



**Government of Pakistan
National Tariff Commission**

Final Determination and Levy of Definitive Anti-Dumping Duties on Dumped Imports of Aluminum Beverage Cans into Pakistan Originating in and/or Exported from Jordan, Sri Lanka and UAE.

A.D.C No.54/2018/NTC/ABC

December 29, 2021

**Final Determination and Levy of Definitive Antidumping Duties on Dumped Imports of Aluminum Beverage Cans
Originating in and/or exported from Jordan, Sri Lanka and UAE**

Introduction:

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

2. The Commission had conducted an investigation against alleged dumping of aluminum beverage cans having capacity of 250 ml to 300 ml (“aluminum beverage cans”) into Pakistan originating in and/or exported from Jordan, Sri Lanka and UAE (the “Exporting Countries”), under the Act and the Rules. The Commission made final determination in this investigation under Section 39 of the Act. The report of final determination had been issued in accordance with Section 39(5) of the Act and Article 12.2 of the Agreement on Antidumping on February 20, 2020.

3. In the Final determination dated February 20, 2020, the Commission concluded that there was no injury to the domestic industry on the basis of examination /analysis of injury factors enumerated in Section 15 (i) & (ii) of the Act; i.e., the volume of dumped imports, and effects of dumped imports on prices in domestic product for the like product, therefore, it was not likely to have consequent impact of dumped imports on producers of such product. It was held that even if there was an injury to the domestic industry in factors listed in Section 17 of the Act, these could not be attributed to the dumped imports of aluminum beverage cans. Consequently, the investigation was concluded without imposition of anti-dumping duty in terms of Section 42 of the Act.

4. Pursuant to the Final Determination made by the Commission, Pakistan Aluminum Beverage Cans Limited, Faisalabad (“The Applicant”) being aggrieved of negative final determination, filed an appeal No. 349 of 2020 before the Anti-Dumping Appellate Tribunal (“The Tribunal”) under Section 70 (1) (ii) of the Act.

5. The Tribunal heard the parties in the appeal wherein various issues were discussed. In its judgment, the Hon’ble Tribunal framed four issues and gave its findings on every issue separately. The issue framed by the Tribunal and respective findings are summarized as follows:

ISSUE NO. 1

Whether the NTC complied with the requirement of Section 4 and 15(2) of the NTC Act while signing the impugned Final determination report?

5.1 The Tribunal held that no determination is to be declared invalid due to the vacancy and defect in the constitution of the Commission in terms of section 4(4) of the NTC act. More so, section 15 of the Act requires the presence of 2 members to constitute a quorum and this case was decided by three Members of the Commission. However, the Tribunal has asserted that since there was a difference of opinion between members at the time of the 27.11.2019 meeting, and there was an unusual delay in passing of the final determination after the meeting, propriety required that all the members present during the passing of final determination should have deliberated on the final determination.

ISSUE No. 2

Whether law requires any specific methodology or procedure to determine injury in cases of material retardation?

5.2 Tribunal has considered WTO case law and practices of member countries and concluded that different member countries adopt different practices. The US determines injury in retardation cases based on comparison between actual figures and projections whereas India considers various relevant factors such as financial losses caused to a start-up due to dumped imports, the performance of the domestic industry in terms of sales, production, capacity utilization, consumer preference after the domestic like product is introduced. Malaysia on the other hand has incorporated in its regulation a procedure that is to be adopted in material retardation cases.

5.3 After consideration of the above, the Tribunal concluded that it was the discretion of the Commission to adopt a method to determine whether the domestic industry is established or not. If the domestic industry is not established, whether the inability to do so is attributed to the dumped imports. In determining the two, the Commission shall consider factors it deems appropriate. Both, trend analysis and comparison with projected figures can be used. There is no Bar on the Commission to adopt a particular method.

ISSUE NO. 3

Whether finding of the NTC that there has been no material retardation to the establishment of domestic industry based on facts?

5.4 The Tribunal has compared the final determination report with the preliminary determination report to highlight the contradictions in Commission's final determination.

After comparing different paragraphs of preliminary determination and final determination, the Tribunal has noted that the facts remaining the same, the Commission has concluded differently in the final determination without any supporting evidence for the conclusions in final determination.

5.5 The Tribunal has noted that the only new fact which formed the basis of the negative final determination was the FTA with Sri Lanka. The Tribunal has held that the decrease in landed cost and price undercutting cannot be attributed to FTA. FTA with Sri Lanka is a constant factor, and its presence is not considered during the preliminary determination. Furthermore, the FTA was limited to Sri Lanka, however, NTC has failed to consider UAE and Jordan both of whom constitute a major portion of exports. Even in the case of Sri Lanka there is no quantification of the impact of FTA on the Landed cost.

ISSUE NO. 4

Whether the NTC complied with the requirement of Rule 14 of the Rules by disclosing essential facts to the interested parties on which the decision is based?

5.6 The Tribunal pointed out that the factual changes were made from the preliminary determination to the statement of essential facts (“SEF”), However, the final determination, with the addition of a couple of facts has resulted in non-imposition of duty. The Tribunal has considered Article 6.9 of the Agreement and Rule 14(8) of the Rules. According to the Tribunal, the factors formed the basis of decision for non-imposition of duty were not shared with the appellants in the SEF, thus, according to the Tribunal, the Commission had violated the provision of Rule 14(8) of the Rules and resulted in denying the appellants’ right of rebuttal provided under Rule 14(9) of the Rules.

6. After due deliberation, the Tribunal vide its judgment dated June 25, 2021, held that the Commission did not comply with the requirements of Rule 14 of the Rules. It also held that the determination was not based on relevant facts. Based on its findings on issue No. 3 and issue No.4, the Tribunal remanded the case back to the Commission for de novo determination strictly in accordance with law. Relevant paragraph of Tribunal judgment dated June 25, 2021 is reproduced below:

“31. Thus, having discussed as above, we are of the view that the Commission’s findings and conclusion are not consistent with facts and law. Accordingly, the Final Determination impugned herein dated 20.02.2020 is not affirmed and the matter is remanded to the Commission for de novo determination strictly in accordance with the law”

De Novo Determination

7.1 In compliance of the directions made by the Tribunal vide its judgment dated June 25, 2021, the Commission after considering the law, facts and procedures has re-appreciated and re-appraised the investigation to make final determination de novo. The Commission has therefore decided to revisit the report of final determination dated February 20, 2020, to the extent of defining de novo determination, recalculating the dumping margins and fixing the infirmity pointed by the appellate forum in two issues (i.e., Issue No. 3 and 4)

What does De novo Determination imply?

- a. De novo in general means afresh, again or from the beginning; however, the scheme of investigation provided in Anti-Dumping Duties Act, 2015 and the WTO Agreement on Anti-Dumping in ordinary circumstances cannot be applied strictly after the case is remanded back to the authority by the judicial forum on the following grounds:
- b. The period of investigation cannot be updated. Period of investigation (“POI”) is defined at the time of initiation under section 36 of the Act and the same is published in the notice for information to all interested parties. Once, POI is set and is published through a notice of initiation, the Commission cannot make its assessment based on the data relating to any other period outside the defined POI. Section 36 (1) is reproduced hereunder for ready reference.
- c. **Section 36. (1) Assessments to be on the basis of data relating to defined periods.**
– (1) The Commission shall base its assessments of dumping and injury on data relating to defined periods which shall be the periods for which information is required by the Commission.

7.2 It is a settled WTO jurisprudence that although duty is imposed prospectively, yet it is a remedy of the wrongdoing in the past. If there is any wrongdoing on part of the foreign producers or exporters in the form of dumping, then it must be remedied. If the foreign producers are not found to be dumping and have not caused injury (including material retardation) then the case may be terminated. But in either case the rights and liabilities of the parties must be determined and closed. If the Commission updates POI in post remand proceedings, then the nature of the case for both parties could be different than the original investigation. In that case the rights and liabilities of the parties under the law for the earlier POI will be left open and undetermined.

8. The Commission has therefore decided that de novo determination implies de novo determination of the Final Determination, and it must pass a final determination without reinitiating the case, without updating the period of investigation and without repeating other procedural steps of the investigation.

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B. RECALCULATION OF DUMPING MARGINS

9. In the Final Determination Report dated February 20, 2020, the Commission calculated Normal Value for Ceylon Beverage Cans after including port and development levy (PAL) in the cost to make and sell of the investigated product. However, in the light of submissions of the Ceylon Beverage Cans, the Commission has decided to exclude PAL from the calculation of normal value. Summary calculation of normal value has been placed at **Annexure-I**

10. On the basis of this normal value for Ceylon Beverages, the dumping margins are redetermined as follows. Calculations of dumping margin are placed at **Annexure-II**

**Table-I
Dumping Margin**

Country	Exporter Name	Dumping margin as % of	
		Export price	C & F price
(1)	(2)	(3)	(4)
Sri Lanka	Ceylon Beverage Cans.	25.71	23.24
	All other exporters/producers	25.71	23.24
Jordan	All exporters/producers	30.76	26.54
UAE	All exporters/producers	23.76	22.06

C. MATERIAL RETARDATION OF THE ESTABLISHMENT OF THE DOMESTIC INDUSTRY

11. Material Retardation

11.1 The Applicant claimed that it was facing material retardation to its establishment. First question before the Commission was whether the domestic industry producing aluminum beverage cans was already established and second if the domestic industry was not established, whether the establishment of the un-established industry appeared to have been materially retarded by the dumped imports.

11.2 In case it was determined that the domestic industry was established, the material retardation standard was not applicable, and the Commission focused on the standards of material injury and/or threat of material injury.

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11.3 As there were no clear provisions on how to apply material retardation standard in the Act and the Agreement on Antidumping, the Commission has sought guidance from practices of traditional users of anti-dumping and Commission's earlier practice.

12. **Whether the Domestic Industry producing Aluminum Beverage Cans is not yet established?**

12.1 The Commission considered that the domestic industry started producing aluminum beverage cans on commercial basis in September 2017. Material injury or threat of material injury analysis which is based on trend analysis during the POI for injury is not possible here due to paucity of time since commencement of commercial operation of the Applicant. For applying the material retardation standard, the Commission must determine whether the domestic industry has stabilized its operations and was an established industry or whether it was a nascent industry. In order to make this assessment, the Commission has taken guidance from the Commission's earlier practice and practices of other WTO member countries that are traditional users of antidumping law. The Commission analyzed the following factors to determine whether the domestic industry was an established industry during the POI:-

- (a) the date of commencement of commercial production;
- (b) whether production of the domestic industry was steady or start-and-stop;
- (c) the size of domestic production compared to size of the domestic market as a whole;
- (d) whether the domestic industry had reached a "break-even point"; and
- (e) whether the activities involved the establishment of a new industry or were merely a new product line of an established firm.

12.2 The Commission had considered the issue of date of start of commercial production of the Applicant. The Applicant started commercial operations in September 2017. The Applicant started its commercial operations at the start of POI and the Applicant had not been operating its production facility long enough to allow for a standard material injury analysis.

12.3 In case the domestic industry had not been in operation for considerably long period of time the inference could not be drawn from trends, it would be drawn from the feasibility study and projections.

12.4 In order to determine whether the production of the domestic industry was steady or start-and-stop during the POI, actual and projected production of the Applicant was examined. Following table showed quarterly quantity produced by the applicant during POI:-

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**Table-II
Comparison of actual and projected production (Kg.)**

Period/Quarter	Actual Production	Projected Production
(1)	(2)	(3)
Sep 17 - Dec 17	1	28
Jan 18 - Mar 18	28	24
Apr 18 - Jun 18	71	48
Total	100	100

Source: the Applicant

Note: For the purpose of confidentiality actual figures have been indexed by taking figures of total actual production and total projected production figures in respective columns as base.

12.5 The aluminum beverage cans are an industrial input for units involved in production of carbonated soft drinks. Demand of aluminum beverage cans varies according to season. During summer season, demand of aluminum beverage cans is at its peak whereas it is at its lowest during the winter season. The demand of aluminum beverage cans has been estimated at 20 percent, 40 percent, 30 percent and 10 percent during the first, second, third and fourth quarter of calendar year respectively.

12.6 Referring to table II, there were two reasons for low production during the period Sep 17 – Dec 17. Firstly, due to seasonal factor, demand was at its lowest during the last quarter of the calendar year. It is the same period in which domestic industry started its commercial operations. Secondly, as per industrial norms, the Applicant had to get approvals of specification of aluminum beverage cans from carbonated soft drink fillers before starting the sales of the product. It took, the Applicant, sometime to get approvals of domestic like product from its customers. By January 2018, the Applicant secured approvals from the major customers. Necessary approvals from major customers coupled with seasonal factor led to increase in Applicant's production during first and second quarter of year 2018. However, as per business plan, the Applicant's production was expected to reach the level of ***kgs. Contrary to expectations, its production level only reached level of *** kgs.

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**Table-III
Size of production for domestic sales as percentage of total domestic market (Kg.)**

Month	Domestic Production	Production for Domestic Sales	Domestic Sales	Total Imports	Total Domestic Market	Production for domestic sales as percentage of Total Domestic Market (%)	Dumped imports as percentage of Total Domestic Market (%)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Sep. 2017	0.06	0.06	-	3.86	3.86	1.64	100
Oct.2017	0.28	0.28	0.36	2.32	2.68	10.31	86.66
Nov.2017	0.21	0.21	0.08	7.76	7.84	2.66	99
Dec. 2017	0.21	0.18	0.32	3.39	3.71	4.79	91.39
Jan. 2018	1.09	0.95	0.58	9.99	10.57	8.97	94.54
Feb.2018	6.44	5.40	2.37	13.55	15.92	33.95	85.13
Mar. 2018	10.26	8.48	4.58	6.43	11.00	77.05	58.4
Apr. 2018	16.31	3.41	3.12	9.81	12.93	26.41	75.88
May 2018	15.39	9.32	7.21	6.93	14.14	65.94	49.02
Jun. 2018	13.11	9.72	9.16	8.18	17.35	56.05	32.29
Total POI	63.35	38.02	27.77	72.23	100.00	38.02	69.65

Source: the Applicant and PRAL.

Note: For the purpose of confidentiality the actual figures have been indexed by taking figure of total domestic market for POI as base.

12.7 The Commission had also examined the size of domestic production compared to size of the domestic market of aluminum beverage cans during the POI. It is pertinent to mention that before entry of the Applicant in domestic market, the entire demand for aluminum beverage cans was met through imports. The existing capacity of the Applicant was sufficient to meet 100 percent of total domestic demand against which its production could only achieve 38.02 percent share in the domestic market. With coming into production of the Applicant the domestic industry was capable to cater 100 percent of the domestic demand for aluminum beverage cans within a reasonable period of time. Since the start of production of domestic like product in Pakistan by the domestic industry in September 2017, its production share in total domestic market had not increased significantly. Its production level achieved only 38.02 percent share of the total domestic market, whereas, dumped imports had major portion of the total domestic market. Monthly imports figures for the month of April 2018 were indicative of the fact that the dumped imports have the ability to substitute the production for domestic sales. As stated earlier, Applicant's production level was expected to reach *** kgs according to the business plan. Out of total projected production, 48.68% was meant for domestic market and 51.32% was for exports. This means, it was expected that production for domestic market would reach the level of *** kg. At this production level, the Applicant would have accounted for 83.38 percent of the

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total domestic market. However, the Applicant's production share was only 38.02 percent which was much lower than the projections made in business plan.

12.8 The Commission had analyzed the fixed, variable costs and sale price of the domestic industry to calculate the contribution margin i.e. the unit sale price minus the unit variable cost. In the final determination, the Commission had calculated break-even point of the domestic industry by dividing total fixed cost by unit contribution margin. As per business plan, on the basis of projected contribution margin, the domestic industry had projected break-even point at 64 percent of the installed capacity. It had forecasted that the Applicant would achieve break-even point during the year 2019. As per business plan, the Applicant was expected to sell one can @ Rs. ***/-. However, contrary to the estimation, the Applicant was able to sell one can in domestic market @ Rs. ***/-. The domestic industry was expected to earn contribution margin of Rs. ***/- per can for the year. The domestic industry was able to earn contribution margin of Rs. ***/- per can during the POI. Due to lower contribution margin, the breakeven point for the domestic industry producing aluminum beverage cans was 113 percent of the installed capacity at the prices prevailed during POI. As per its business plan, the domestic industry had not reached a breakeven point even once since it started its operations and was not likely to achieve projected breakeven point with current sales prices and costs.

12.9 The Commission has also examined whether the nascent industry was truly a new industry or was merely a new product line of an established firm. An established industry introducing a new product line, for example, might be able to promote sales of the new product line through its established distribution and marketing networks and industry contacts thereby hastening the establishment of the new product in the market. The Applicant unit was a joint venture project of Ashmore group and Liberty group and had not taken any benefit from the established parent group companies. The Applicant had separate production plant and sales network etc. The Applicant unit was a new business entity and its operations were not aided by the existing companies of the parent groups.

12.10 On the basis of analysis in previous paragraphs, the Commission had determined that the domestic industry started producing aluminum beverage cans in September 2017 and the period of operation was not long enough to apply material injury analysis. The Commission had also determined that although the production of the domestic industry increased, it had not been able to achieve production level as projected in the business plan. Further, the Commission had determined that the domestic industry had not yet reached a break-even point, and the size of its production compared to size of the domestic market of aluminum beverage cans as a whole was much lower. The domestic industry had not gained significant share of the domestic market, whereas the dumped imports had major share of the total domestic market. Further, the Applicant was a newly established business entity, and its shareholders were not involved in Can manufacturing or marketing/distribution business. For these reasons, the Commission had

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determined that there was reasonable indication/evidence that the domestic industry producing aluminum beverage cans had not yet been established and was a nascent industry.

12.11 As the Commission had determined that the domestic industry has not yet established and was a nascent industry during the POI, the material retardation standard were applicable only, and the Commission had not used other standards of material injury or threat of material injury.

13. Whether the domestic industry is materially retarded?

13.1 Having determined that the domestic industry producing aluminum beverage cans was not yet established and was a nascent industry during the POI, the Commission had examined whether the establishment of this nascent industry had been materially retarded by reason of dumped imports from the Exporting Countries.

13.2 Section 15 of the Act 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...."*

13.3 The Commission used same principles for determination of material retardation as laid down in Section 15 and 17 of the Act for determination of material injury, because the Act or Agreement on Antidumping were silent on factors to be taken into consideration for determination of material retardation.

13.4 Material retardation to the establishment of the domestic industry has been summarized in the following paragraphs.

14. Volume of Dumped Imports

Facts

14.1 With regard to the volume of dumped imports, in terms of Section 15(2) of the Act, it was considered whether there has been a significant increase in dumped imports, either in absolute terms or relative to the consumption or production of the domestic like product by the domestic industry.

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14.2 In order to assess the impact of volume of dumped imports of the investigated product in relation to production and consumption of the domestic like product, the information obtained from PRAL has been used. The following table showed the imports of the investigated product and production of the domestic like product by the nascent domestic industry during the POI:

**Table-III
Volume of dumped imports**

Period	Volume of Dumped Imports (MT)	Increase/ (Decrease) (MT)	Increase/ (Decrease) (%)	Domestic production (MT)	% of dumped imports to domestic production
(1)	(2)	(3)	(4)	(5)	(6)
Sep-Dec 17	77.58	----	----	3.25	2,387.35
Jan-Mar 18	134.11	56.53	72.87	66.36	202.08
Apr-Jun 18	100.00	(34.11)	(25.44)	100.52	99.48

Source: the Applicant and PRAL.

Note: For the purpose of confidentiality the actual figures have been indexed by taking figure of volume of dumped imports for the quarter Apr.-Jun 18 as base.

Analysis

14.3 It appeared from the above table that the volume of dumped imports decreased as domestic production of newly set-up unit substituted imports. Furthermore, dumped imports increased from ***MT to *** MT, an increase of ***MT in Jan-Mar 18 over Sep-Dec 17. However, dumped imports decreased from ***MT to *** MT, a decrease of ***MT in Apr-Jun 18 over Jan-Mar 18. Dumped imports in last quarter of POI were still at higher level as compared to first period i.e. Sep-Dec 2017.

14.4 In case of material retardation, an inference from trend is not appropriate as domestic industry is likely to increase production and the imports are likely to decrease. However, the question for material retardation is whether such increase in domestic production is according to projections or not. Therefore, in the following analysis, the projections and feasibility study figures have been frequently used.

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**Table-IV
Projected and Actual Sales & Actual Dumped Imports (M. Tons)**

During POI	Projected total market	Actual market	Projected total market (%)	Actual market (%)	Deviation from Projection	Percentage of Deviation from Projection
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Sales by domestic industry	66.88	23.82	67	28	43.07	64.39
Total imports	33.12	61.95	33	72	(28.83)	(83.43)
Total domestic market	100	85.76	100	100	14.24	14.24

Source: the Applicant and PRAL.

Note: For the purpose of confidentiality the actual figures have been indexed by taking figure of total projected domestic market as base.

14.5 Analysis of the above data reveals that it was projected that size of domestic market would be ***MT approximately. According to projections, sales of domestic industry and imports would be at the level of ***MT and ***MT respectively. However, there were few deviations from the projections. Firstly, size of domestic market remained at *** MT which was lower than the projected level. Secondly, it was projected that sales by the domestic industry would have a major share in the domestic market. The share of domestic industry and imports were projected at the level of 67 percent and 33 percent respectively. However, in actual, the share of domestic industry and import were at the level of 28 percent and 72 percent respectively. This shows that imports were having major share in the domestic market contrary to projections made in the business plan.

14.6 The above information and analysis revealed that there was decrease in the volume of dumped imports in absolute terms during the POI. The decrease in volume of dumped imports was due to commencement of production by the domestic producer. However, the domestic industry could not sell as per the expected sales mentioned in the business plan due to level of dumped imports during the POI.

15. Price Effects

Effect of dumped imports on sales price of domestic like product in the domestic market has been examined to establish whether there was significant price undercutting (the extent to which the price of the investigated product was lower than the price of the domestic like product), price depression (the extent to which the domestic industry experienced a decrease in its selling prices of domestic like product over the time), or price suppression (the extent to which increased

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cost of production could not be recovered by way of increase in selling price of the domestic like product). Effects of dumped imports on price of the domestic like product are analyzed in following paragraphs:

16. Price undercutting

Facts

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

**Table-V
Calculation of Price Undercutting**

Period	Average Domestic Price (Rs/Kg)	Average Projected Domestic Price (Rs./Kg)	Average Landed Cost (Rs/Kg)	Deviation from Projection (%)	Actual Price Undercutting (Rs/Kg)	Price Undercutting w.r.t projection (Rs/Kg)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Sep-Dec 17	90.58	96.04	93.47	6.02	-----	-----
Jan-Mar 18	85.13	101.13	96.69	18.79	-----	-----
Apr-Jun 18	100.00	102.42	95.21	2.41	4.79	7.23

Source: the Applicant and PRAL

Note: For the purpose of confidentiality the actual figures have been indexed by taking Average Domestic Price for quarter Apr.-Jun 2018 as base.

Analysis

16.2 The information provided in the above table showed that the weighted average landed cost of the investigated product imported from the Exporting Countries was lower than ex-factory price of the domestic like product during the last quarter of POI by Rs. ***/kg. During the POI, the weighted average domestic price deviated from the projected domestic price within the range of 2.41% to 18.79% of the projected domestic price. The applicant was not able to fetch the price of its product as projected in the business plan. It was forecasted that domestic price would be Rs. ***/kg during the last quarter of POI however, actual price was Rs. ***/kg. The prices of dumped imports were lower than the projected and actual domestic prices resulted in price undercutting plan.

17. Price Depression

Facts

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

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**Table-VI
Ex-factory Price (Rs./kg)**

Year	Prices of domestic like product	Price Depression	Average Projected Domestic Price
(1)	(2)	(3)	(4)
Sep-Dec 17	90.58	---	96.04
Jan-Mar 18	85.13	(5.45)	101.13
Apr-Jun 18	100.00	---	102.42

Source: the Applicant.

Note: For the purpose of confidentiality the actual figures have been indexed by taking price of domestic like product for quarter Apr.-Jun 2018 as base.

Analysis

17.2 The above table showed that ex-factory sales price of the domestic like product experienced downward and upward trend during the POI. The ex-factory sales price of the domestic like product decreased during the Jan-Mar 18 by an amount of Rs. ***/kg. However, ex-factory sales price of the domestic like product increased during the Apr-Jun 18 by an amount of Rs. ***/kg. It was projected in the business plan that prices of domestic like product would increase during every quarter. However, in order to get some market share, the domestic industry had to decrease its prices during the second quarter.

18. Price Suppression

Facts

18.1 The information/data submitted by the Applicant on weighted average cost to make and sell and ex-factory price of the domestic like product during the POI was given in the following table:-

**Table-VII
Cost to Make and Sell and Ex-factory Price of the Domestic Like Product (Rs./kg)**

Period	Average Cost to Make & Sell of domestic like product			Total Projected Cost	Average Domestic Price	*Projected Variable Cost	Projected Sale Price	Deviation in Variable Cost from Projection
	Total	Fixed	Variable					
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Sep-Dec 17	1,151	1,025	125	62	45	36	48	89
Jan-Mar 18	147	64	83	51	43	37	51	46
Apr-Jun 18	100	24	76	53	50	39	51	38

Source: the Applicant

*Change in per Kg variable cost is due to variation in conversion rate of US\$ to PKR and increase in LME prices of aluminum coil.

Note: For the purpose of confidentiality the actual figures have been indexed by taking total average cost to make and sell of domestic like product for quarter Apr.-Jun 2018 as base.

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Analysis

18.2 The above table showed that the average cost to make and sell of the domestic like product exceeds the projections as made in the business plan. The actual variable cost of the Applicant was higher than the projections made in the business plan. The sales price of the domestic like product was lower enough not to cover the variable cost. The average cost to make and sell of domestic like product registered a decrease over the POI due to sharp decrease in per unit fixed cost hence domestic industry did not experienced price suppression during the POI.

19. Impact of Dumped Imports on Economic Factors of the Domestic Industry

In the final determination of the Commission dated February 20, 2020, the Commission had determined that since there was no injury to the domestic industry on account of volume of dumped imports and on price effects therefore, the question of consequent impact on the other injury factors provided in section 17 did not arise. Since, the Tribunal declared the said final determination inconsistent with the law and directed the Commission for de novo determination. In this de novo determination, the Commission has concluded that there is injury on account of volume of dumped imports as well as on price effects, therefore, it is imperative to see the consequent impact on the other injury factors provided under section 17 of the Act. The determination of the Commission on other injury factors is as follows:

20. Market Share

Facts

20.1 The total domestic demand of aluminum beverage cans in Pakistan is met through local production and imports. To establish the size of the domestic market, the Commission used sales of domestic like product by the domestic industry, imports of the aluminum beverage cans from dumped sources and from other sources. Following table shows market share from each source during the POI:

**Table-VIII
Market Share (MT)**

Period	Domestic Sales	Imports from		Total Domestic Market
		Dumped Sources	Other Sources	
(1)	(2)	(3)	(4)	(5)
Sep 17- Dec 17	4.18%	95.98%	-	100%
Jan 18 - Mar 18	20.06%	79.94%	-	100%
Apr 18 - Jun 18	43.88%	50.30%	5.81%	100%
POI Sep 17 - Jun 18	27.77%	69.65%	2.58%	100%

Sources: the Applicant and PRAL.

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20.2 The above table shows that the domestic market of aluminum beverage cans increased by 107.22 percent during Jan-Mar 2018 as compared to Sep-Dec 2017 and further increased by 18.50 percent during Apr-Jun 2018 as compared to previous quarter. The domestic industry was set up to fulfill 100 percent of domestic requirement of aluminum beverage cans within a reasonable period of time. Since the start of production of aluminum beverage cans in Pakistan by the domestic industry in September 2017, it was able to achieve market share of 27.77 percent during the POI whereas dumped imports were having major portion of the total domestic market i.e. 69.65 percent. The share of dumped imports decreased gradually over the POI and the reason for this decrease was natural as there was no domestic industry at the start of POI. However, as per business plan of the Applicant, it was expected to sell ***MT of the domestic like product and its share would have been 78% of the total domestic market which was not the case.

21. Production and Capacity Utilization

Facts

21.1 The installed capacity, quantity produced and the capacity utilization of the Applicant during the POI, were as follows:

Table-IX
Installed Capacity, Capacity Utilization (Qty = MT, Domestic = D, Export = E)

Quarter/Period	Installed Capacity		Projected Production		Actual Production		Actual Capacity Utilization (%)		Projected Capacity Utilization (%)	
	D	E	D	E	D	E	D	E	D	E
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
Sep 17- Dec 17	35.20	44.80	23.66	31.65	1.91	0.14	1.37	0.05	43.3	43.3
Jan 18 - Mar 18	32.40	27.60	16.39	13.96	9.87	1.96	30.47	7.11	50.59	50.59
Apr 18 - Jun 18	32.40	27.60	32.78	27.92	14.95	14.88	46.15	53.91	101.17	101.17
For POI Sep 17 - Jun 18	100.00	100.00	64.41	61.28	25.31	16.86	25.31	16.86	64.41	61.28

Source: the Applicant

Note: For the purpose of confidentiality actual figures have been indexed by taking installed capacity for domestic production for the POI i.e. Sep 17 to Jun 18 as base.

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21.2 Size of domestic market of aluminum beverage cans was *** million aluminum beverage cans per annum. The Applicant had installed a plant with the capacity of *** million aluminum beverage cans to target the export as well as domestic market. The business plan of the Applicant bifurcated the installed capacity and its usage for domestic and export market on yearly basis.

21.3 As per table above, the production and capacity utilization of the domestic industry increased during POI. Quarterly analysis of the data for POI shows that the capacity utilization of domestic industry for domestic market was increased from 1.37% in Sep-Dec 17 to 30.47 % during the quarter Jan-March 18 and further increased to 46.15 % during the quarter April-June 18 and 25.31% during the POI. However, the domestic industry projected domestic production was *** M.T, i.e., 64.41% of the installed Capacity during the POI, whereas it could only achieve the domestic capacity utilization of 25.31 percent.

22. Effects on Sales

Facts

22.1 Sales of the domestic like product during the POI given in the following table:

**Table-X
Sales of the Applicant (MT)**

Period	Projected Sales		Actual Sales		Deviation from projection		Percentage of deviation from projection	
	Domestic	Export	Domestic	Export	Domestic	Export	Domestic	Export
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Sep17-Dec17	44.92	62.82	1.84	0.09	43.08	62.73	95.9	99.86
Jan18-Mar18	50.00	47.11	18.30	7.18	31.70	39.94	63.4	84.77
Apr18-Jun18	100.00	94.23	47.43	54.37	52.57	39.85	52.57	42.29

Source: the Applicant.

Note: For the purpose of confidentiality the actual figures have been indexed by taking projected domestic sales for quarter Apr.-Jun 2018 as base.

Analysis

22.2 In the business plan, the Applicant had bifurcated its sales projections for domestic and export market. The same had been reproduced in the table above. The above table showed that the sales by the Applicant in domestic market increased by ***MT during Jan-Mar 18 as compared to Sep-Dec 17 and further increased by *** MT during Apr-Jun 18 as compared to the previous quarter. Although, the sale of domestic industry increased during the POI but it was

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unable to achieve the domestic sales projected in the business plan. As per business plan, projected sales for domestic market were *** MT, *** MT and *** MT for Sep-Dec17, Jan-Mar 18 and Apr-Jun 18 respectively. However, the actual sales were ***MT, *** MT and *** MT for Sep-Dec 17, Jan-Mar 18, and Apr-Jun 18 respectively. The Applicant's domestic sales were far below the projections as made in the business plan. Actual sales deviated significantly from the projected sales.

23. Effects on Inventories

Facts

23.1 The Applicant had provided data relating to its inventories of the domestic like product during the POI. The data for opening and closing inventories for the domestic like product of the POI given in the following table:-

**Table-XI
Inventories of the Domestic Like Product (MT)**

Period	Opening Inventory			Production			Sales			Ending Inventory		
	Domestic	Export	Total	Domestic	Export	Total	Domestic	Export	Total	Domestic	Export	Total
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
Sep.17- Dec-17	4.64	-	4.64	9.51	0.47	9.98	9.91	0.47	10.37	4.24	-	4.24
Jan.18- Mar.18	4.24	-	4.24	194.29	38.64	232.93	98.54	38.64	137.17	100.00	-	100.00
Apr.18- Jun.18	100.00	-	100.00	294.30	292.81	587.11	255.39	292.81	548.20	138.91	-	138.91

Source: the Applicant.

Note: For the purpose of confidentiality the actual figures have been indexed by taking opening inventory of the domestic like product for quarter Apr.-Jun 2018 as base.

Analysis

23.2 The above table shows that inventories of the domestic industry of the domestic like product increased from ***MT during Sep17-Dec17 to ***MT during Jan-march 18 and further increased to *** MT during April-June 18. The inventories piled up due to the fact that dumped imports from the Exporting Countries had major share and the Applicant was not able to sell its product in the domestic market according to business plan.

24. Effects on Profit/Loss

Facts

24.1 The verified figures of the Applicant on its profits and loss of the domestic like product given in the following table:

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**Table-XII
Profit/(Loss) Position of Aluminum Beverage Cans (Rs.)**

Quarter/Period	Actual Profit/(Loss)	Projected Profit/(Loss)
Sep 17- Dec 17	(124)	(47)
Jan 18 - Mar 18	(136)	(14)
Apr 18 - Jun 18	(100)	(29)

Source: the Applicant

Note: For the purpose of confidentiality the actual figures have been indexed by taking actual profit/(loss) for quarter Apr.-Jun 2018 as base.

Analysis

24.2 It appeared from the above table that the Applicant's loss, which was Rs.*** in the period Sep-Dec 17 increased to Rs. *** in the period Jan-Mar 18. The Applicant loss decreased to Rs. *** in Apr-Jun 18 as the Applicant's sale started increasing during this period. The reason for net loss during second and third quarter was price depression and price undercutting respectively. Moreover, actual losses were far more than the projected loss.

25. Effects on Employment, Productivity and Salaries & Wages

Facts

25.1 There were, on average, following employees associated with the production, sales and administration of aluminum beverage cans. The employees were working on permanent as well as on contract basis. The Applicant's employment, production and the salaries and wages paid during the POI given in the following table:

**Table-XIII
Employment and Productivity**

Quarter/Period	Average Number of Employees	Salaries & Wages (Rs.)	Domestic Production (Kg.)	Productivity Per Worker in Kg	Salaries and Wages Rs. Per Kg.
(1)	(2)	(3)	(4)	(5)	(6)
Sep 17- Dec 17	75.90	20.29	1.20	4.77	1,687.17
Jan 18 - Mar 18	101.20	31.31	28.06	83.52	111.57
Apr 18 - Jun 18	124.10	48.40	70.73	171.68	68.43
POI Sep 17- Jun 18	100.00	100.00	100.00	100.00	100.00

Source: The Applicant.

Note: For the purpose of confidentiality the actual figures have been indexed by taking figures of POI i.e. Sep17-Jun 18 of respective columns as base.

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Analysis

25.2 The above table shows that the employment in the domestic industry increased during the POI. Productivity per worker increased due to increase in production. Furthermore, salaries and wages per kg decreased from Rs.***/kg to Rs. ***/kg during the POI.

26. Effects on Cash Flow**Facts**

26.1 The cash flow from operating activities is given as under: -

**Table-XIV
Operating Cash Flow**

Quarter/Period	Cash flow (Rs.)
(1)	(2)
Sep 17- Dec 17*	(147)
Jan 18 - Mar 18	(54)
Apr 18 - Jun 18	(100)

Note: Cash flow for Sep 17 – Dec 17 is calculated on pro rata basis.

Note: For the purpose of confidentiality the actual figures have been indexed by taking figures of cash flow of quarter Apr 18- Jun 18 as base.

Analysis

26.2 The above table shows that the domestic industry suffered injury on account of cash flow as the cash flows of Applicant was negative in all quarters of POI.

27. Effects on Return on Investment**Facts**

27.1 The figures for profit after tax and equity were obtained from annual audited and quarterly unaudited accounts of the applicant and return on investment has been calculated as follows:-

**Table-XV
Return on Investment**

Period/Quarter ending as on	ROI (%)	Projected ROI (for the Year)(%)
(1)	(2)	(3)
Dec 17	(4.26)	(8)
Mar 18	(4.59)	(2)
Jun 18	(2.20)	(2)

Source: the Applicant

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Analysis

27.2 Return on investment remained negative throughout the POI. The Applicant also projected that its ROI would be negative. However, the actual negative ROI was greater than the projected one.

28. Growth and Investment

The total installed production capacity of the domestic industry was more than the domestic market demand. In this situation, no further investment in the industry can be expected. However, as per Applicant business plan, it can increase its capacity to *** billion aluminum beverage cans per annum.

29. Forced reduction in prices

29.1 The Applicant had provided a copy of agreement dated September 28, 2017 with one of its customer. The name of the customer has not been disclosed to keep confidentiality of the commercial entities. Following prices were agreed upon by the Applicant and its customer, based on LME Aluminum Price of US\$, ***/MT.

- a) 300ml cans with 202 dia ends: US \$ *** per 1000 pcs
- b) 250ml cans with 200 dia ends: US \$ *** per 1000 pcs

29.2 The price was agreed to fluctuate for every increase/decrease in price of raw material as under:-

For every US\$ *** change (addition for increase and subtraction for decrease) in base price of LME

- a) US\$ *** for 250ml cans with 200 dia ends will be added/subtracted in base price
- b) US\$ ***for 300ml cans with 200 dia ends will be added/subtracted in base price

29.3 LME prices of major raw material increased by 18.89 percent after the agreed price. As per agreement, the customer was bound to increase the price. However, the customer forced the Applicant to reduce its price and purchase order was issued by the customer at a price which was lower than initially agreed price. The Commission is of the view that this persistent demand of reduction in prices is due to presence of low-priced dumped imports. As a result of this price war, the Applicant could hardly get a small share in the domestic market and that too at much lower prices causing heavy losses to domestic industry.

30. Ability to Raise Capital

Ability to raise capital is contingent upon financial results of the company. With losses and decreasing cash flow it would be difficult to raise equity through financial institutions or capital market. Investors/lenders would only be willing to inject more equity if the industry showed increasing sales and profits.

31. Summing up of Material Retardation

31.1 On the basis of the information/data and analysis in forgoing paragraphs the Commission has determined that the domestic industry was not established as:

- (a) it could not achieve a steady production trend;
- (b) the domestic industry could not achieve a reasonable share in the domestic market;
- (c) it could not reach a “break-even point”; and
- (d) its establishment was materially retarded during the POI.

31.2 The analysis of dumped imports showed that dumped imports were *** MT, *** MT and *** MT during the first, second and third quarter of POI respectively. As compared to dumped imports, domestic production was *** MT, *** MT and *** MT during the similar periods. Projected domestic production during the first, second and third quarter was *** MT, *** MT and *** MT respectively. It can be seen that domestic production though increased during the POI. However, it was much lower than what was projected.

31.3 Analysis of the prices showed that the weighted average landed cost of the investigated product imported from the Exporting Countries was higher than ex-factory price of the domestic like product during the first two quarters. The domestic industry kept its prices lower than the dumped imports with the view to penetrate the domestic market which was predominately occupied by the dumped imports. In third quarter, landed cost of dumped imports was lower than the ex-factory price of domestic industry. Resultantly, the investigated product undercut prices of the domestic like product during the third quarter by Rs. ***/Kg. During the three quarters of the POI, the domestic industry could not charge as per projected prices. It was revealed during the investigation that ex-factory sales price of the domestic like product decreased during the second quarter and increased during third quarter. Thus, there was price depression experienced by the domestic industry in the second quarter. Further, if we compare actual prices with projected price, domestic industry faced price depression during all three quarters. The domestic industry experienced no price suppression during the POI.

31.4 The domestic sales of the domestic industry were ***MT, *** MT and ***MT during the first, second and third quarter of POI respectively. Domestic industry was able to increase its sales however, sales in the domestic industry were way lower than the projected domestic sales. Projected domestic sales were ***MT, ***MT and ***MT during the first, second and third

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quarter of POI respectively. The same trends holds true for domestic production as well. Domestic production was *** MT, *** MT and *** MT during the similar periods. Projected domestic production for the first, second and third quarter was *** MT, *** MT and *** MT respectively. It can be seen that domestic production though increased during the POI, however, it was much lower than what was projected.

31.5 The statistics showed that domestic market of aluminum beverage cans increased during the three quarters however the domestic industry was not able to utilize its installed capacity for domestic production effectively.

31.6 Analysis of the cash flow showed that, cash flow from operations of the domestic industry, remained negative during all the three quarters. The employment of the domestic industry increased during the POI which caused increase in salaries and wages. Productivity per worker increased during the POI. The return on investment remained negative during the POI which is also below than the projections made in the business plan. The Applicant's ability to raise capital is significantly impacted on account of lower sales volume and market share, margin erosion which led to serious financial losses, under-utilization of production capacity, negative cash flows, increasing inventory and negative ROI.

31.7 Investigation of the Commission has revealed that the volume of dumped imports have remained significant during the POI. These imports were causing price undercutting resulting into price depression. The Applicants was able to gain some market share during the three quarters after reducing prices during the first two quarters and not charging prices according to its projections during the POI. However, dumped imports kept more than 50% market share in the domestic market during all three quarters. Selling below cost to make and sell has resulted into huge losses and negative effects on return on investment and ability to raise capital.

31.8 Domestic industry producing aluminum beverage cans was materially retarded on the following accounts: -

- (a) volume of dumped imports;
- (b) could not achieve market share as per projections;
- (c) price undercutting;
- (d) price depression;
- (e) profits and profitability;
- (f) output;
- (g) capacity utilization;
- (h) return on investment;
- (i) negative effects on inventories;
- (j) negative effects on cash flows;
- (k) negative effects on ability to raise capital; and
- (l) forced reduction in prices.

32. Magnitude of Dumping Margins

The dumping margin determined in this final determination for imports of the investigated product is ranging from 23.76 percent to 30.76 percent, which is considered enough to cause material retardation of the establishment of the domestic industry. Further, injury factors discussed above showed that domestic industry had suffered material retardation due to dumped imports of the investigated product.

33. Causal Relationship between Dumped Imports of the Investigated Product and Material Retardation of the Establishment of the Domestic Industry:

Effect of Dumped Imports

33.1 The Commission has determined in this final determination that the imports of the investigated product from the Exporting Countries were at dumped prices during POI. The volume of dumped imports increased from ***MT to *** MT, an increase of *** MT in second quarter of POI over the first period Sep – Dec 17. However, dumped imports decreased from ***MT to *** MT, a decrease of *** MT in Apr-Jun 18 over Jan-Mar 18. Dumped imports in last quarter of POI were still at higher level as compared to first period i.e. Sep-Dec 2017. Domestic production of newly set-up unit substituted imports. However, contrary to projections made in the business plan, dumped imports had dominance in the market during the POI.

33.2 In order to get market share, the domestic industry decreased its selling price significantly which resulted into losses. The domestic industry could not achieve a steady production trend. Further, since the start of production of aluminum beverage cans by the domestic industry in September 2017, its market share has not increased significantly, as it could achieve 27.77 percent share of total domestic market, whereas, dumped imports were having major portion of the total domestic market i.e. 69.65 percent. The Commission has also determined that the domestic industry has not yet reached a break-even point. The Commission also determined that due to presence of low-priced dumped imports, the domestic industry was being forced to reduction in prices at the time when prices of its major raw material were increasing. As a result of this price war, the Applicant could hardly get a small share in the domestic market and that too at much lower prices causing heavy losses to domestic industry.

33.3 The main reasons for material retardation of the establishment of domestic industry was dominance of dumped imports in domestic market, price undercutting, price depression and losses incurred during the POI.

34. Other Factors

34.1 In accordance with Section 18(2) of the Act, the Commission also examined factors, other than dumped imports of the investigated product, which could at the same time causing material retardation for the establishment of the domestic industry, in order to ensure that possible injury caused by other factors is not attributed to the dumped imports. The Commission has found that scrap generated in forms of spoiled cans (12.43% of aluminum coil used: Jan - Jun 2018) is also affecting the domestic industry negatively.

34.2 The investigation of the Commission revealed that the domestic industry is not materially retarded due to imports of aluminum beverage cans from sources other than dumped sources during the POI, as its volume was negligible @ 2.34% of total domestic market.

34.3 The factors mentioned in Section 18(3) of the Act were also analyzed and it was found that:

- (a) There was no contraction in demand;
- (b) There was no such policy by the government of Pakistan during the POI that have negatively affected the domestic industry and created distortion in the competitive environment between foreign and domestic producers; and
- (c) There was no development in technology during the POI that could have contributed to the material injury of the domestic industry.

CONCLUSIONS

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

- (a) the application was filed on behalf of the domestic industry as the Applicant represents 100% of the domestic production.
- (b) the investigated product and the domestic like product are like products;
- (c) the volume of dumped imports of the investigated product and the dumping margins established for the exporters/producers of the investigated product from the Exporting Countries were above the negligible and *de minimis* levels respectively.
- (d) the domestic industry is not established
- (e) the domestic industry was materially retarded during the POI on account of volume of dumped imports, could not achieve market share as per projections, price undercutting, price depression, profits/profitability, output, capacity

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utilization, return on investment, negative effects on inventories, negative effects on cash flows, negative effects on ability to raise capital, and forced reduction in prices in terms of Section 15 and 17 of the Act; and

- (f) there was a causal relationship between dumped imports of the investigated product and the material retardation of the establishment of the domestic industry.

36. IMPOSITION OF DEFINITIVE ANTI-DUMPING DUTIES

36.1 Keeping in view dumping of the investigated product, material retardation of the establishment of the domestic industry and causal link between the two, the Commission has decided to impose antidumping duties on dumped imports of the investigated product under Section 50(1) of the Act.

36.2 Ceylon Beverage Can, Sri Lanka cooperated with the Commission and provided necessary information for the purposes of calculation of dumping margin. The Commission has calculated individual dumping margin for the cooperating exporter/foreign producer i.e. Ceylon Beverage Can. As there was no cooperation from exporters/foreign producers other than Ceylon Beverage Can, therefore, individual dumping margins could not be determined. Dumping margins and anti-dumping duty rates for the non-cooperating exporters of the Exporting Countries were determined on the basis of best available information in terms of Section 32 of the Act.

36.3 For the purpose of imposition of lesser duty in accordance with Section 50(2) of the Act, the Commission has calculated injury margin to ascertain whether a lower duty would be adequate to remove injury being suffered by the domestic industry due to dumped imports of investigated product. Following table shows a comparison of the injury margin and dumping margin of the Exporting Countries:

Table-XVI
Calculation of Injury Margin (Rs.)

Cost to make & Sell of Domestic industry	100.00
Estimated Profits (5% of cost to make & sell)	5.00
Estimated non-injurious price	105.00
C & F price of investigated product	50.01
Landed cost of investigated product	61.11
Injury Margin (Non-injurious price-landed cost)/C & F Price *100	87.76

Sources: the Applicant and PRAL.

Note: For the purpose of confidentiality the actual figures have been indexed by taking figures of cost to make and sell of domestic industry as base.

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36.4 The injury margin i.e. 87.76 percent is considerably higher than the dumping margins. The Commission has, therefore, decided to impose antidumping duties on the basis of dumping margins.

36.5 In terms of Section 55(3) of the Act, the definitive anti-dumping duty shall be imposed prospectively at the rates mentioned in the following table on imports of the investigated product (aluminum beverage cans of capacity 250 ml to 300 ml) effective from the date of publication of notice of final determination in the official Gazette and in the national press. Considering the practice of the Commission and a maximum limit of five years, the duty is imposed for the remaining of the period of five years computing from the date of first final determination dated 20.02.2020. Hence, the duty shall be applicable from the date of publication of notice in the newspaper till February 19, 2025.

Table-XVII
Definitive Anti-dumping Duty Rates

Country	Exporter/Foreign Producer	Definitive Antidumping Duty Rate (%)
(1)	(2)	(3)
Sri Lanka	Ceylon Beverage Cans	23.24
	All other Exporters/ Foreign Producers	23.24
Jordan	All Exporters/Foreign Producers	26.54
UAE	All Exporters/Foreign Producers	22.06

36.6 Aluminum beverage cans imported from other sources (other than the Exporting Countries) shall not be subject to the anti-dumping duty. Further, in accordance with Section 51(e) of the Act, definitive antidumping duty will not be levied on imports of the investigated product that are used as inputs in products destined solely for exports and are covered under any scheme exempting customs duty for exports under the Customs Act 1969.

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

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36.8 The definitive antidumping duty would be collected in the same manner as customs duty is collected under the Customs Act, 1969 (IV of 1969) and would be deposited in Commission's Non-lapsable PLD account No. 187 with Federal Treasury Office, Islamabad.

(Anjum Assad Amin)
Member
December 29, 2021

(Muhammad Saleem)
Member
December 29, 2021

(Robina Ather)
Chairperson
December 29, 2021

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Annexures

- (a) Annexures-I withheld on account of confidentiality.**
- (b) Annexures-II withheld on account of confidentiality.**