ability to raise capital and investment; and
- iv) Decline in profit, actual and potential.

24. Other Factors

24.1 In accordance with Section 18(2) of the Ordinance, the Commission also examined factors, other than dumped imports, which could at the same time cause

injury to the domestic industry, in order to ensure that possible injury caused by other factors is not attributed to the injury caused by dumped imports.

24.2 The audited accounts of the Applicant for the FY 2004 show that the finished goods inventories were revalued and its impact was Rs. ****⁵⁸. This, according to the oral explanation by the Deputy Finance Director of the Applicant represents old stock of the finished goods, revalued at net realizable value. This revaluation of finished stock has a direct impact on profit, and the loss shown for the FY 2004. The Applicant agreed that this charge may be distributed to the profit/loss of the last three financial years and necessary adjustment on this account may be made accordingly.

24.3 The examination of sales invoices obtained from Sinochem during on-the-spot investigation show a procedure whereby the Chinese exporters receive a part of the payment for goods in advance from the Pakistani importers. The invoice shows the total amounts for the transaction, the advance received, and the balance due from the Pakistani importers. The invoice shows the total amounts for the transaction, the advance received, and the balance due from the Pakistani importers. The invoices given by Sinochem to Pakistani importers however, do not show the payment made in advance, rather it only shows the balance due (which is payment at sight). This error leads to a continuous under charging of the customs duty due.

24.4 The data of PRAL shows the balance after deduction of advance as C&F price during POI. Therefore, the amount received as advance has not been reflected in the Custom record and the imports have not been charged duty to this extent (21.74% of declared C&F values). This aspects needs to be investigated by Central Board of Revenue under Customs Act, 1969.

24.5 As regards Bluestar, the gross export price worked out on the basis of information provided by Bluestar is ****MT, whereas, according to PRAL's import data the C&F price of all imports from Bluestar is ****MT. This shows a difference in export price of 4.92% of the declared value, being the amount on which customs duty has not been charged.

24.6 The information provided by Bluestar and Sinochem in the exporters questionnaire response and further information obtained during on-the-spot investigation at the premises of these two Chinese exporters revealed that value of customs duty charged is less by 4.92% in case of Bluestar and 21.74% in case of

⁵⁸ Actual figures have been omitted to maintain confidentiality.

Sinochem than the actual import value. It is therefore, assumed that the export price of Yixing also suffers annually by 4.92%.

24.7 This practice of under invoicing affects the duty paid value of the goods exported by the Chinese exporters and needs to be rectified by Central Board of Revenue (CBR), so that domestic industry does not continue to suffer injury on account of this.

24.8 The factors mentioned in Section 18(3) were also analyzed and it was found as follows:

- (a) There was a reduction in the volume of imports from the countries other than China. The injury cannot be attributed to imports not sold at dumping prices as this amounts to 1 to 2 percent of total imports;
- (b) There is no contraction in demand of UFMC during POI in Pakistan;
- (c) No change in trade restrictive practices and competition between foreign producers other than producers from China and domestic producers;
- (d) No change in technology; and
- (e) The domestic industry did not export UFMC during POI.

D. CONCLUSIONS

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

- i. the Applicant represents the domestic industry being the major producer of domestic like product;
- ii. the investigated product and the domestic like product are like products;
- iii. during the POI, the investigated product was exported to Pakistan by the Exporters from China, at prices below its normal value;
- vi. the volume of dumped imports of the investigated product and the dumping margins established on the basis of the foregoing analysis, are above the negligible and de minimis levels respectively;

- v. the domestic industry suffered injury during the POI on account of, price depression, price suppression, loss in profits, decline in return on investment and increase in inventories loss of market share negative effect on cash flow ability to raise capital (in terms of Section 15 and 17 of the Ordinance); and
- vi. the dumping margin expressed as a percentage of weighted average C&F export price works out to be 10.61 percent ad val for Bluestar, 3.43 percent ad val for Sinochem, 11.58 percent ad val for Yixing and 7.80 percent ad val for other exporters from China.

E. IMPOSITION OF PROVISIONAL ANTIDUMPING DUTY

26.1 In view of the analysis and conclusions with regard to dumping, material injury, and causation, imposition of definitive antidumping duty on the investigated product is needed to offset injury to the domestic industry by dumped imports.

26.2 In terms of Section 43 of the Ordinance and Article 7 of Agreement on Antidumping, a definitive antidumping duty is hereby imposed on the investigated product @ 10.61 percent ad val of C&F price importable from Bluestar, @ 3.43 percent ad val of C&F importable from Sinochem, @ 11.58 percent ad val of C&F price importable from Yixing and @ 7.80 percent ad val of C&F price importable from other exporters from China for a period of five years effective from July 18, 2005. The investigated product is classified under PCT heading No 3909.1010

26.3 The Commission had imposed a provisional antidumping duty on imports of UFMC @ 12.15 percent ad val for Bluestar, 4.31 percent ad val for Sinochem, 14.89 percent ad val for Yixing and 9.77 percent ad val for other exporters from China for a period of four months effective from July 18, 2005.

26.4 In terms of Section 55(2) of the Ordinance, if the definitive antidumping duty is lower than the amount of provisionally determined antidumping duty, the difference shall be refunded by the Commission within forty-five days of the final determination. The definitive antidumping duty imposed on Chinese exporter/producer is lower than the amount of provisionally determined antidumping duty, therefore, the difference shall be refunded. Hence the Commission, informs the importers of UFMC from Chinese exporters/producer to send their request for refund of any duty that may have been paid (under the Commission's Provisional Determination on imports from Chinese Exporter/Producer) to the extent of the difference between the rate of

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duty for the Final Determination and the rate of duty for the Provisional Determination to the Secretary, National Tariff Commission, State Life Building No. 5, Blue Area, Islamabad within a period of *thirty* days.

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

26.6 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.

(Muhammad Ikram Arif)
Member
November 19, 2005

(Faizullah Khilji)
Chairman
November 19 , 2005

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Annex – I

S. No	Exporters Name/Addresses and Fax Numbers	S. No	Exporters Name/Addresses and Fax Numbers
1.	Sinochem Tianjin Imp & Exp Corp 58, Nanjing Road, Tianjin-300042, China Fax: 022-23146215	2.	Sinochem Jiangsu Wuxi Imp & Exp Corp 17/F, Zhongying Building, 258 Zhongshan Road, Wuxi – 214001, China Fax: 2761806
3.	China National Blue Star Group 17, Beishuan East Road, Choyang District, Beijing, China Fax: 010-64429673	4.	Anhui Light Industrial Company 9 th Floor, Jiuzhou Mansion, 381 Jinzhai Road, Hefei, Anhui, China Fax: 551-2630110
5.	Jiangsu Yinxing Foreign Trade Co. 89, Lieshita Road, Yixing, Jiangsu, China Fax: 510-7711738	6.	Liyang Liqiang Chemical Co. LTD Industry Park Zone, Qiangbu Town, Liyang City, Jiangsu, China Fax: 5197690099
7.	BND CO. LTD International Trade Building, Shenzhen, Guangdong, China Fax: 755-82211515	8.	New East Grace International Corp. 395, Zhongshan Road, Wuxi, Jiangsu, China Fax: 510-2709546
9.	Sinochem Jiangsu Imp. & Exp. Company 27,27/F, Business Century Plaza, 49 South of Zhongshan Road, Nanjing, China Fax: 025-6890799	10.	Wuxi Maoheng Trading Co. 138-5-409, Wangzhuang Road, Jiangsu, China Fax: 510-2791680
11.	Yixing Yuntong Chemical Industry 88, Far East Road, Fandao Town, Yixing, Jiangsu, China Fax: 510-7244688	12.	China Haohua Chemical Industries Building # 16, Block 4, Anhuili, Chaoyang District, Beijing, 100723, China Fax: 10-84885416
13.	A.T.R General Trading Company	14.	Shanghai Ever Fortune Industries
15.	Astec Navacon PTE LTD	16.	Shanghai Foreign Trade
17.	Chemiplastica S.P.A.	18.	Shanghai Jin Jiang Int.
19.	China Xinxing Shanghai	20.	Shaoxing Sanlux Rubber
21.	Gold link Industrial Co. Limited	22.	Shanghai Jiaumao Foreign Trade Co.
23.	Hina	24.	Sinochem Hebei Impo
25.	Jian GSU Industrial PRO	26.	Sinochem Ningbo 1/E Corporation
27.	Jiangsu Textile Industries	28.	Sinochem Shanghai 1/E Company
29.	Minsheng Shipping Co. LTD.	30.	Suzhou Ever Ffortune Imp. & Exp. Co.
31.	Qingdad Free Trade Zone		