

NON-CONFIDENTIAL

F.No.ADC No.001/2002/TP/SA
Government of Pakistan
Ministry of Commerce
(National Tariff Commission)

**PRELIMINARY DETERMINATION AND LEVY OF PROVISIONAL ANTIDUMPING DUTY
ON ELECTROLYTIC TINPLATE PRODUCED IN SOUTH AFRICA
AND IMPORTED INTO PAKISTAN**

The National Tariff Commission (hereinafter referred to as the “Commission”) having regard to the Antidumping Duties Ordinance 2000 (LXV of 2000) (hereinafter referred to as the “Ordinance”) and the Antidumping Duties Rules, 2001 (hereinafter referred to as the “Rules”) relating to imposition of antidumping duties to offset the impact of injurious dumping from other countries and to ensure fair competition, thereof;

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 Siddiqsons Tinplate Ltd., D-53, Textile Avenue, S.I.T.E., Karachi, a domestic tinplate manufacturing industrial unit, (hereinafter referred to as the “Applicant”) on behalf of domestic industry on February 2, 2002 alleging dumping of Electrolytic Tinplate (hereinafter referred to as “Tinplate”) of a thickness of less than 0.5 mm and of width of 600 mm or more originating in and exported from the Republic of South Africa (“South Africa”) (hereinafter referred to as the “investigated product”). The High Commission of South Africa in Islamabad was notified on February 13, 2002, of the receipt of the application in accordance with the requirements of Section 21 of the Ordinance.

2. Evaluation and Examination of the Application

The examination of the application showed that it met the requirements of Section 20 of the Ordinance as it contained evidence of dumping of the investigated product and injury to the domestic industry resulting therefrom as well as Rule 3 of the Rules which requires submission of information prescribed therein. The application also fulfilled the requirements of Section 24 of the Ordinance as the Applicant represents 100% of the total production of the domestic like product produced by the domestic industry. The Applicant identified Macsteel International (Pty) Ltd., 187 Rivonia Road, Sandton, P.O.Box 8370, Johannesburg, South Africa (hereinafter referred to as the “exporter”), as the South African exporter and Iscor Limited, Roger, Dyason Road, P.O. Box 450, Pretoria-West, Pretoria 0001, South Africa (hereinafter referred to as the “foreign producer”), as the South African producer of the investigated product.

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3. Initiation of Investigation

3.1 The Commission, upon examining the accuracy and adequacy of the evidence provided in the application, established that there is sufficient evidence of dumping and injury to justify initiation of an investigation. Consequently, the investigation was initiated on February 26, 2002 and in terms of Section 27 of the Ordinance, the Commission, on the same day, issued a notice (“notice of initiation”) published in the official Gazette of Pakistan¹ and in two widely circulated national newspapers² (one English language and one Urdu Language) notifying initiation of investigation concerning imports into Pakistan of the investigated product {importable under PCT. No. 7210.1200 contained in the First Schedule to the Customs Act, 1969 (IV of 1969)} originating in and exported from South Africa.

3.2 The Commission also sent the notice of initiation to the High Commission of South Africa in Islamabad, the exporter, the foreign producer, the Pakistani importers, the representative association of importers, the users, and the Applicant in accordance with the requirements of Section 27 of the Ordinance.

3.3 Thereafter, the Commission sent a non-confidential version of the application to the exporter, the foreign producer, the importers’ association, and the High Commission of South Africa in Islamabad. In addition to the non-confidential version of the application, the Commission sent a questionnaire for submission of data/information (hereinafter referred to as the “Questionnaire”), on February 28, 2002, to the exporter, the foreign producer, and the importers’ association and requested them to respond to the Commission within 37 days of the dispatch of the Questionnaire. This was followed by a letter dated March 12, 2002 from the Commission in which the period of investigation was more particularly defined; the time limit of 37 days was counted from March 12, 2002. The exporter as well as the foreign producer, vide their letters dated April 5, 2002 and April 2, 2002 respectively, requested for extension in the time limit for submission of their reply to the Questionnaires by a period of two weeks. A similar request was also received from the importers’ association vide their letter dated April 22, 2002. These requests were reviewed by the Commission and, upon good cause shown, extension of two weeks in the time period for submission of filled-out Questionnaire were granted to the exporter and the foreign producer through letters, both dated April 10, 2002. Similarly, the importers’ association was granted extension through the Commission’s letter dated April 23, 2002. Replies were received from the exporter and the foreign producer on May 3, 2002 within the extended time period, which were accepted by the Commission for examination.

3.4 The Commission also received a reply from the importers’ association. However, upon examination, it was found that the reply did not meet the requirements of the Questionnaire. It is placed on record for the purposes of this investigation.

¹ The Gazette of Pakistan (Extraordinary) dated February 28, 2002

² “The Nation” and the “Naw-e-waqat” of February 26, 2002 issue.

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3.5 A request was made to Pakistan Revenue Automation Limited (“PRAL”), the data processing arm of the Central Board of Revenue, Government of Pakistan, on March 2, 2002 to provide details of imports of Tinplate from all countries including South Africa, for the period of investigation more particularly defined in paragraph 7 below.

3.6 The Commission, in accordance with Rule 7 of the Rules, has established and maintained a public file at the offices of the Commission, which is available to the interested parties for review and copying from Monday to Thursday between 1100 hrs to 1300 hrs.

3.7 The Commission sought the relevant data/information deemed necessary for the purposes of determination of dumping and injury from all available sources. On the spot investigation was conducted at the premises of the Applicant from April 11 to 13, 2002 in order to verify the information provided by the Applicant and to obtain further details. Similarly, the foreign producer and the exporter were requested vide Commission’s letters both dated May 16, 2002 for on the spot investigation at their premises to which both the parties agreed. In this connection, arrangements are being finalized.

4. Applicant’s Views

The Applicant has raised the following major issues in its application and subsequent clarifications regarding dumping of the investigated product and the material injury resulting therefrom:

- i) the exporter is exporting the investigated product to Pakistan at dumped prices;
- ii) the investigated product and the Tinplate domestically produced are ‘like products’;
- iii) the exporter is a major exporter of Tinplate to Pakistan. Its share in total imports of Tinplate to Pakistan is around 45 percent;
- iv) dumping of the investigated product is causing material injury to the domestic industry, mainly for the reasons given below:
 - price undercutting;
 - production and sales could not reach the projected level;
 - build up of excessive stocks/inventories of finished product;
 - “negative” return on investments;
 - consequential difficulties in raising capital for its operations; and
 - losses on its production/sales.
- v) the domestic industry has enough production capacity to meet the entire demand of the country; and

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- vi) dumping of the investigated product from South Africa started with the start of commercial production by the domestic industry.

5. Submissions by the Exporter and the Foreign Producer

The Commission received written replies/submissions from the exporter and the foreign producer, through their attorney, in which the allegations made by the Applicant are denied and rejected. The replies/submissions are intended essentially to establish the following:

- i) the present antidumping proceeding has been initiated illegally;
- ii) the Pakistani producer of Tinplate is not suffering any material injury;
- iii) imports of Tinplate from South Africa did not cause any injury to the Pakistani producer; and
- iv) imposition of anti-dumping measures on imports of Tinplate originating in South Africa would not be in the interest of the user industry in Pakistan.

6. Views of the Other Interested Parties

Through the notice of initiation all interested parties (as defined in Section 2 of the Ordinance) were given an opportunity to make their views concerning alleged dumping of the investigated product known to the Commission in writing. In addition to the comments received by the Commission from the Applicant, the foreign producer and the exporter (please see paragraph 4 and 5 above), comments were received from the other interested parties which are summarized as follows:-

- i) **Pakistan Iron & Steel Merchants' Association**

Pakistan Iron & Steel Merchants' Association (hereinafter referred to as "PISMA") stated that:

- a. no dumping of Tinplate from South Africa or any other country is taking place;
- b. "Conditions in Pakistan are not suitable for dumping a costly material as Tinplate";
- c. more than 90% imports of Tinplate are of secondary quality;
- d. the product of the Applicant has failed to capture the market in Pakistan;

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- e. the Applicant is using secondary quality Tin Mill Black Plate (herein after referred to as "TMPB") to produce prime quality Tinplate; and
- f. prices of the Applicant's product are very high.

ii) Al Mumtaz International

The views and comments submitted by them were the same as those of PISMA.

iii) S.B. Steel Company

They stated that:

- a. no dumping of Tinplate is taking place from South Africa or any other country;
- b. conditions in Pakistan are not suitable for dumping Tinplate; and
- c. the Applicant wants to have a monopoly in the domestic Tinplate market.

iv) Hussain Can Co. (Pvt.) Ltd.

They stated that:

- a. Pakistan imports 75,000 MT to 100,000 MT of secondary quality Tinplate annually; the quantity imported from South Africa is negligible;
- b. the prices of Tinplate imported from South Africa are same as the prices of Tinplate imported from other countries;
- c. the major raw material of Tinplate i.e. TMBP is available in South Africa, so their cost to make and sell is lower than that of the Applicant; and
- d. prices of both Tinplate and TMBP in the international market have declined.

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*Preliminary Determination and Levy of Provisional Antidumping Duty on Electrolytic Tinplate Produced in South Africa and Imported into Pakistan*v) Hafeez Iqbal Oil & Ghee Industries (Pvt.) Ltd.

They stated that:

- a. Tinplate is not being dumped in Pakistan;
- b. Pakistan is not a big market for Tinplate. Only a few consumer goods are tinned;
- c. Tinplate is not imported in large quantities from South Africa; and
- d. the Applicant is availing a number of tax exemptions and now wants a monopoly in the domestic market.

7. Period of Investigation

In terms of Section 36 of the Ordinance, (a) for the purposes of investigation of dumping, period of investigation (“POI”) shall normally cover twelve months preceding the month of initiation and in no case less than six months and (b) for the purposes of an investigation of injury, the POI shall normally cover thirty-six months. However, the Commission may select a shorter or longer period if it deems it appropriate in view of available information regarding domestic industry and an investigated product. As the Applicant commenced commercial production in June 1999, the periods of investigation selected for dumping and injury, are as follows:

Investigation of dumping	from October 01 2000 to September 30, 2001; and
Investigation of injury	from July 01 1999 to September 30, 2001.

8. Examination and Findings by the Commission

8.1 The submissions filed before the Commission by the Applicant, the importers, the exporter, the foreign producer and other interested parties, have been examined and considered while arriving at these findings and, wherever appropriate, have been dealt with hereinafter.

8.2 In the absence of complete and sufficient response from the exporter and the foreign producer, the Commission has made its assessment and based its findings on the best available information in terms of Section 32 of the Ordinance.

9. Investigated Product, Like Product, Domestic Like Product

9.1 Section 2 of the Ordinance defines “investigated product” to mean a product which is subject to an antidumping investigation as described in the notice of initiation of the investigation. The “like product” is defined to mean a product, which is alike in all respects to an investigated product, or, in the absence of such a product, another product

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which although not alike in all respects, has characteristics closely resembling those of the investigated product. The “domestic like product” means the domestically produced product, which is a like product to an investigated product.

9.2 For the purposes of this investigation and the definitions set out above, these products are identified as follows:

- i. Investigated Product
Flat rolled product of iron or non-alloy steel of a thickness of less than 0.5 mm and of a width of 600 mm or more, clad, plated or coated with tin, originating in and exported from South Africa to Pakistan.
- ii. Domestic Like Product
Flat rolled product of iron or non-alloy steel of a thickness of less than 0.5 mm and of a width of 600 mm or more, clad, plated or coated with tin, produced in Pakistan.

9.3 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 from various sources including the exporter, the foreign producer, the Applicant, and PRAL in the following terms:

- i. The investigated product is Tinplate, produced from TMBP, coated with tin to protect it against corrosion.
- ii. Various grades of Tinplate are produced in South Africa. It is contended by the exporter and the foreign producer that the product can be of prime quality and secondary quality, in various grades. The investigated product comprises of grades A, B, C, D and general purpose. These are manufactured from the same raw materials, have the same basic physical characteristics and usage, and are, therefore, regarded for the purposes of this investigation as a single product. Similarly, various grades of domestic like product produced by the Applicant are manufactured from same raw materials and have the same basic physical characteristics and usage.
- iii. The foreign producer uses the “halogen” method to produce the investigated product, whereas the Applicant uses the “USS” method to produce the domestic like product. However, the resulting products from both the methods are manufactured from the same raw materials and have same basic physical characteristics and tariff classification. Thus both the products are substitutes for each other and the production method has no impact on the resulting product.

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- iv. The investigated product is of less than 0.50 mm thickness and 600 mm or more of width. It is classified under Pakistan Customs Tariff (“PCT”) heading No. 7210.1200 contained in the First Schedule to the Customs Act, 1969 (Act IV of 1969). The domestic like product is also of less than 0.5 mm thickness and 600 mm or more of width and is classified under the same PCT heading.
- v. Tinplate is used in the packaging of food items and non-food items e.g. edible oils, foodstuff, paints and petroleum products. Ideally, prime quality Tinplate is used in the packaging of foodstuff while secondary quality Tinplate is used for the packaging of non-food items. But this difference is not taken into account in Pakistani market by most of the users and secondary quality Tinplate is also used for the purposes of food packaging.
- vi. The exporter and the foreign producer submitted that the Tinplate sold in South Africa and the Tinplate exported to Pakistan is physically different. However, such physical differences are not adequately elaborated to constitute a tangible factor that could be taken into account. One prominent explanation given in this regard is that the Tinplate sold in South Africa is of prime quality while the Tinplate exported to Pakistan is of grade ‘C’ which has a high percentage of blue oxide.
- vii. The claim of the exporter and foreign producer that the prime quality Tinplate was sold in South Africa and grade C was exported to Pakistan is misleading since the data submitted by the foreign producer reveals that prime as well as secondary quality Tinplate were sold in South Africa and the data submitted by the exporter reveals that grades A, B, C, D and general purpose of Tinplate were exported to Pakistan.
- viii. Both the foreign producer and the exporter claimed that the investigated product was not fit for packaging of food items and was used for shoelace eyes on shoes, calendar support, and other types of packaging of non-food items. However, the information obtained from PRAL (supported by documentary evidence) shows that the investigated product was imported during the POI by different kinds of importers including ghee/cooking oil manufacturing units, which implies that the investigated product was used for packaging of food as well as non-food items. The exporter identified four Pakistani unrelated importers to whom they sold the investigated product during the POI, whereas the information submitted by the Applicant, obtained from Pakistan Customs, lists other importers as well who imported the investigated product during the POI.

9.4 Data submitted by the foreign producer and the exporter contained codes for product identification, quality/grade, coating and thickness, of the investigated product as

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well as the like product sold in the domestic market of South Africa. In order to decode the said information, a booklet was attached to the submission. Thus, the information on product, quality/grade, and thickness was obtained by decoding the codes in accordance with the procedure set out in the booklet. However, some codes were invalid and the information under these codes was not retrievable. Especially, the codes for thickness were misleading and this information could only be retrieved for 11 transactions out of 227 transactions of investigated product. The exporter as well as the foreign producer were requested by the Commission to provide the correct data/information, to which they responded that the coding system has been explained fully. Thus, in this context, the Commission proceeded to rely upon the best information available in terms of Section 32 of the Ordinance.

9.5 Imports of the investigated product were taking place under PCT No.7210.1200, which identifies the investigated product to be of less than 0.5 mm of thickness and of width of 600 mm or more.

9.6 On these bases, it is concluded that the investigated product and the domestic like product are like products.

10. De Minimis Level of Imports

In terms of Section 41(3) of the Ordinance the volume of dumped imports shall normally be regarded as negligible if the volume of dumped imports of an investigated product is found to account for less than three percent of total imports of like product. In this connection, the data/information received from PRAL reveals that the total volume of dumped imports of the investigated product accounts for thirty-four percent (34.45%) of the total imports of Tinplate into Pakistan during the POI which is above the de minimis level of three percent set out above.

B. DUMPING

11. Normal Value

11.1 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.

11.2 The normal value of the investigated product has been established on the basis of comparable price paid or payable, in the ordinary course of trade, for sales of a like product when destined for consumption in South Africa, in accordance with Section 5(1) of the Ordinance.

11.3 It is pertinent to note here that the foreign exporter in replying to the Questionnaire submitted that the exports of the investigated product were mostly of grade 'C'. However, from the data/information obtained after decoding the codes, as described

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in paragraph 9.4 above, it was revealed that in fact five grades i.e. A, B, C, D and general purpose, were exported to Pakistan during the POI. Given that the five grades are like products (see paragraph 9.3(ii) above), the issue was one of how best to interpret and to process the said information. Since all five grades use the same raw materials, power, and labour inputs, (also the same 'halogen' process of production), the foreign producer was requested to clarify this position and provide the basis for cost allocation between different grades. The foreign producer did not provide this information inspite of a reminder. Based on the best available information and pending a mutually convenient on the spot investigation visit to the premises of the exporter and the foreign producer, it was decided to determine the normal value for the investigated product on the basis of weighted average sale price of all grades A, B, C, D and general purpose of Tinplate in South Africa during the POI. For this purpose, the Commission identified that, during the POI, the general purpose grade produced by the foreign producer was neither sold in South Africa nor to any third country and, thus, the weighted average sale price was based on the remaining four grades.

11.4 The Commission also examined whether:

- a. the sales of like product in the domestic market of South Africa are representative of the sales of the investigated product to Pakistan; and
- b. the sales transactions are in the ordinary course of trade.

11.5 Section 6(2) of the Ordinance provides that the sales of like product in the domestic market of the exporting country are considered to be in sufficient quantity for the determination of normal value if such sales constitute five percent or more of the sales of an investigated product to Pakistan. In this case, during the POI domestic sales in South Africa of like product were 88 percent, well in excess of five percent of total sales of the investigated product to Pakistan.

11.6 It was established by the Commission that the sales of like product in the South African domestic market were in the ordinary course of trade. In this connection, two things were considered. First, whether sales were made to independent customers. In this respect the foreign producer stated that all domestic sales of the like product produced by them were to unrelated customers (i.e. to wholesalers, retailers and users). Second, whether the sales were made at a weighted average price equal to or above the weighted average cost as per Section 7 of the Ordinance. The data submitted by the foreign producer revealed that the weighted average sale price, during the POI, was above the weighted average cost.

11.7 Since the domestic sales in South Africa met the criteria listed above, the normal value of US\$ 226.62/MT was based on the actual sale price, calculated as a weighted average of the prices of all domestic sales made during the POI, whether these sales were profitable or not.

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11.8 The weighted average adjusted ex-factory normal value of the like product, during the POI, has been worked out to be US\$ 219.12/MT, after taking into account the adjustments, more particularly described in paragraph 13.2 below.

12. Export Price

12.1 Export price has been worked out in accordance with Section 10(1) of the Ordinance which stipulates that an export price shall be a price paid or payable for an investigated product when sold for export from an exporting country to Pakistan. In the case in hand, the investigated product was sold by the exporter to independent buyers in Pakistan and thus the export price for the investigated product has been established on the basis of export price actually paid or payable. Thus the weighted average export price established is US\$ 228.33/MT.

12.2 As with normal value, adjustments in export price were also made to establish the weighted average ex-factory export price of the investigated product. The weighted average adjusted ex-factory export price works out to be US\$ 164.52/MT.

13. Comparison of Normal Value and Export Price

13.1 In order to ensure a fair comparison between the normal value and the export price, due allowance in the form of adjustments has been made for differences affecting price comparability in accordance with Section 11 of the Ordinance.

13.2 The foreign producer claimed 2.45 percent of ex-factory sales value as early payment discount and 30 days credit period with an interest rate of 10.64 percent per annum. Thus the normal value has been adjusted for both credit expense and early payment discount to arrive at the ex-factory price.

13.3 As regards the export price, the Commission examined the information submitted by the exporter on C&F export prices, ocean freight, inland freight, and selling and distribution expenses. Thus, in order to arrive at the level of ex-factory export price, ocean freight, inland freight, and selling and distribution expenses have been deducted from the C&F export price.

14. Dumping Margin

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. In this case, as there is only one exporter and one foreign producer, the dumping margin has been calculated in accordance with Section 12 (1) of the Ordinance by comparing the adjusted normal value and adjusted export price. The provisional dumping margin worked out on the basis of weighted average ex-factory normal value and weighted average ex-factory export price is 33.19 percent which is well above the de minimis level of two percent set out in Section 41 of the Ordinance.

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C. INJURY TO DOMESTIC INDUSTRY

15. Domestic Industry

The Pakistan Tinplate manufacturing industry comprises of one unit i.e. Siddiqsons Tin-plate (Pvt.) Limited., representing 100 percent of the domestic production of Tinplate and thus constitutes the domestic industry within the meaning of Section 2(d) of the Ordinance.

16. Determination of Injury

Section 15 of the Ordinance sets out the principles for determination of injury 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...”

These factors are not exhaustive and the Commission may take into account such other factors as it considers relevant for the determination of injury. Thus the Commission took into account all factors known and relevant in order to determine whether the domestic industry suffered material injury during the POI.

17. Applicant’s Views Regarding Injury

As set out in paragraph 4 above, the Applicant claimed that the dumped imports of the investigated product were causing material injury to domestic industry. This claim was reviewed by the Commission alongwith other factors considered relevant to establish injury caused to the domestic industry due to imports of investigated product.

18. Domestic Market

18.1 Pakistan’s domestic market of Tinplate was established by combining the volumes of sales of the domestic industry in Pakistan and total quantity imported from all sources. For the purpose of volume of imports, the data compiled by PRAL was used.

18.2 Prior to the establishment of domestic industry, the entire demand of the domestic market of Tinplate was met through imports. The domestic market of Tinplate, since the

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establishment of domestic industry, remained approximately between 87,000 MT to 97,000 MT.

19. Imports from Dumped Source and Other Sources

The share of imports of the investigated product in total imports increased from 27.09 percent in 1999-2000 to 30.46 percent in 2000-2001 and to 41.52 percent in July-September, 2001. The share of total imports from other countries declined from 72.91 percent to 58.48 percent over the period from 1999-2000 to July-September, 2001.

20. Price Trends

20.1 Price Undercutting

20.1.1 It was examined whether the dumped imports of the investigated product were undercutting the prices of domestic industry during the POI. For this purpose C&F prices of the dumped imports of the investigated product were adjusted to the level of duty paid value excluding sales tax (landed cost). These prices were compared with the ex-factory prices of domestic like product during the POI.

20.1.2 The weighted average ex-factory prices of domestic like product were compared with the weighted average landed cost (excluding sales tax) of the investigated product for the POI. The undercutting margins found on this basis, expressed as a percentage of the ex-factory prices of domestic like product, are as follows:

Period	Price under-cutting Margin (%)
1999-2000	38.85
2000-2001	38.44
Jul-Sep, 2001	25.56

20.2 Price Suppression

20.2.1 The Applicant claimed that in order to cover the increase in the cost of materials and depreciation in Pakistan Rupee, the Applicant wished to increase prices of its product. Dumped imports prevented such an increase in prices.

20.2.2 For this purpose the average ex-factory selling price of the domestic like product and landed cost of dumped investigated product were compared. The analysis revealed that the Pakistan Rupee depreciated by approximately 13 percent in the year 2000-2001 over the previous year while the landed cost of the investigated product increased by 0.71 percent for the same period. Price suppression is implicit in the difference between the depreciation in Pakistani currency and the negligible increase in the landed cost of imports.

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The production of domestic industry increased from 22228 MT in the year 1999-2000 to 34587 MT in the year 2000-2001. During the last quarter of POI (July-September, 2001) the production of the domestic industry was 14405 MT. Though this increase in production prima facie seems quite reasonable, it is mainly due to the low production volume in the initial year. Further, substantial quantity of domestic like product produced by the Applicant during the POI could not be sold, resulting in build up of stocks, and consequential increase in financial expenses and resultant losses.

22. Capacity and Capacity Utilization by the Domestic Industry

The installed production capacity of the domestic industry is 120,000 MT per annum. The capacity utilization of the domestic industry was 18.52 percent, 28.82 percent and 48.02 percent during the years 1999-2000 and 2000-2001, and for the period from July to September 2001 respectively.

23. Sales by Domestic Industry in Domestic Market

During the POI, sales of the domestic like product increased. The increase is mainly because the domestic industry, in order to remain competitive and gain market share, kept its prices lower than where they should have been.

24. Market Share

The market share of the domestic industry increased from 15.85 percent to 43.29 percent in the year 2000-2001 over the previous year. The market share of dumped imports of the investigated product decreased from 22.80 percent to 17.28 percent while imports from other countries decreased from 61.35 percent to 39.43 percent over the same period. Thus the market share taken by the domestic industry was mainly from imports of other countries. The increase in volume of production and sales of domestic like product is mainly due to:

- a. low production and sales volume in initial year;
- b. decline in the share of total imports of Tinplate from other countries;
- c. the domestic industry having increased its market share by incurring large losses; and
- d. the domestic industry, with a view to remain competitive and gain market share, kept its prices at a level lower than the level where they should have been.

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25.1 The foreign producer and the exporter submitted that the projections for production and sales made by the Applicant were not based on reality and it was not clear as to how the Applicant made these projections.

25.2 The Commission did not take into consideration these projections whilst determining injury to the domestic industry.

26. Stocks and Inventories

At the end of the domestic industry's first year of operation, the inventory holdings of domestic like product were 33 percent of its total production. The inventory holding decreased to the level of 12 percent of production at the end of the second year of operation. However, in the last quarter of POI (July-September, 2001) the inventory rose by 54 percent of the last years ending inventory. Thus the Commission observed that the stock buildup was high in the year 1999-2000 and the period from July to September 2001.

27. Profitability

27.1 Domestic industry has been operating at a loss since it started production in June 1999.

27.2 The exporter and the foreign producer submitted that the profitability of the Applicant was deteriorating due to the heavy financial charges and not on account of imports from South Africa. In this connection, it is noted by the Commission that the profitability of the Applicant deteriorated because of low capacity utilization (due to low sales attributable mainly to the dumped imports of the investigated product), which in turn resulted in higher financial charges.

28. Investment and Return on Investment

The paid up capital of the domestic industry was Rs.473.51 million. There was a "negative" return on investment during the POI.

29. Cash Flow

Cash flow from the operations of the domestic industry was negative during the year 1999-2000. However, in the year 2000-2001 it was positive. This was because the domestic industry reduced its cost of production and increased its sales.

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The domestic industry reported great difficulty in raising capital during the POI. The domestic industry was incurring losses continuously which kept on accumulating over the POI.

31. Employment, Productivity and Wages

Employment in the domestic industry remained almost static because it suffered large losses during the POI and could not afford to hire more employees. Indeed, it could be assumed that since there was an increase in production, as discussed in paragraph 21 above, there would be a corresponding increase in employment. However, in this case productivity improved with increase in production because of low capacity utilization earlier. Employment remained almost static, and no additional expense in terms of wages was incurred during the POI.

32. Magnitude of Dumping Margin and its Impact

As regards the impact of the magnitude of dumping margin on domestic industry, this impact cannot be considered as negligible.

33. Tax Exemptions and Protections Availed by Domestic Industry

33.1 The exporter and the foreign producer submitted that the Applicant was over protected by 30% customs duty leviable on imported Tinplate. The industry also had a number of tax exemptions including exemption from 20% sales tax on imports during the POI.

33.2 These submissions were examined by the Commission. The rate of customs duty leviable on imports of Tinplate stands reduced to 25 percent from financial year 2002-2003. It is noted that the Applicant was availing these tax concessions/exemptions due to its location in a special industrial zone; these have been provided to balance location and infrastructure constraints. As regards particular reference made to sales tax, the Commission noted that in any event this advantage stands neutralized as sales tax is recoverable from the end users. Furthermore, whilst arriving at the level of duty paid value of the investigated product in paragraph 20.1.1, sales tax has been excluded.

34. Fair Competition

The exporter and the foreign producer submitted that the imposition of antidumping duties on the investigated product would eliminate competition in the Pakistan domestic market and the prices of Tinplate would go up. This would lead to increase in prices of items using Tinplate as packing material. The Commission's view is that in the circumstances of the case, the imposition of anti-dumping duty would ensure

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fair competition of the domestic like product with the investigated product in the domestic market of Pakistan rather than eliminate competition.

35. Conclusion on Material Injury

35.1 The domestic industry was adversely affected during the POI. The domestic industry was prevented from better utilizing its capacity due to dumped imports. The market share gained by domestic industry was mainly because of reduction in imports from other countries rather than South Africa. The dumped imports undercut prices of the domestic industry in the range of 26-39 percent. Domestic industry has not been able to raise its selling price as the landed cost of the investigated product in Pakistan has been significantly lower than the ex-factory price of the domestic like product.

35.2 As a result of these adverse factors, the industry suffered “negative” return on investment and faced difficulties in raising capital for its operations during POI.

35.3 Based on the above analysis, it is concluded that the domestic industry suffered material injury on account of dumped imports of the investigated product during the POI.

D. CAUSATION OF INJURY

36. In accordance with Section 18 of the Ordinance the Commission 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 was not attributed to the injury caused by dumped imports. Factors other than those imputable to dumping of the investigated product, which contributed towards the material injury suffered by the domestic industry during the POI are set out as follows:-

i. Impairment Loss

The loss figure shown in the 1999-2000 audited accounts includes “impairment loss” of Rs. 11,279,997 charged to the profit and loss account. This loss reflected downward adjustment in the value of fixed assets (being a fall in the price of electric generators). Thus Rs.11.28 million of the loss during POI, owing to this account, is not attributable to dumped imports.

ii. Water Treatment Plant

Water is essential in the production process of Tinplate. Water fit for industrial use is in scarce supply in the area where the Applicant’s plant is situated. To overcome the shortage of water, the Applicant installed its own water treatment plant. The Applicant on this account incurred an extra cost of Rs.29.18 million during the POI, which is not attributable to dumped imports.

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*Preliminary Determination and Levy of Provisional Antidumping Duty on Electrolytic Tinplate Produced in South Africa and Imported into Pakistan***iii. Imports from Other Countries**

- a) A considerable volume of imports of Tinplate from other countries also took place during the POI. The Applicant is of the view that imports from other countries were also at prices lower than the prices obtaining in ordinary course of trade in international commerce even though these prices were significantly higher than those of the investigated product.
- b) C&F prices of Tinplate imported from other countries are comparatively higher than the C&F prices of the investigated product. Market share of these imports during the POI decreased from 61 percent in the year 1999-2000 to 24 percent during the period from July to September 2001.

E. CONCLUSIONS

37. The conclusions that emerge after taking into account all these considerations and examinations are as follows:

- i. the application is lodged by the domestic industry;
- ii. the investigated product and the domestic like product are like products;
- iii. the investigated product was exported to Pakistan from South Africa below its normal value during the POI;
- iv. the volume of dumped imports from South Africa and dumping margin established on the basis of the analysis above are above the de-minimis level;
- v. the domestic industry suffered material injury during the POI;
- vi. a significant part of material injury to domestic industry is due to dumped imports from South Africa; and
- vii. the dumping margin on the basis of ex-factory export price works out to be 33.19 percent.

F. IMPOSITION OF PROVISIONAL ANTIDUMPING DUTY

38. In view of the analysis and conclusions with regard to dumping, material injury, and causation, imposition of provisional antidumping duty on investigated product is

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needed in order to prevent further material injury to the domestic industry by dumped imports.

39. In terms of Section 43 of the Ordinance a provisional antidumping duty @ 23.91 percent ad val of C&F price is imposed on dumped imports of Tinplate of a thickness of less than 0.5 mm and of a width of 600 mm or more, importable under PCT No. 7210.1200, originating in South Africa, for a period of four months effective from July 22, 2002. The provisional antidumping duty @ 23.91 percent of C&F price is equivalent to the provisionally determined dumping margin at ex-factory price.

40. In accordance with Section 44 of the Ordinance, the provisional antidumping duty shall take the form of security by way of cash deposit 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 provision of such security by way of cash deposit.

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

42. The provisional antidumping duty would be collected in the same manner as customs duty is collected under Customs Act 1969 (IV of 1969) and would be deposited under the head 3501003 – Civil Deposits National Tariff Commission Non-lapsable PLA No. 187 with Federal Treasury Officer Islamabad.

(M. Riyazul Haque)
Member
July 20, 2002

(Faizullah Khilji)
Chairman
July 20, 2002