



**Government of Pakistan
National Tariff Commission**

REPORT

ON

**PRELIMINARY DETERMINATION AND LEVY OF PROVISIONAL
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

July 11, 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") and the Anti-Dumping Duties Rules, 2001 (hereinafter referred to as the "Rules") relating to investigation and determination of dumping of goods into the Islamic Republic of Pakistan (hereinafter referred to as "Pakistan"), material injury to the domestic industry caused by such imports, and imposition of antidumping duties to offset the impact of such injurious dumping, and to ensure fair competition thereof and to the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (hereinafter referred to as the "Agreement on Antidumping") has conducted an investigation and made a preliminary 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, Shahra-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.

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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

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.

(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).

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

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

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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

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.

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.

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.

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 preliminary 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 preliminary 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, Like 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:

Investigated Product:

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

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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. Submissions by the 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;
- ii) Copy of contract between the Bluestar and Liyang;

⁶ Actual figures have been omitted to maintain confidentiality.

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- 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. Copy of the contract between Bluestar and Liyang;
- iii. Revised Attachment C- 4;
- iv. Revised calculation of credit cost on the basis of “lending rate of US\$” of China Central Bank;
- v. Provided the gross profit for all export sales to Pakistan during POI in the revised Attachment C- 3; and
- vi. 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 figure given in the Attachment C-3. The difference in export price may kindly be explained;

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

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- 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. Submissions 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 Melcrook 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:

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- “(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.

B. DETERMINATION OF DUMPING

14. Determination of Dumping

⁶ Here product concerned means investigated product.

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

15. **Normal Value**

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

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

However, Section 6 of the Ordinance 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”.

15.2 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 preliminary 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”.

15.3 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:

15.4 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.

15.5 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.

15.6 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.

15.7 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

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.

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 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.

15.8 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 average cost of production 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.

¹⁴ Actual figures have been omitted to maintain confidentiality.

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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(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.”

15.9 The analysis showed that out of total domestic sales of ****¹⁸ MT during POI, 69% 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.

15.10 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:

15.11 As stated in paragraph 12.7 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.

15.12 As, the weighted average adjusted ex-factory normal value of ****²⁴MT has been established for Liyang in paragraph 15.6 to 15.10 above, the same has been used for Sinochem.

¹⁸ Actual figures have been omitted to maintain confidentiality.

¹⁹ Actual figures have been omitted to maintain confidentiality.

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²² Actual figures have been omitted to maintain confidentiality.

²³ Actual figures have been omitted to maintain confidentiality.

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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.

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

15.14 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 of each domestic sales transaction (given in the revised Attachment D-3-W) during POI was compared with the average cost of production 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.”

15.15 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

²⁴ Actual figures have been omitted to maintain confidentiality.

²⁵ Actual figures have been omitted to maintain confidentiality.

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³⁰ Actual figures have been omitted to maintain confidentiality.

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

Determination of Normal Value for Yixing

15.16 Since Yixing did not respond to the exporters questionnaire, the normal value for the purposes of this preliminary 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.

15.17 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”.

16. Export Price

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

Determination of Export Price for Bluestar:

16.2 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.

16.3 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

³¹ Actual figures have been omitted to maintain confidentiality.

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.

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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.

16.4 The information provided by Bluestar was deficient, and the Commission communicated these deficiencies to Bluestar (para 11.4 supra). In response to which Bluestar revised its Attachment C-3. The Attachment C-3 as revised was verified during on the spot investigation.

16.5 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.

16.7 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:

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.

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.

16.8 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.

16.9 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.

16.10 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.

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

16.12 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.

16.13 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. 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

⁴³ Actual figures have been omitted to maintain confidentiality.

⁴⁴ Actual figures have been omitted to maintain confidentiality.

⁴⁵ Actual figures have been omitted to maintain confidentiality.

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⁴⁷ Actual figures have been omitted to maintain confidentiality.

⁴⁸ Actual figures have been omitted to maintain confidentiality.

⁴⁹ Actual figures have been omitted to maintain confidentiality.

⁵⁰ Actual figures have been omitted to maintain confidentiality.

⁵¹ Actual figures have been omitted to maintain confidentiality.

⁵² Actual figures have been omitted to maintain confidentiality.

16.14 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 sold in the domestic market. After making these adjustments, the weighted average adjusted export price at ex-factory level, for Yixing works out to ****⁵⁶MT.

16.15 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%.

17. Dumping Margin

17.1 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.

17.2 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.

17.3 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”.

⁵³ Actual figures have been omitted to maintain confidentiality

⁵⁴ Actual figures have been omitted to maintain confidentiality.

⁵⁵ Actual figures have been omitted to maintain confidentiality.

⁵⁶ Actual figures have been omitted to maintain confidentiality.

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17.4 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	12.15%
Sinochem	4.31%
Yixing	14.89%
Other Chinese Exporters	9.77%

C. INJURY TO DOMESTIC INDUSTRY

18 Determination of Injury

18.1 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

18.2 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.”

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

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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

18.4 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

18.5 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.

18.6 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

18.7 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.

18.8 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

18.9 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

18.10 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

18.11 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

18.12 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.

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Conclusion

18.15 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

18.16 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	(6 %)
FY 2004	93	(7 %)
Jul.-Sep. 04	97	3 %

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

Analysis

18.17 Analysis of the above facts shows that weighted average ex-factory price of domestic like product decreased by 6 percent during FY 2003. In FY 2004 weighted average ex-factory price decreased by 7 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

18.18 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

18.19 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:

(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	--	--

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FY 2003	89	94	(10 %)	(6%)
FY 2004	94	92	5%	(2%)
Jul - Sep. 04	99	97	5%	5%

* Actual figures indexed by taking FY 2002 as base year

Analysis

18.19 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 fiscal year, and further increased by 5 percent during the period from July to September 2004 vis-à-vis previous year's COP.

18.21 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

18.22 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

18.23 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:

(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

18.24 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).

18.25 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

18.26 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. This could not be verified from an independent source for this preliminary determination. However, the Commission would endeavour to confirm this before the final determination. The Applicant has also claimed that its expansion plan did not materialize due to dumping of UFMC.

Production, Capacity Utilization

Facts

18.27 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:

	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

18.28 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.

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

Conclusion

18.30 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

18.31 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

18.32 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

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

Profit and Loss

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Facts

18.34 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

18.35 The Applicant's profit increased by 348% in of Rs.5.01 million in FY 2003. The Applicant however, suffered a loss in FY 2004 and during the period from July to September 2004.

18.36 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

Conclusions:

18.37 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

18.38 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.

⁵⁷ Actual figures have been omitted to maintain confidentiality.

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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

18.39 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

18.40 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

18.41 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

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

Investments

Facts/analysis

18.43 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

18.44 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

18.45 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

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

18.47 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

18.48 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

18.49 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.

19. Summing up of Material Injury

19.1 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.

19.2 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.

20. Other Factors

20.1 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.

20.2 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

⁵⁸ Actual figures have been omitted to maintain confidentiality.

distributed to the profit/loss of the last three financial years and necessary adjustment on this account may be made accordingly.

20.3 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 Pakistan Customs authority has treated the balance due shown on the invoice as the total value of goods in error. This error leads to a continuous under charging of the customs duty due.

20.4 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.

20.5 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.

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

20.7 This error is valuation 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 error.

20.8 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;

Preliminary Determination and levy of Provisional antidumping duty on import of UFMC into Pakistan Originating in and/or Exported from the People's Republic of China

- (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

21. The conclusions, after taking into account all considerations for this preliminary 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 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.

E. IMPOSITION OF PROVISIONAL ANTIDUMPING DUTY

21.1 In view of the analysis and conclusions with regard to dumping, material injury, and

causation, imposition of provisional antidumping duty on the investigated product is needed to offset injury to the domestic industry by dumped imports.

21.2 In terms of Section 43 of the Ordinance and Article 7 of Agreement on Antidumping, a provisional antidumping duty is hereby imposed 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 investigated product is classified under PCT heading No 3909.1010

21.3 In accordance with Section 44 of the Ordinance, the provisional antidumping duties shall take the form of security by way of cash deposit and be held in a non-lapsable personal ledger account established and maintained by the Commission for the purpose. Release of the investigated product for free circulation in Pakistan shall be subject to imposition of such antidumping duty.

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

21.5 The provisional antidumping duties 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
July 11, 2005

(Faizullah Khilji)
Chairman
July 11, 2005

Preliminary Determination and levy of Provisional antidumping duty on import of UFMC
into Pakistan Originating in and/or Exported from the People's Republic of China

Annex - I

NON-CONFIDENTIAL

Preliminary Determination and levy of Provisional antidumping duty on import of UPMC into Pakistan Originating in and/or Exported from the People's Republic of China

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, Yxing, 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		