

SG.C No.01/2005/FW



Government of Pakistan
National Tariff Commission

REPORT

ON

INVESTIGATION UNDER SAFEGUARD MEASURES
ORDINANCE 2002 AGAINST IMPORTS OF
FOOTWEAR INTO PAKISTAN

(NON-CONFIDENTIAL)

AUGUST 15, 2005

INVESTIGATION UNDER SAFEGUARD MEASURES ORDINANCE, 2002 AGAINST IMPORTS OF FOOTWEAR INTO PAKISTAN

The National Tariff Commission (hereinafter referred to as the “Commission”) having regard to the Safeguard Measures Ordinance, 2002 (hereinafter referred to as the “Ordinance”) and the Safeguard Measures Rules, 2003 (hereinafter referred to as the “Rules”) relating to the procedure for investigation to be conducted by the Commission in accordance with the provision of the Ordinance that as a result of unforeseen developments and of the effect of WTO obligations assumed by Pakistan, a product is being imported in such increased quantities, absolute or relative to domestic production, and under such conditions as to cause or threaten to cause serious injury to domestic industry producing like or directly competitive product and imposition of safeguard measures in accordance with the Ordinance, the Agreement on Safeguards and Article XIX of the General Agreement on Tariffs and Trade 1994 has conducted an investigation 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 M/s. Pakistan Footwear Manufacturers Association (the “Applicant”), 6-F, Rehman Business Center, 32 B-III Gulberg III, Lahore under Section 7(1) of the Ordinance on May 10, 2005. The Applicant represents domestic producers of footwear and has requested for imposition of provisional and definitive safeguard measures on an emergency basis. The Applicant had alleged that as a result of unforeseen developments and of the effect of WTO obligations assumed by Pakistan, footwear is being imported into Pakistan in such increased quantities, absolute or relative to domestic production, and under such conditions as to cause serious injury to domestic industry producing footwear. Membership of the Applicant may be seen in Annex-I, attached.

2. Evaluation and Examination

2.1 An examination of the application showed that it *prima facie* met the requirements of Section 9 of the Ordinance regarding adequacy and accuracy of the evidence provided in the application. The requirements of Rule 3 of the Rules, which relate to the submission and disclosure of information prescribed therein, were also found to have been met. The application also fulfilled the requirements of sub-section 1(a) of Section 7 of the Ordinance, as it was made by or on the behalf of the domestic industry.

3. Domestic industry

3.1 The term “domestic industry” has been defined in Section 2 (f) of the Ordinance as follows:

“domestic industry’ means the producers as a whole of products which are like or directly competitive with the investigated product, operating within Pakistan or those producers operating within Pakistan whose collective output of like or directly competitive product constitutes a major proportion of the total production of such products in Pakistan.”

3.2 The domestic industry producing footwear in Pakistan consists of both “formal” and “informal” sectors¹. It is not possible to ascertain the actual production of informal sector in absence of data.

3.3 There are different methods for estimating the total production of domestic industry. World Footwear Markets (an international journal provided by the Applicant) published by Footwear Technology Center, has estimated (in its 2004 edition) that Pakistan’s total production of footwear was 245 million pairs in the year 2002.

3.4 However, the Applicant has estimated total domestic production of footwear in Pakistan on the basis of Federal Bureau of Statistics (“FBS”), Statistics Division, Government of Pakistan, production data of footwear for the province of Punjab. The production of footwear in Punjab during 2004 was 23.58 million pairs. The Applicant has estimated the total production of footwear in Pakistan by assuming that the domestic production is twice that of Punjab. Thus the total production for 2004 has been estimated as 47 million pairs. It may be noted that there is a large difference between the two estimates i.e. that of the journal, World Footwear Markets, and that of the Applicant.

3.5 The estimated production figures provided by the Applicant have been used for the purposes of this investigation.

3.6 Three major producers i.e. Bata Pakistan Limited (“Bata”), Service Industries Limited (“Service”) and East Pakistan Chrome Tannery (“EPCT”), who are members of the Applicant and who furnished data in the application, together produced 19 million pairs in 2004, which is 42% of total estimated domestic production. This can be considered as a “major proportion” of total domestic production. Therefore, for the purposes of “injury”, data of three major producers i.e. Bata, Service and EPCT, as verified during on-the-spot investigation, is analyzed to determine whether the domestic industry has suffered serious injury due to a sudden surge in imports.

4. Initiation of Investigation

4.1 The Commission upon examining the accuracy and adequacy of the evidence provided in the application established that there is sufficient evidence of serious injury to justify initiation of an investigation. Consequently, the Commission decided to initiate an investigation on June 16, 2005. In terms of Section 10 of the Ordinance, the Commission immediately notified the Federal Government of its decision and published Notice of Initiation in the Official Gazette of Pakistan² and in two widely circulated national newspapers³ (one English language and one Urdu Language). Investigation concerning imports into Pakistan of footwear {classified under PCT⁴ Headings 6401.1000 to 6405.9090, contained in the First Schedule the Customs Act 1969} was thus initiated on June 17, 2005.

¹ Units for which the Applicant claimed that records were not available are classified as “informal”.

² The official Gazette of Pakistan (Extraordinary) dated June 17, 2005

³ ‘Business Recorder’ and the ‘Express’ of June 17, 2005 issue.

⁴ PCT is the abbreviation for Pakistan Customs Tariff.

5. Information Gathering

5.1 The Commission required the Applicant to get the prescribed questionnaire filled in by its members for the purposes of injury analysis. Three members of the Applicant namely Bata, Service and EPCT provided the data sought in the prescribed questionnaire.

5.2 For the purpose of this investigation the Commission has used import data published by FBS, in addition to the information provided by the Applicant.

5.3 The Commission has sought from all available sources the relevant data and information deemed necessary for the purpose of determining serious injury to the domestic industry. In terms of Section 13(2) of the Ordinance, the Commission, during the course of investigation, satisfied itself regarding accuracy of the information supplied by the Applicant. In this connection, in keeping with Section 13(2) of the Ordinance on-the-spot investigation was conducted at the premises of the Applicant's members (i.e. Bata, Service and EPCT), from July 12 to 16, 2005 to verify and obtain further details concerning the information provided.

6. Participating Interested Parties

In terms of Section 11(1) of the Ordinance, the Commission in Notice of Initiation notified that any interested party desiring to participate in the investigation should indicate its interest, in writing, within fifteen days of initiation of investigation. Embassy of the People's Republic of China in Pakistan requested that the interested parties from China may be given extension to communicate their desire to participate. The request was considered in the Commission and the Chinese interested parties were given extension in time period upto July 12, 2005 under Section 11(1) of the Ordinance. Thereafter, China Chamber of Commerce for Import/Export of Light Industrial Products & Arts-Crafts ("CCLA"), 10/F, Building No. 12, Panjiayuan Nanli, Chaoyang District, Beijing, 100021, China, got itself registered as a participating interested party.

7. Request for Hearings and Written Arguments

Pursuant to Rule 9 of the Rules, the notice of initiation provided for the interested parties to request for hearing within fifteen days of initiation of investigation, if they so desire. Request for hearing was received from CCLA within the extended time period. However, no written arguments were received from CCLA.

8. Public File

The Commission, in accordance with the Section 15 of the Ordinance and Rule 10 of the Rules, has established and maintained a public file at its offices. This file remains available to the participating 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 participating interested parties.

9. Confidentiality

In terms of Section 14 of the Ordinance, any information which is by nature confidential or marked confidential by any interested party in its submissions and considered confidential by the Commission, shall, during and after the investigation, be kept confidential.

10. Investigated Product and Domestic Like Product

10.1 Section 2 of the Ordinance defines the “investigated product”, and the “like product” as follows:

Investigated Product

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

Like Product

“a product, which is alike in all respects to an investigated product, or, in the absence of such a product, another product, which although not alike in all respects, has characteristics closely resembling those of the investigated product”.

10.2 For the purposes of this investigation, the investigated product as well as the domestic like product is footwear. Footwear is understood here as described in PCT Headings⁵ 6401.1000 to 6405.9090⁶.

10.3 The domestic like product and the investigated product are like products as both these products have the same usage, and are classified under the same PCT Headings. There may be a variety of specifications of footwear depending on input used or design etc., but due to high degree of substitutability, all footwear are considered as like or directly competitive product.

B. CONDITIONS FOR APPLICATION OF SAFEGUARD MEASURES

11. Section 3 of the Ordinance with regard to application of Safeguard Measures provides as follows:

“ The Federal Government may by notification in the official Gazette, apply a safeguard measure on an investigated product imported into Pakistan if, it has been determined by the Commission pursuant to an investigation conducted by it in accordance with the provisions of this Ordinance that as a result of unforeseen developments and of the effect of WTO obligations assumed by Pakistan, the investigated product is being imported in such increased quantities, absolute or relative to domestic production, and under such conditions as to cause serious injury or threat of serious injury to domestic industry producing like or directly competitive products”

⁵ PCT Heading in Pakistan is equivalent to Harmonized Commodity Description and Coding system up to six digit level.

⁶ Description attached at Annex-II.

12. In keeping with the aforementioned Section 3 of the Ordinance, the Commission has to investigate the following issues:

- (i) WTO obligations assumed by Pakistan in case of footwear;
- (ii) Unforeseen developments;
- (iii) Increased quantities of imports; and
- (iv) Serious injury or threat of serious injury to the domestic industry.

These issues are discussed below.

C. WTO OBLIGATIONS ASSUMED BY PAKISTAN

13. The Applicant in its application had stated that Pakistan has “Bound⁷” its tariff under the Schedule of Concessions⁸ in respect of PCT Nos. 6401.1000 to 6405.9090 (26 tariff lines) at 75%. The statement has been found to be incorrect as explained below.

14. In the Schedule of Concessions notified by the WTO under the Article II of GATT 1994, the Government of Pakistan has “Bound” its tariff in respect of PCT Heading Nos. 6403.2000, 6403.5100 and 6403.5900 at 50%. These bindings against the three PCT Headings constitute “Pakistan’s WTO obligations” within the meaning of Article XIX of GATT 1994 and Section 3 of the Ordinance in the present context. These bindings imply that Pakistan has the right under the GATT 1994 to raise custom tariffs on the products classified under PCT Heading Nos. 6403.2000, 6403.5100 and 6403.5900 upto and including 50% of the CIF value of the goods without any encumbrance *vis-à-vis* WTO obligations. The applied rate of custom duty on aforementioned PCT Headings was 35% in the Fiscal Year (“FY”) 1995, being the year WTO Agreements came into force. The rate, thereafter, was changed by the Government of Pakistan as follows (raised in FY 1998 to 45% before being lowered to 30% in FY 2002 and 25% by FY 2003):

Year	Applied Duty rate
FY 1995	35%
FY 1998	45%
FY 2002	30%
FY 2003	25%

15. The applied duty rate at present continues to be 25%, which is well below the bound rate of 50%. As stated earlier, Government may if it so wishes, raise the applied customs duty up to 50% without any violation of its WTO obligations; indeed in FY 1998 it did raise this rate to 45%.

16. Other products, which are also subject of this investigation and are classified under PCT Heading Nos. (6401.1000, 6401.9100, 6401.9200, 6401.9900, 6402.1200, 6402.1900, 6402.2000, 6402.3000, 6402.9100, 6402.9900, 6403.1200, 6403.1900, 6403.3000, 6403.4000, 6403.9100, 6403.9900, 6404.1100, 6404.1900, 6404.2000, 6405.1000, 6405.2000, 6405.9010, 6405.9090), have not been bound by Pakistan under Article II of GATT 1994. The customs tariff on products classified under these other PCT Headings may be raised to any such level as Pakistan deems appropriate without invoking the Agreement on Safeguards as no obligations have been assumed by Pakistan at the WTO with regard to these PCT Headings.

⁷ A tariff line is considered to be Bound, if it is notified by the WTO under Article II of GATT 1994

⁸ Schedule of Concessions, Article II of GATT 1994

D. UNFORESEEN DEVELOPMENTS

17. Another requirement of Section 3 of the Ordinance is that, it is necessary that the increase in imports should be as result of “unforeseen developments”.

18. Applicant’s Submission

18.1 In order to establish whether the increase in imports of the investigated product was due to unforeseen developments, the Applicant has provided its own reasoned arguments to the Commission. These arguments are reproduced below:

“In the context of unforeseen circumstances, the change over time of China’s world market share in the footwear sector also establishes the requirement of ‘unforeseen circumstances’. China started at the bottom of the league of the top footwear producers and exporters in 1980. However, it could not be reasonably foreseen that it would rise to be largest producer and exporter of footwear in the world by occupying the largest slice of the world market. This assertion is substantiated by a study⁹ undertaken at Duke University (United States of America) which itself is based on reports of the World Trade Analyzer. According to this study in 1980 the value of footwear exports from China were a mere US \$ 200 million representing 1.6% of the world market share. At that time Italy was exporting US \$ 3.586 billion worth of footwear representing 29.2% of the world market. By 1985 China’s share of the world footwear export market increased marginally to 1.9% and then by 1990 this share was at 7.1%. In 1995 China’s market share has risen to 14.6%. After this the rapid increase of Chain’s share in the world footwear market was unprecedented and wholly unforeseen and unexpected. Within five years China’s share has doubled to 14.6% and by 1999 this has further increased to 20.9%. The table below illustrates this rapid and unforeseen increase:

Leading Exporting Countries	World Export Share in 1980	World Export Share in 1985	World Export Share in 1990	World Export Share in 1995	World Export Share in 1999
China	1.6%	1.9%	7.1%	14.6%	20.9%
Italy	29.2%	25.8%	22.7%	17.9%	15.5%
Spain	4.5%	5.7%	5.0%	4.6%	4.7%
Hong Kong	1.4%	1.7%	6.5%	17.2%	13.7%
Taiwan	12.3%	15.6%	8.9%	2.1%	1.2%
Korean Republic	7.6%	10.6%	14.7%	2.9%	1.1%

Source: Report by Eric Steele of Duke University (<http://www.duke.edu/~eds8/wta1.html>)

“The rapid increase in China’s world market share of footwear exports as illustrated above was clearly ‘unforeseen’ within the requirements and context of the Ordinance. In terms of the language employed in the ‘Hatters’ Fur’ case, it would not be reasonable to expect the negotiators of Pakistan making the concessions in 1994 to have foreseen this unprecedented increase in 1994.”

⁹ <http://www.duke.edu/~eds8/wta1.html>

18.2. The Applicant has also relied on additional data from the journal “SARTRA” and has stated as follows:

“According to the World Overview of 1997 published in a journal SARTRA, by 1997 China accounted for 47.5% of the footwear production around the world. By 2001, according to the World Overview of 2001 China share of world production had risen to a remarkable 54.0% at the expense of North America and Western Europe where further falls were experienced. According to the World Overview of 2002 even though the global production of footwear increased only by 1.5% to 12.4 billion pairs, China showed a significant increase and China’s share of the world production rose to 55.9%, which was unexpected. It is submitted on behalf of the Applicant that the noted rapid increase in China’s share of both the world production of footwear and the world export market of footwear was not and could not have been foreseen at the relevant time (i.e. 1994) when Pakistan negotiated and assumed the relevant tariff concessions. Further, at that time it would have been wholly unreasonable to expect that Pakistan could and should have foreseen the sudden and phenomenal surge in imports of the product sought to be investigated. On this ground alone, the ‘unforeseen development’ requirement stands fulfilled.

“As a consequence of the aforementioned unforeseen circumstances, it was also unforeseen in 1994 (being the relevant time for the purposes of Section 3 of the Ordinance) that there would be a massive and overwhelming surge in imports of footwear from China. By way of illustration, according to the data from PRAL¹⁰, footwear imports from China accounted for 40.2% of the total imports to Pakistan during the period July 2003 – June 2004. However, according to PRAL the imports in the first two quarters of the current financial year from China account for an alarming 99.66% of total imports. In other words, the imports from China now account for virtually all the imports of footwear into Pakistan. There can be no cavil with the proposition submitted hereby on behalf of the Applicant that the level of imports from China were not foreseen by Pakistan when it negotiated and assumed the relevant tariff concessions.”

18.3. The Applicant has also argued that another unforeseen development is the change in conditions of competition. Following arguments have been put forth to support this statement:

“A further factor which independently constitutes an ‘unforeseen circumstance’ within the meaning of Section 3 of the Ordinance is that the changes in the conditions of competition over the relevant period were simply unforeseen when Pakistan negotiated and assumed the relevant tariff obligations. This assertion is substantiated on the basis of the following factors and data:

“Until relatively recently substantial imports of footwear into Pakistan originated from countries other than China (e.g. Italy, Spain, United States, United Kingdom, Thailand etc.). However, as shown in the Application, as a direct consequences of change in the conditions of competition over the relevant period, footwear imports from countries other than China have virtually disappeared as China has taken over

¹⁰ “PRAL” is an abbreviation of Pakistan Revenue Automation Limited, the data processing arm of the Central Board of Revenue, Government of Pakistan.

the entire market presently accounting for an astounding 99.79% of the total imports of footwear into the country. These figures *ipso facto* suggest that a dramatic change in the conditions of competition with respect to the imports of footwear into Pakistan and the levels of domestic production. The changes in the conditions of competition, domestic consumer demand and consumption as a result of which this rapid increase has taken place were totally 'unforeseen' and could not have been reasonably foreseen in 1994 when Pakistan assumed tariff obligations in respect of footwear. In *United States -Lamb Meat* it was expressly held that unforeseen developments may be unforeseen changes in the conditions of competition which result in the increased imports causing or threatening to cause serious injury. Accordingly, on this ground alone the 'unforeseen developments' requirement in Section 3 of the Ordinance stands fulfilled.

"That the imports of footwear would be substantially cheaper than the production of the domestic industry as illustrated by the table below:

Particulars	2001	2002	2003	2004
Price per unit of imported product (In Rs.)	134	105	105	92
Price per unit of domestic like product (In Rs.)	170	195	194	207

"That imports of the product sought to be investigated would increase by over 1600% in a very brief period. It is submitted that this factor alone satisfies the requirement of 'unforeseen circumstances' under the Ordinance.

FEDERAL BUREAU OF STATISTICS DATA FOR IMPORTS

Year	Pairs
2001	521,117
2002	1,509,422
2003	5,339,976
2004	9,117,068

* Source: Federal Bureau of Statistics

"That conditions of competition would change in such an unforeseen manner that imports would surge dramatically. The average rate of increase in imports is 412% per annum and the total increase of imports from 2001 to 2004 is **1649%** (16 times). This rate of increase was unforeseen and the high rate of low cost footwear creates unfair competitiveness between local and imported products."

19. Commission's Analysis

19.1 Only imports under the three bound tariff lines are relevant in context of this discussion of unforeseen developments. Therefore, in order to analyze whether there were unforeseen developments, as argued by the Applicant, the imports of the three bound tariff lines (i.e. PCT Heading No. 6403.2000, 6403.5100 and 6403.5900) from China and other countries have been segregated from total imports.

19.2 The Applicant mainly relied on the data obtained from Pakistan Revenue Automation Limited (“PRAL”), the data processing arm of the Central Board of Revenue, Government of Pakistan, in its use of detailed import statistics for the period from July to December 2004. For the remaining period, the Applicant relied on FBS’s data. Examination of PRAL’s data on imports of the investigated product shows that this data cannot usefully help in the present analysis¹¹. Therefore, the Commission has relied on import data obtained from FBS for the years 2002 to 2004. Following table shows the total imports of the investigated product classified under the three bound tariff lines (PCT Headings 6403.2000, 6403.5100 and 6403.5900):

(Pairs)		
Years	Total Imports of the Investigated Product	Imports of the Investigated Product from China
2002	25,648	23,108
2003	80,674	73,274
2004	27,568	23,376

19.3 The above table shows that the share of imports from China, in total imports, under the three bound tariff lines during the year 2002 was 90%, which increased slightly to 91% in the year 2003. These imports from China decreased to 85% in the year 2004.

19.4 It is evident that the major imports are from China for reason that the investigated product imported from China is at a relatively much lower price, which has caused the imports from other countries to virtually disappear. This has, arguably, resulted in change in conditions of competition between domestic like product and the investigated product: the domestic industry was competing previously with imports of the investigated product from different countries whereas, due to increased imports from China, competition of the domestic industry has now been limited to imports mainly from China. Competition among the Chinese exporters in their domestic and overseas markets constitutes a constant downward pressure on prices of footwear in China.

E. INCREASED IMPORTS

20. In terms of Section 3 of the Ordinance cited above there should be an increase in imports of the investigated product in absolute terms or relative to domestic production.

21. Regarding whether it is the value or the quantity of imports that is the indicator for level of imports, the Commission has had regard to the following finding of the WTO panel (in case No. WT/DS121/R(**Argentina-footwear**) in para 8.152):

“the agreement is clear that it is the data on import quantities both in absolute terms and relative to (the quantity of) domestic production that are relevant in this context, in that the agreement refers to imports in such increased quantities”.

22. With regard to time span to be considered in context of increased imports, the Commission has based its approach on the following Appellate Body findings (in case No. AB-1999- (**Argentina footwear**) in para 131):

¹¹ PRAL figures suffer in two ways: products other than the investigated product have been included even though the PCT Headings are applicable only to footwear, and the unit of measurement used changes frequently as among pairs, KGs and dozens within the reporting period.

“increase in imports must have been recent enough, sudden enough, sharp enough and significant enough both qualitatively and quantitatively, to cause or threaten to cause serious injury”.

23. It is evident from the above findings of the WTO Panels and WTO Appellate Body that:

- (i) there should be absolute increase in imports as well as an increase relative to domestic production,
- (ii) increase in imports should be quantitative, and
- (iii) increase in imports should be recent enough, sudden enough, sharp enough and significant enough.

24. On the basis of the Section 3 of the Ordinance and the findings of the learned WTO Panels/Appellate Body, following is the analysis regarding increase in imports.

25. Absolute Increase in Imports

25.1. The information regarding imports provided by the Applicant is claimed to be based on import data obtained by the Applicant from FBS. These figures do not correspond with the published FBS data. Therefore, the following analysis is based on published FBS data:

(Pairs)

Year	Imports of Footwear under		Total
	Bound Tariff Lines	Unbound Tariff Lines	
2002	25,648	3,575,923	3,601,571
2003	80,647	8,293,284	8,373,931
2004	27,568	10,802,332	10,829,900

25.2. The above table shows that the imports of footwear under bound tariff lines increased by 214 percent in 2003 over the previous year. However, in 2004 the imports under bound tariff lines decreased sharply by 66 percent as compared to the previous year. The major portion of imports of footwear was under unbound tariff lines. The imports under unbound tariff lines increased by 132 percent in 2003 over the previous year. This tendency of increase in imports continued in 2004 and imports under unbound tariff lines increased by 30 percent.

26. Increase Relative to Domestic Production

26.1. In order to establish whether there was increase in imports relative to domestic production, data of domestic production of the three members of the Applicant who provided the relevant information, has been used.

Year	Imports as percentage of Domestic Production*		
	Bound Tariff Lines	Unbound Tariff Lines	Total
2002	100	100	100
2003	307	227	227
2004	100	279	278

*Percentages are indexed with respect to actual figures of Year 2002 by taking as base

26.2. It is evident from above that the imports under bound tariff lines were 0.14 percent of domestic production in 2002. This share increased to 0.43 percent in 2003 and again decreased to 0.14 percent. The share of imports under unbound tariff lines as percentage of domestic production has increased continuously over the years 2003 and 2004 from 19.54 percent of domestic production to 54.67 percent of domestic production.

F. SERIOUS INJURY TO DOMESTIC INDUSTRY

27. In Section 2(o) of the Ordinance the term 'serious injury' has been defined as 'a significant overall impairment in the position of a domestic industry'.

28. With regard to determination of 'serious injury, Section 4 of the Ordinance, provides as follows:

"A determination of serious injury or threat of serious injury shall be based upon an evaluation, by the Commission, of all relevant factors of an objective and quantifiable nature having a bearing on the situation of domestic industry including but not limited to, the following:-

- (i) the rate and amount of the increase in imports of the investigated product, in absolute terms and relative to domestic production of like or directly competitive products;*
- (ii) the share of the domestic market taken by increased imports of the investigated product;*
- (iii) the impact of increased imports of the investigated product on the domestic industry, as evidenced by relevant indicators, including but not limited to, production, productivity, capacity utilization, sales, market share, profits and losses, and employment; and*
- (iv) factors other than increased imports of the investigated product which at the same time are causing serious injury or threat of serious injury."*

29. Serious injury to domestic industry is analyzed in the following paragraphs:

30. Rate and Amount of Increase in Imports

Section 4 (i) of the Ordinance requires an analysis of increase in imports of the investigated product in absolute terms and relative to domestic production of the like or directly competitive products.

31. Absolute Increase in Imports and Increase in Imports Relative to Domestic Production

31.1. Data with respect to absolute increase in imports and increase in imports relative to domestic production may be recalled from tables in paragraphs 25 and 26 supra, respectively. As analyzed there, the data shows that the imports of footwear under bound tariff lines increased by 214 percent in 2003 over the previous year. However, in 2004 the imports under bound tariff lines decreased sharply by 66 percent as compared to the previous year. The major portion of imports of footwear was under unbound tariff lines.

The imports under unbound tariff lines increased by 132 percent in 2003 over the previous year. This trend of increase in imports continued in 2004 and imports under unbound tariff lines increased by 30 percent. It may be noted that the total import figures also include import by the domestic industry.

31.2. The volume of imports under bound tariff lines was 0.14 percent of domestic production in 2002, which increased to 0.43 percent in 2003 and again decreased to 0.14 percent in 2004. The volume of imports under unbound tariff lines as percentage of domestic production has continuously increased over the period from 19.54 percent to 54.67 percent.

32. Market Share

32.1. The following table shows the domestic market of footwear over the last three years:
(Pairs)

Year	Imports of Footwear under			Sales by Domestic Industry*	Domestic Market*
	Bound Tariff Lines	Unbound Tariff Lines	Total		
2002	25,648	3,575,923	3,601,571	100	100
2003	80,647	8,293,284	8,373,931	108	129
2004	27,568	10,802,332	10,829,900	95	131

*Figures are indexed with respect to actual figures of Year 2002 by taking as base

32.2. The above table shows that the market share of the domestic industry has decreased from 83% in 2002 to 61% in 2004. The market share of imports under bound tariff lines was 0.12 percent in 2002, which increased to 0.30 percent in 2003 and decreased to 0.10 percent in 2004. The market share of imports under unbound tariff lines increased from 17 percent in 2002 to 31 percent in 2003 and in 2004 it was 39 percent.

32.3. Domestic market grew by 28.99% and 1.2% in the years 2003 and 2004 respectively. The expansion in the domestic market is largely due to increase in imports, as the sales of domestic industry are almost constant. It is evident from the figures that market share of domestic industry has decreased from 83% to 61% because the domestic industry was unable to increase its sales.

33. Production

33.1. Total production by the three units of the domestic industry for last three years is as under:-

Year	Domestic production* (Pairs)
2002	100
2003	102
2004	106

*Figures are indexed with respect to actual figures of Year 2002 by taking as base

33.2. The above table shows that the domestic production of like product has increased by 2% and 6% in years 2003 and 2004 respectively over the previous years.

34. Productivity

34.1. The productivity of the domestic industry has changed during last three years as shown below:

Year	Productivity*
2002	100
2003	105
2004	107

*Figures are indexed with respect to actual figures of Year 2002 by taking as base

34.2. It may be observed from the above table that the productivity of domestic industry has improved over the period. It is also evident from figures above that number of employees has declined while production has increased.

35. Capacity Utilization

35.1 The capacity utilization of the domestic industry is as follows:

Year	Capacity Utilization *
2002	100
2003	102
2004	102

*Figures are indexed with respect to actual figures of Year 2002 by taking as base

35.2. It appears from the above table that capacity utilization of domestic industry remained virtually constant over the last three years.

36. Sales

36.1. The following table shows the total sales of the domestic industry during the last three years:

Year	Domestic sales of domestic industry* (Pairs)
2002	100
2003	108
2004	95

*Figures are indexed with respect to actual figures of Year 2002 by taking as base

36.2 It is evident from the above figures that the sales increased slightly in year 2003 while decreased in the year 2004.

37. Profit and Loss

37.1. The profitability of the industry has changed as shown below:

Year	Total*
2002	100
2003	206
2004	145

*Figures are indexed with respect to actual figures of Year 2002 by taking as base

37.2. It is evident from the figures above that profits of the industry have increased by 106% in year 2003 as compared to year 2002 and has decreased by 29% in year 2004 as compared to year 2003.

=

38. Employment

38.1. The total number of employees were reduced over the period.

Year	Total*
2002	100
2003	98
2004	95

*Figures are indexed with respect to actual figures of Year 2002 by taking as base

38.2 It is evident from the figures above that the employment of domestic industry has decreased over the last two years.

G. CONCLUSIONS

39. As is evident from the above, 99.75% of the imports by quantities (in 2004) are effected under the unbound tariff lines (paragraph 25 supra). In case of the limited quantities imported under bound tariff lines, the binding stands at 50% under the Schedule of Concessions in respect of Article II of GATT 1994. The Government of Pakistan is not constrained in raising the tariff in respect of the unbound tariff lines to any such level as it deems appropriate. Also, it would not violate WTO obligations assumed by Pakistan in respect of the three bound tariff lines (accounting for one fourth of one percent of imports by quantities in 2004) unless the tariff were to exceed 50%.

40. For the reasons set out above, the safeguard investigation concerning imports of footwear into Pakistan initiated on June 17, 2005 is hereby terminated.

(Muhammad Ikram Arif)
Member
August 15, 2005

(Faizullah Khilji)
Chairman
August 15, 2005

List of Members of Footwear Manufacturers Association

1. Army Welfare Shoe Project
2. Bata Pakistan Limited
3. Brothers Associates
4. Dalex International
5. Desma Industries
6. East Pakistan Chrome Tannery
7. Elegant (Pvt.) Limited
8. Falk Shoes International
9. Fircos Industries (Pvt.) Limited
10. Firhaj Footwear (Pvt.) Limited
11. Footlib (Pvt.) Limited
12. K.Shoes (Pvt.) Limited
13. Lyra Shoes Company (Pvt.) Limited
14. Mehar Dastgir Leather & Footwear Industry (Pvt.) Limited
15. Mobson Industries (Pvt.) Limited
16. Prime Naalain (Pvt.) Limited
17. Raja Industries (Pvt.) Limited
18. Service Industries Limited
19. Shafi (Pvt.) Limited
20. Sigma Shoes (Pvt.) Limited
21. Starlet Products (Pvt.) Limited
22. Topfit Shoes Industries
23. Trust Shoes International
24. V & V Industries

PCT Classification with Description

6401.1000	Footwear incorporating a protective metal toe-cap
6401.9100	Covering the knee
6401.9200	Covering the ankle but not covering the knee
6401.9900	Other
6402.1200	Ski-boots, cross-country ski footwear and snowboard boots
6402.1900	Other
6402.2000	Footwear with upper straps or thongs assembled to the sole by the means of plugs
6402.3000	Other footwear, incorporating a protective metal toe cap
6402.9100	Covering the ankle
6402.9900	Other
6403.1200	Ski-boots, cross country ski footwear and snowboard boots
6403.1900	Other
6403.2000	Footwear with outer soles of leather, and uppers which consist of leather straps across the instep and around the big toe
6403.3000	Footwear made on a base or platform of wood, not having an inner sole or a protective metal toe-cap
6403.4000	Other footwear, incorporating a protective metal toe-cap
6403.5100	Covering the ankle
6403.5900	Other
6403.9100	Covering the ankle
6403.9900	Other
6404.1100	Sports footwear, tennis shoes, basket ball shoes, gym shoes, training shoes and the like
6404.1900	Other
6404.2000	Footwear with outer soles of leather or composition leather
6405.1000	With uppers of leather or composition leather
6405.2000	With uppers of textile materials
6405.9010	Of Canvas
6405.9090	Other