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Government of India  
MINISTRY OF COMMERCE & INDUSTRY  
DEPARTMENT OF COMMERCE  
(DIRECTORATE GENERAL OF ANTI-DUMPING & ALLIED DUTIES)

NOTIFICATION

NEW DELHI,  
Dated the 9<sup>th</sup> October, 2009

FINAL FINDINGS

**Subject: Anti-Dumping Investigation concerning imports of Ceramic Tiles originating in or exported from China PR.**

1. **No. 14/16/2008- DGAD** - Having regard to the Customs Tariff Act 1975 as amended in 1995(hereinafter referred to as Act.) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995(hereinafter referred to as Rules), thereof:

**A. BACKGROUND AND PROCEDURE**

2. The procedure described below has been followed with regard to the investigation:
  - I. The Designated Authority (hereinafter referred to as Authority), under the above Rules, received an application filed by M/s H & R Johnson (India) Ltd. & M/s Kajaria Ceramics Ltd., on behalf of the domestic industry, alleging dumping Ceramic Glazed tiles other than vitrified tiles where at least one of the sides (length or width) exceeds 17 inches/431.80 Millimeters (MM)/43.18 Centimeters (CM)/1.4167 feet. ( hereinafter refer to as subject goods) originating in or exported from CHINA PR, (hereinafter referred to as subject country).
  - II. The Authority on the basis of evidence submitted by the applicant found it appropriate to initiate the investigation concerning imports of subject goods originating in/or exported from CHINA PR. The authority notified the Embassy of subject country in New Delhi about the receipt of dumping allegation before proceeding to initiate the investigation in accordance with sub-Rule 5(5) of the Rules.
  - III. The Authority issued a public notice dated 17.10.08 published in the Gazette of India, Extraordinary, initiating anti-dumping investigations concerning imports of the subject goods classified under Chapter 69 of Schedule I of the Customs Tariff Act, 1975 originating in or exported from subject country.
  - IV. The Authority forwarded a copy of the public notice to the known exporters (whose names and addresses were available with the authority) and gave them opportunity to make their views known in writing within forty days from the date of the letter in accordance with the Rule 6(2).

- V. The Authority forwarded a copy of the public notice to all the known importers (whose names and addresses were available with the authority) of subject goods in India and advised them to make their views known in writing within forty days from the date of issue of the letter in accordance with the Rule 6(2).
- VI. Request was made to Director General of Commercial Intelligence and Statistics (DGCI&S), Kolkata to arrange details of imports of subject goods made in India for the period of investigation and preceding three years. The transaction-wise data on imports received from DGCI&S have been relied upon in the findings.
- VII. The Authority provided copies of the non confidential version of the application to the known exporters and the Embassy of subject country in accordance with Rules 6(3) supra. A copy of the non-confidential application was also provided to other interested parties, wherever requested.
- VIII. The Authority sent a questionnaire to elicit relevant information to the known exporters/producers, in accordance with the Rule 6(4).
- IX. Following interested parties have responded to initiation notification and provided information:
  - a) Topbro Ceramics Co.,Ltd (producer) & A Foshan Junjing Industrial Co., Ltd(Exporter)
  - b) Guangdong Winto Ceramic Co., Ltd (producer and exporter)
  - c) LOUIS VALENTINO (INNER MONGOLIA)CERAMIC CO.LTD (Producer) and Foshan HCC Building Material Co., Ltd.(Exporter)
  - d) Foshan Shunshui Summit Ceramic Co Limited and Shunshui Newpearl Building(Producers)-Foshan Newpearl Trade Company Limited and Foshan Summit Kangjian Ceramics Co. Limited (Exporters)
  - e) Sichuan New ZhongYuan Ceramics Co., Ltd (producer and exporter), Foshan New Zhong Yuan Ceramic Company Limited.(Producer), Foshan City Sandebo Ceramics Co Limited (Exporter), Foshan Lungo Ceramics Co Limited (Exporter), New Zhong Yuan Import & Export Company Limited of Guangdong (Exporter), Foshan Xin Yue Ceramic Co Limited (Exporter), Company name: Foshan Xin Nan Yue Building Ceramics Co Limited (Exporter)
  - f) R. A. K. (GAO YAO) CERAMICS CO. LTD.(Exporter)
  - g) Kingkong Building Material Co. Ltd
  - h) Foshan Fotiles Ceramics Co Ltd. (Exporter)
  - i) Guangdong Ouya Ceramic Co. Ltd
  - j) M/s Gaoyao Tegaote Ceramics Co. Ltd, manufacturer and related exporter M/s Foshan Everlasting Co. Ltd. (exporter), China

k) Ratnagiri Ceramics Private Limited, (Importer)

l) The Karnataka Marble and Granite Association

- X. Other exporters, producers, importers and other interested parties who have not supplied information in this investigation have been treated as non-cooperating interested parties.
- XI. A Market Economy Treatment (MET) questionnaire was forwarded to all the known exporters and Embassy of China PR. While for the purpose of initiation the normal value in China PR was considered based on the constructed cost of production of the subject goods in China PR, the Authority informed known exporters that it proposes to examine the claim of the applicant in the light of para 7 and para 8 of Annexure I of Anti Dumping Rules, as amended. The exporters/producers of the subject goods from China PR were therefore requested to furnish necessary information/sufficient evidence as mentioned in sub-paragraph (3) of paragraph 8 to enable the Authority to consider whether market economy treatment be granted to cooperative exporters/producers.
- XII. The Authority kept available non-confidential version of the evidence presented by various interested parties in the form of a public file maintained by the Authority as per Rule 6(7) and kept open for inspection by the interested parties.
- XIII. Cost investigations were conducted to work out optimum cost of production and cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles (GAAP) and the information furnished by the applicant so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- XIV. After preliminary findings, all interested parties were asked to file their comments on preliminary findings.
- XV. The Authority held a public hearing on 7.07.09 to hear the interested parties orally, which was attended by representatives of interested parties. The interested parties were asked to file written submissions and rejoinder. The written submissions and rejoinders received from interested parties to the extent considered relevant have been considered in the findings;
- XVI. On the spot verification of the data of those exporters, who filed their submission before the preliminary findings and had rectified the deficiencies, were carried out to the extent necessary.
- XVII. In accordance with Rule 16 of the Rules supra, the essential facts/basis considered for the findings have been disclosed to known interested parties and comments received on the same have been considered in Final Findings.

- xviii) \*\*\* in this notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- xix) Investigation was carried out for the period starting from 1st April 2007 to 31st March 2008 (12 months) i.e. the period of investigation (POI). The examination of trends in the context of injury analysis covered the period from April,2004-March,05, April,2005–March,2006, April,2006-March,2007 and the POI.

## **B. Product under consideration and like Article**

3. The product under consideration for the investigation is Ceramic Glazed tiles other than vitrified tiles where at least one of the sides (length or width) exceeds 17 inches/431.80 Millimeters (MM)/43.18 Centimeters (CM)/1.4167 feet. These goods are used as covering for walls and floors in the buildings. The product is classified under Custom Tariff heading 6908 9090.
4. It has been submitted by the domestic industry that the subject goods, which are being dumped into India, are identical to the goods produced by the domestic industry. There are no differences either in the technical specifications, quality, functions or end-uses of the dumped imports and the domestically produced subject goods. Hence, the goods produced by the domestic industry are 'Like Article' to dumped goods from subject country. The two are technically and commercially substitutable and hence should be treated as 'like articles' under the Anti Dumping Rules.
5. It has been submitted by The Karnataka Marble and Granite Association that:-
  - (i) The products of the applicant and that of the other members of the domestic industry and also those imported from China PR are similar in material respects so as to become 'Like Article' is subject to empirical determination it has been stated that there are no differences in the technical specifications, quality, functions or end uses of the above mentioned goods. However, the same is not substantiated by any empirical data for exercise undertaken to prove likeness. The Association in the meantime has approached Micro, Small and Medium Enterprises Development Institute, Bangalore (MSMEDI) working under the Government of India to test samples from the Applicants' products as well as those of the other members of the domestic industry and also those imported from China PR. The said reports are awaited. These reports will be crucial in the determination of "Like Article" as some specifications which are otherwise considered immaterial vary the prices of the tiles to a great extent. The authority has noted that no such report was submitted by the Association. Subsequently, however a photocopy of the book called "Industrial Ceramics" by Felix Singer and Sonja S. Singer was submitted.
  - (ii) It has also been submitted that on closer scrutiny and comparison of the imported tiles and the domestically manufactured tiles being sold in India it will be found that the standard of imported tiles is much lower than that of the

- domestically manufactured tiles. It has been submitted that the two cannot, by any stretch of imagination, be considered to be 'Like Article' at all.
- (iii) The Association has been able to collect certain details and data in respect of recent imports of tiles from China, which unequivocally show that the sale of imported tiles is taking place at a higher price what the Applicants contend.
  - (iv) On a perusal of the sale prices of the Applicants' tiles in respect of the subject goods and those of other domestic producers, it will be evident that the Applicants sell their products at a price higher by Rs.15-Rs.17 per square foot from such other domestic producers.
6. The authority has examined the issue in details and noted that 'Like Article' does not mean identical article. The domestically produced goods is treated to be 'Like Article' if same can be commercially or technically substituted by subject goods. In this case the subject goods is a directly substituting and competing with the domestic produced goods. It has also been noted that there may be differences in prices on account of sizes or variety etc. However, such variations would not prevent from treating domestically produced goods as 'Like Article' as same is substitutable by imports of subject goods. The Authority, therefore, treated the goods produced by the domestic industry as 'Like Article' to the subject goods from the subject country.
7. After the preliminary findings, the Association again pointed out that certain tiles (non-PUC) can substitute the PUC, therefore, those can be treated as like article. The Association was asked to substantiate their claim, however, no reply has been received or any document has been submitted. The Authority therefore did not find any reason to interfere in the decision already taken in the preceding paragraph.

### **C. Standing of the applicants and Domestic industry**

8. Authority notes that the application has been filed M/s H & R Johnson (India) Ltd. & M/s Kajaria Ceramics Ltd., These producers account for 100% of the Indian production.
9. It has been represented by Karnataka Marble association that there are two specifications of tiles which would fall in the category of 'Product under Consideration' (PUC). These tiles are of the specification 300 x 450 and 400 x 600. These tiles are manufactured by a number of producers in India. Applicants contend that they are the only manufacturers of the subject goods in India. It has been submitted that the statement is blatantly wrong. The Association is in a position to show that the Applicants do not even produce 25% of the Indian domestic production, let alone producing 100%.The claim of the Applicants that they only constitute the domestic industry is wrong, the burden lies upon the Applicants to show that they have requisite qualification under the proviso to Rule 5(3) of the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 to initiate an investigation. It has also been submitted that there are other producers who are producing similar size of tiles and in this regard some quotations purported to be of such producers were also submitted.
10. The authority has noted that no producers other than applicants came forward to expressly support or oppose the investigation. Further, Indian Council of Ceramic Tiles and Sanitaryware (ICCTAS), the association of producers stated that there are no other manufacturers of tiles of sizes which are under investigation. The Authority

therefore holds that the applicants have desired 'standing' in this investigation. Further, the companies providing data account for 100% of total production, therefore constitute domestic industry within the meaning of the Rule 2(b).

11. After the preliminary findings, Morbi Dhuva Glaze Tiles Association claimed that their members are producing the 'Like Article'. The Association was asked to advise its members to file the submission on the prescribed format with the necessary information, however, no reply has been received or any of their member has submitted any information of their production of the Like Article. The Authority therefore did not find any reason to re-examine the issue of 'Standing'.

#### **D. Confidentiality**

12. In the findings the data of the domestic industry concerning capacity, production and sales etc. have not been kept confidential, however the information concerning customers, prices and costs have been considered confidential.
13. The confidentiality claims of the cooperating exporters relating to their data have been accepted and data/information has been kept confidential as claimed by them in this investigation.

#### **E. Other issues**

##### **E.1 Imports by the applicant**

14. It has been contended by Karnataka Marble and Granite Association that M/s Kajaria Ceramics Ltd. is importer and exporter of ceramic tiles. It has also stated that this information is also available on their website Kajaria World. In this regard it has been clarified that M/S Kajaria Ceramic Ltd has imported Vitrified tiles and not ceramic tiles. It has been clarified that no imports have been made in the last three years.

#### **Methodology for Dumping Margin Determination**

##### **F.1 Examination of the responses of Exporters and Market Economy Treatment**

##### **F.2 Submission made by domestic industry**

15. It has been submitted China is a non-market economy country under the Indian Anti-dumping Rules. Therefore, the normal value for China is required to be determined as per the procedure described in Para 7 of the Annexure I to the Anti-dumping Rules.
16. It has also been submitted that the normal value is required to be determined based on domestic selling prices in a market economy third country or the constructed value in a market economy third country or the export prices from such a third country to any other country including India. However, if the normal value cannot be determined on the basis of the alternatives mentioned above, the Designated Authority may determine the normal value on any other reasonable basis including the price actually paid or payable in India for the like product duly adjusted to include reasonable profit margin.

17. It has further been submitted that for the purpose of determination of normal value in case of a non-market economy country, an appropriate third market economy country is required to be selected as the first alternative. Therefore it was proposed that Italy be taken as an appropriate market economy third country. It was also stated that the capacity in Italy for manufacturing the subject goods is close to the manufacturing facility in China PR. In support of this proposal it has been submitted that in Italy the industry structure, the average capacity of plants, the cost structure, the production process and the technology are reasonably and fairly close to that found in China PR. And the domestic industry has no links or relationship with any of the producers in Italy. Further it has been stated that this proposition is also guided by the fact that Italy is a market economy country with considerable competition within the local producers as well as from imported goods. Such conditions are a good indicator of market determined prices.
18. At the stage of initiation, the Authority proceeded with the presumption by treating China PR as a non-market economy country as per para 8(2) of Annexure 1 of the Rules, for purposes of an anti dumping investigation. Upon initiation, the Authority advised the Producers/Exporters in the subject country to respond to the notice of initiation and provide information relevant to determination of their market economy status.
19. The Authority sent copies of the MET questionnaire to all the known exporters for rebutting presumption of non market economy in accordance with criteria laid down in para 8(3) of Annexure-I to the Rules. The Authority also requested Government of China PR and to advise producers/exporters in their country to provide information.

### **F.3 Submissions by Exporters and their Examination**

#### **(a) Foshan Shunshui Summit Ceramic Co Limited and Shunshui Newpearl Building(Producers)-Foshan Newpearl Trade Company Limited and Foshan Summit Kangjian Ceramics Co. Limited(Exporters)**

20. The authority notes that these producers /Exporters have already been examined for market economy treatment in some other investigation. During the verification, no new information has come to the notice of Authority which would result in the change of status already accorded to this Group. Therefore, no fresh examination has been done for these entities and these entities have been treated as working in accordance with market principles for the purpose of this findings. The Normal Value for these entities has been determined in accordance with paragraph 1 to 6 of Annexure-1 of the Rules.

**(b) Sichuan New ZhongYuan Ceramics Co., Ltd (producer and exporter), Foshan New Zhong Yuan Ceramic Company Limited.(Producer), Foshan City Sandebo Ceramics Co Limited (Exporter), Foshan Lungo Ceramics Co Limited (Exporter), New Zhong Yuan Import & Export Company Limited of Guangdong (Exporter), Foshan Xin Yue Ceramic Co Limited (Exporter), Company name: Foshan Xin Nan Yue Building Ceramics Co Limited (Exporter)**

21. The authority notes that these producers /Exporters have already been examined for market economy treatment in some other investigation. During the verification, no new information has come to the notice of Authority which would result in the change of status already accorded to this Group. Therefore, no fresh examination has been done for these entities and these entities have been treated as working in accordance with market principles for the purpose of this findings. The Normal Value for these entities has been determined in accordance with paragraph 1 to 6 of Annexure-1 of the Rules.

**(c) Guangdong Winto Ceramic Co., Ltd (producer and exporter)**

22. The producer/exporter has made detailed submissions for rebutting the presumption of non-market economy to satisfy the criteria laid down in para 8 (3) of the Annexure-1 of the Rules. The Authority verified the submitted information and it was noted that no evidence was found which could distort the production cost and financial situation of the producer. Also, no evidence could be found indicating that significant distortions have been carried over from the former non-market economy system. Other parameters of Para 8(3) were also examined concerning decision making with regard to price, cost and inputs etc.. However, no evidence has been found indicating any significant state interference in the working of the company. In view of the above, the Authority decides to treat the producer/exporter working in accordance with market principle for the purpose of this findings. The normal value for the producer/exporter has been determined in accordance with paragraph 1 to 6 of Annexure-1 of the Rules.

**(d) Topbro Ceramics Co., Ltd ( Topbro) (producer) & A Foshan Junjing Industrial Co., Ltd (Junjing) (Exporter)**

23. During the verification it was noted that producer has changed the data. It was also noted that the sale of producer was made as domestic sales only. From the documents, claimed export activities of the producer cannot be segregated from the domestic sales. From the records of the producer, it was not possible to ascertain actual exports of the producer. Further, in response to the exporters' questionnaire in the Appendix-2, the sale has been shown as domestic sales to India.

24. In view of the above, the data of the producer and unrelated trader cannot be taken into account for determination of dumping margin.

**(e) LOUIS VALENTINO (INNER MONGOLIA) CERAMIC CO. LTD (“LVCC”)  
(Producer) and Foshan HCC Building Material Co., Ltd.(Exporter)**

25. During on the spot verification it was noted that the producer had made all sales as domestic sales only. From the records of the company, the claimed export activities of the producer cannot be segregated from the domestic sales. It was also noted that the data of one of the unrelated trader was provided which has made exports to India. The other unrelated trader has also claimed to have made exports by procuring the goods from the producer and it was also claimed that export by the other trader was made to other countries. However, from the records of the company the claim of the producer could not be verified as all sales by the producer has been shown as domestic sales.
26. In view of the above, the data of the producer and unrelated trader cannot be taken into account for determination of dumping margin.

**(f) R. A. K. (GAO YAO) CERAMICS CO. LTD.**

27. The above producer/exporter rectified the deficiencies and verification of the data was conducted. During the verification, it was noted that the exporter has incorrectly intimated that all sales were on ex-factory term. It was further noted that the expenses related to export transactions were also incorrect. After the verification, a revised set of data was provided and it was informed that all the corrections in the data have been made. The cost information was also revised during the verification. In view of the fact that data of the producer/exporter has been found to be incorrect, therefore, the response has not been taken into consideration in the findings.
28. After the disclosure statement, it has been stated that in the disclosure statement the DGAD has not mentioned about the market economy treatment to RAK whereas in verification report the documents have been found to be correct. It has been requested that market economy claim of RAK should be expressly accepted in the final findings. In this regard, the Authority notes that the data of RAK has been rejected because of incorrectness of the data as have been found out during the verification. Therefore, there is no point of giving any decision concerning market economy treatment by making analysis of documents submitted in this regard for claiming market economy treatment.
29. It has also been stated that factual inaccuracy in the data concerning exports transactions occurred “*RAK did not understand the requirement of DGAD fully*”. *Due to its inability to understand the requirements, some errors had crept into the various appendices.*” It has also been stated that “*RAK rectified some of the errors it was able to identify and filed necessary revisions at the start of the verification*”. In this regard, the Authority notes that RAK actually had submitted misleading data. It is not understood how terms of delivery were disclosed as ex-factory for all exports transactions whereas actually many of the transactions were on FOB and CIF basis. It is also not understood how they have not disclosed the expenses incurred in effecting these exports. The invoices of exports sales were denominated in US\$ whereas in the exporters’ questionnaire, the information was provided in Chinese currency. The information provided was in such a manner that no meaningful verification could be conducted. During the verification, data was revised twice,

however, it still remains incorrect. After the verification, submission of revised information to the team carry no meaning as it was not possible to re-check the accuracy of information provided.

30. It has been pointed out that as per paragraph 7 of Annexure 1 of WTO Anti-Dumping Agreement, on-the-spot verification is conducted “*to verify information provided or to obtain further details*”. It has also been stated that the main purpose of the on-the-spot verification includes not only verification of information provided but also to obtain further details. The Authority notes that the main purpose of verification is to verify the information already provided and to see the back-up data of the information already provided. The phrase ‘to obtain further details’ need to be interpreted in this context. It cannot be interpreted to collect the fresh information. The actual purpose of verification is to check whether information provided is correct or not. The RAK in this case has actually not only provided wrong information but it was misleading one as the information about terms of delivery cannot be considered information of which they were not aware of.
31. It has been further pointed out that para 5 of Annexure-II of WTO ADA provides “*Even though the information provided may not be ideal in all respects, this should not justify the authorities from disregarding it, provided the interested party has acted to the best of its ability*”. And it has been stated that in terms of this provision, before rejecting the information, the DGAD should have examined whether RAK has acted to the best of its ability and it has also been alleged that DGAD has not examined this aspect at all. The Authority notes that RAK had originally submitted the deficient response after the permitted time. In the preliminary findings, the response was ignored. After the preliminary findings, Designated Authority condoned the delay and allowed the company to rectify the deficiencies and verification was conducted. The DA has actually given the opportunity to the exporter to complete the response but the exporter provided the misleading information which was found out during the verification. It is not clear how it can be interpreted that the exporter has acted to best of its ability when it was misinforming about the actual terms of delivery and expenses associated with the exports.
32. It has also been submitted that a new sub-section 6(A) to Section 9(A) makes it mandatory to determine dumping margin. After introduction of this provision, DGAD has no power whatsoever to reject the information given by exporter or producer. DGAD can reject the information only when exporter or producer fails to provide the records or information. The Authority notes that the new provision cannot be interpreted that whatsoever data is submitted to DGAD should be accepted though it may be misleading. In this case, we have not accepted the data of the exporter as it was incorrect and misleading.

**(g) Guangdong Ouya Ceramic Co. Ltd**

33. The exporter has submitted the response after permitted time and considerably delays. It has also been noted that the company belongs to Ouya group and various companies of the group are involved in production and sales of vitrified tiles and ceramic tiles. It has further been noted that no response about the group companies has been submitted. Even after the preliminary findings, no effort was made by the

exporter to rectify the deficiencies. Therefore, for the purpose of the findings, the response of the exporter has not been taken into consideration.

**(h) Foshan Fotiles Ceramics Co Ltd.**

34. The response submitted by the company was found to be highly deficient and not supported by any data or supporting evidence. After the preliminary findings, some information was submitted, however, the response remained deficient in many respect. It was further noted that the information was filed by the importer on behalf of the exporter, which could not be taken into consideration. Therefore, the response of the above mentioned company has not been taken into consideration in the findings.

**(i) Kingkong Building Material Co. Ltd**

35. The response by this company was found to be highly deficient and not supported by any data or supporting evidence. Therefore, the response has not been taken into consideration in the findings.

**(j) M/s Gaoyao Tegaote Ceramics Co. Ltd, manufacturer and related exporter M/s Foshan Everlasting Co. Ltd. (exporter), China**

36. The response of the company was received after the preliminary findings. As the information was filed after considerable lapse of permitted time, therefore, the Authority has not condoned the delay and the response has not been taken into consideration in the findings.

**F.4 Normal Value**

**F.5 Normal Value for non-cooperating Exporters and Exporters whose responses have not been taken into consideration from China PR**

37. In anti-dumping investigations concerning imports originating in non-market economy normal value shall be determined in accordance with para 7 of Annexure I of the AD Rules. The Authority notes that para 7 of Annexure 1 of AD Rules provide that:

*“In case of imports from non-market economy countries, normal value shall be determined on the basis of the price or constructed value in the market economy third country, or the price from such a third country to other countries, including India or where it is not possible, or on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted if necessary, to include a reasonable profit margin.”*

38. As explained above, the market economy status has not been accorded to all of the responding exporters. Therefore the normal value has been determined in accordance with para 7 of annexure I of the Rules. The domestic industry at the time of application has proposed Italy as a surrogate country for determination of normal value; however no information was made available to the authority about details of manufacturers in Italy. In the responses by the cooperating exporters as well no comment has been provided about the Italy as an “appropriate market economy third

country”. The authority has therefore determined the normal value in accordance with method “any other reasonable basis”.

39. For the purpose of calculating the normal value the prices of raw materials in India, consumption norms and conversion cost of the producer of the domestic industry have been taken into account. A profit @ 5% has been added to arrive at the normal value. By this methodology the normal value has been determined as \$ \*\*\*Sqm.

**F.6 Normal value for Cooperating Exporters**  
**(Accorded Market economy Treatment)**

40. For the purpose of calculating the normal value for following cooperating exporters who have been granted market economy status in accordance with paragraph 8(3) of Annexure-1 of the Rules, the Normal Value has been determined in accordance with paragraph 1 to 6 of the Annexure-1 of the Rules.

**Guangdong Winto Ceramic Co., Ltd (producer and exporter)**

41. The above mentioned producer/exporter has submitted transaction-wise details of home sales. For the purpose of determination of Normal Value, all home sales transactions to non-affiliated customers have been taken into consideration. The transactions conducted in the ordinary course of trade have been taken into consideration for calculation of the normal value. As the home sales transactions were made at the ex-factory level, therefore, no expenses in connection with the home sales have been adjusted. The home sales have been made of different sizes in different grades. The PUC have been exported in different sizes, therefore, the weighted average Normal Value has been calculated for those identical sizes of comparable grade for comparing the same with the respective export sales to India.

**Sichuan New ZhongYuan Ceramics Co., Ltd (producer and exporter), Foshan New Zhong Yuan Ceramic Company Limited.(Producer), Foshan City Sandebo Ceramics Co Limited (Exporter), Foshan Lungo Ceramics Co Limited (Exporter), New Zhong Yuan Import & Export Company Limited of Guangdong (Exporter), Foshan Xin Yue Ceramic Co Limited (Exporter), Company name: Foshan Xin Nan Yue Building Ceramics Co Limited (Exporter)**

42. The product under consideration has been exported by two producers of this Group situated at different locations. Each producer has provided transaction-wise details of home sales. For the purpose of determination of Normal Value producer-wise, all home sales transactions to non-affiliated customers have been taken into consideration. The transactions conducted in the ordinary course of trade have been taken into consideration for calculation of the normal value. As the home sales transactions were made at the ex-factory level, therefore, no expenses in connection with the home sales have been adjusted. The PUC have been exported in different sizes and series, therefore, the weighted average Normal Value have been calculated for those identical sizes and series for comparing the same with the respective export sales to India.

**Foshan Shunshui Summit Ceramic Co Limited and Shunshui Newpearl Building(Producers)-Foshan Newpearl Trade Company Limited and Foshan Summit Kangjian Ceramics Co. Limited(Exporters)**

43. The product under consideration has been exported by two producers of this Group. The producers have provided transaction-wise details of home sales. For the purpose of determination of Normal Value producer-wise, all home sales transactions to non-affiliated customers have been taken into consideration. The transactions conducted in the ordinary course of trade have been taken into consideration for calculation of the normal value. As the home sales transactions were made at the ex-factory level, therefore, no expenses on account of home sales have been adjusted. The PUC have been exported in different series and sizes, therefore, the weighted average Normal Value have been calculated for those identical series and sizes for comparing the same with the respective export sales to India.

**F.7 Export Price for Cooperating Exporters**

**Guangdong Winto Ceramic Co., Ltd (producer and exporter)**

44. The exporter has provided transaction wise details of exports to India during the period of investigation. For the purpose of findings all transactions of exports have been taken into consideration for determination of export price. The expenses incurred on account of overseas freight, bank charges, Loss on VAT paid and other expenses claimed by exporter have been adjusted to arrive at ex-factory export price. By this methodology the ex-factory weighted average export price have been determined for each size separately.

**Foshan Shunshui Summit Ceramic Co Limited and Shunshui Newpearl Building(Producers)-Foshan Newpearl Trade Company Limited and Foshan Summit Kangjian Ceramics Co. Limited(Exporters)**

45. The exports to India have been made through two related exporters. The export prices for each exporter have been calculated separately as follows:-

**Export Price of Foshan Newpearl Trade Company Limited**

46. The above mentioned exporter has provided transaction-wise details of exports to India. After verification, all transactions of exports have been taken into consideration. It has been noted that exports sales were made of different series and sizes. All sales transactions during POI were on FOB term basis. The expenses on account of inland freight, bank charges, port expenses, loss on VAT paid and SGA expenses of the exporter have been adjusted to calculate the ex-factory Export Price. The weighted average export prices have been calculated separately for each series and sizes for making comparison with the Normal Value of relevant series and sizes of two different producers.

**Export Price of Foshan Summit Kangjian Ceramics Co. Limited**

47. The above mentioned exporter has provided transaction-wise details of exports to India. After verification, all transactions of exports have been taken into consideration.

It has been noted that exports sales were made of different series and sizes. All sales transactions during POI were on FOB term basis. During the verification, it was noted that the exporter has not revealed the expenses on account of inland freight, customs related expenses and bank charges. It was stated that they would provide the average SGA expenses which would include the expenses on account of inland freight, customs related expenses and bank charges. The expenses were subsequently provided, however, it remained unverified as the direct expenses on these account should have been provided separately for each transactions. The Authority has therefore not calculated the export prices for this exporter.

**Sichuan New ZhongYuan Ceramics Co., Ltd (producer and exporter), Foshan New Zhong Yuan Ceramic Company Limited.(Producer), Foshan City Sandebo Ceramics Co Limited (Exporter), Foshan Lungo Ceramics Co Limited (Exporter), New Zhong Yuan Import & Export Company Limited of Guangdong (Exporter), Foshan Xin Yue Ceramic Co Limited (Exporter), Company name: Foshan Xin Nan Yue Building Ceramics Co Limited (Exporter)**

48. The exports to India have been made through following related exporters. The export prices for these exporters for the material procured from the producer Foshan Bailifeng Building Materials Co. Ltd. (formerly known as Foshan New Zhong Yuan Ceramic Company Limited) have been calculated separately:-

- (a) Foshan City Sandebo Ceramics Co Limited
- (b) Foshan Lungo Ceramics Co Limited
- (c) New Zhong Yuan Import & Export Company Limited of Guangdong
- (d) Foshan Xin Yue Ceramic Co Limited
- (e) Foshan Xin Nan Yue Building Ceramics Co Limited

49. The above mentioned exporters have provided transaction-wise details of exports to India. After verification, all transactions of exports have been taken into consideration. It has been noted that exports sales were made of different sizes and series. All sales transactions during POI were on FOB and C&F terms basis. The expenses on account of inland freight, bank charges, port expenses, loss on VAT paid, SGA expenses and freight, wherever appropriate, of the exporters have been adjusted to calculate the ex-factory Export Prices. The weighted average export prices, exporter-wise, have been calculated separately for each sizes and series for making comparison with the Normal Value of relevant sizes and series of the producer.

**Sichuan New ZhongYuan Ceramics Co., Ltd (producer and exporter)**

50. The exports have also been made to India by the above mentioned producer. The above mentioned producer/exporter has provided transaction-wise details of exports to India. After verification, all transactions of exports have been taken into consideration. It has been noted that exports sales were made of different sizes and series. All sales transactions during POI were on C&F term basis. The expenses on account of inland freight, bank charges, port expenses, loss on VAT paid, SGA expenses and freight, of the exporter have been adjusted to calculate the ex-factory Export Prices. The weighted average export prices

have been calculated separately for each sizes and series for making comparison with the Normal Value of relevant sizes and series.

**Export price for non-cooperating exporters or exporters whose responses were found to be deficient or not found to be in order.**

51. To determine the export price from non-cooperating exporters details of the transaction-wise export made to India by DGCI&S has been taken into account. As the transactions are on CIF basis therefore to determine ex factory export price, the expenses incurred on account of export to India have been adjusted. For this purpose expenses on account of overseas freight, insurance and had been taken into account and adjusted. In this regard information provided by cooperating importer has been relied upon. By this methodology the ex-factory export price has been determined as \$ \*\*\*/SQM.

**F.8 Dumping Margin**

52. After the Disclosure Statement, It has been contended by the domestic industry that dumping margin should be determined for single producer/exporter. It has been stated that *“Indian Anti-dumping Law does not provide for determination of dumping margin and recommendation & imposition of anti-dumping duty for a combination of producer and exporter as it is nowhere laid down that dumping margin is to or can be determined based on the normal value for one entity and the export price for another. The anti-dumping provisions are very clear that the individual dumping margin is to be determined based on the normal value and export price for same individual entity. In any case, there cannot be any situation where the dumping margin is determined for a group of two or more parties as such a combination does not have any sanctity of law”*. It has also been submitted that *“words used in the Annexure 1 are “exporter or producer” and nowhere in the entire Indian Anti Dumping Rules, the words, “exporter and producer” have been used. The expression in the WTO Agreement on Anti-dumping is also “exporter or producer” and not “exporter and producer”. This is beyond any doubt that the dumping margin is to be determined for an individual entity but not for a combination or group”*. Further it has also been submitted that the present system of combination duties makes it possible for the producers to plan their sales in such a manner by which they can always leave open a window where dumping margin is the lowest. Since dumping margin is essentially producer specific, it is clear that dumping margin for any producer has to be determined for all exports made to India and not the selective exports at the choice of the producer.
53. The Authority notes that the producers and exporters of the group(s) in this investigation, are related. In addition, producers also in the same group are related. All exports transactions and domestic sales of the groups have been taken into consideration to determine weighted average dumping margin. In fact, to determine dumping margin producer-wise or exporter-wise would lead to circumvention as negative dumping margin in any of the entity would open window for exports by the group as the producers and exporters in the groups are all related. In case of related party transactions, as in the present case, single dumping margin for a group as a whole is meaningful.
54. It has also been stated that the Authority should call complete information from the producer and all the exporters who have sold goods to India. And the weighted

average export price may be determined for all the exporters without determining any separate export price for each exporter. The Authority notes that in this case the export price has been compared with the normal value for the same product/of the same series/quality. The individual dumping margin of each exporter has been combined to determine the weighted average dumping margin depending upon the weight of each export. In any case, complete information on domestic sales and export prices to India, have been taken into account for determination of weighted average dumping margin

55. Based on the normal values and export prices as determined by above mentioned methodologies the weighted average dumping margins were determined separately for each sizes, thereafter weighted average for each exporter or combinations have been determined as under:

Producer	Exporter	Dumping Margin
		Considering weighted average normal value
Foshan Bailifeng Building Materials Co. Ltd. (Formerly known as Foshan NZY Ceramics	Foshan Lungo Ceramics	***
	SANDEBO	***
	NZY Import Export	***
	XINNANYUE	***
	XINYUE	***
Sichuan NZY	Sichuan NZY	***
<b>Weighted average for NZY Group</b>		<b>-6.90</b>
<b>Guangdong Winto Ceramic Co.</b>	Guangdong Winto Ceramic Co.	<b>-5.16%</b>
Foshan Shanshui Newpearl Ceramics Building Co.,Ltd	Foshan Newpearl Trade Co Limited	***
Foshan Shanshui Summit Ceramics Co.,Ltd.	Foshan Newpearl Trade Co Limited	***
<b>Weighted average for Newpearl Group</b>		<b>-6.88%</b>
Other producers from China PR	Other Exporters from China PR	<b>119.35%</b>

The above determined dumped margins for other producers/exporters are more than *de minimis*.

## **G. METHODOLOGY FOR INJURY DETERMINATION AND EXAMINATION OF CAUSAL LINK**

### **G.1 View of the domestic industry**

The domestic industry made the following submissions:-

56. Imports from China have increased phenomenally to almost 3 times i.e. 56.18 Lacs SQM in the period of investigation from 20.46 Lacs SQM in the base year. The increase in imports from China in the period of investigation is also sharper as compared to immediate previous year 2006-07. It clearly indicates that the imports

from China have been able to capture a significantly higher market share due to aggressive dumping by the exporters from the subject country.

57. Further, imports from China in comparison to the total demand in India have increased from 32% during April 04-March 05 to 52% during the period of investigation. The increase in share of imports in total demand in the period of investigation is also sharper as compared to immediate previous year. This clearly goes to show that the imports from China have been able to capture a substantial slice of demand in the domestic market due to the aggressively dumping the subject goods.
58. The imports from China as percentage of domestic production have increased phenomenally from 48% in the year April 04-March 05 to 114% during the period of investigation. There has been a whopping increase of almost 2.5 times in the imports as percentage of domestic production over the injury investigation period. It is a clear indicator that the growth in the market has directly been taken over by the dumped imports from China.
59. It has been submitted that the landed value from China over the injury investigation period has increased. However, the same is still lower than the domestic selling price which has resulted into significant price undercutting. The lower import prices from China have forced the domestic industry to reduce the selling prices thereby depressing the domestic price. It has also been submitted that the cost of the domestic industry has increased over the injury investigation period. However, the Chinese imports prevented the domestic industry to increase its prices and the same are suppressed. Thus, the imports from China have not only depressed the domestic prices but also suppressed the domestic prices.
60. The market share of the domestic industry has declined from 66% in April 04-March 05 to 44% during the period of investigation. The market share of the domestic industry has significantly declined despite the fact that the demand in the country has increased by 72% over the injury investigation period. It clearly indicates that the drastic decline in market share of the domestic industry has been affected only by aggressively dumping of the subject goods by China.
61. The capacity to produce the subject goods is not separately available. The analysis of the capacity utilization has been made by considering the production of all the products including the subject goods. Moreover, the applicant namely M/s Kajaria Ceramics Ltd. started producing the subject goods in the period of investigation only. Therefore, the analysis of the capacity utilization in the present case does not give the actual effect of dumped imports.
62. The productivity per employee during the period of investigation has improved as compared to base year 2004-05. Thus, indicating the loss of productivity is not a cause of injury to the Domestic Industry.
63. The sales volume of the domestic industry in the POI as compared to base year has increased over the injury investigation period. However, the market share of the domestic industry has declined by about 22% over the injury investigation period in a

growing market where the total demand has increased by about 72%. It clearly indicates that the growth in the market has directly been taken over by the dumped imports from China. Thus, the domestic industry is severely injured with respect to its sales volume as well as market share.

64. The number of employees engaged by the applicant has come down over the injury investigation period whereas the wages paid to them have increased over the injury investigation period.
65. The profitability of the domestic industry has severely been affected due to dumped imports from China. The domestic industry is prevented from increasing its prices and the same have come down over the injury investigation period which has directly affected their profitability. The losses have increased over the injury investigation period worsening the injury to the domestic industry. It has been mentioned that even though injurious dumping had been taking place for some time, the domestic industry did not approach the Hon'ble Authority with the hope that the Chinese prices will improve and so will the situation of the domestic industry. However, contrary to expectations, the marginal increase in the Chinese prices is not in line with the increasing costs. For the domestic industry, the prices have actually come down even though the costs have gone up which has resulted in further deterioration of the profitability of the domestic industry.
66. It has been submitted that the return on capital employed (ROCE) of the domestic industry has become negative in the period of investigation from a positive return in the base year 2004-05. This is mainly due to decline in the profitability of the company as a result of large scale dumping by China.
67. The domestic industry has been severely injured as the level of stock has increased over the injury investigation period.
68. The injury to the domestic industry due to the dumped imports is further accentuated by the fact that not only the subject goods are being heavily undersold, the exporters from the subject country are also indulging in significant price undercutting. It may be noted that there is abnormally high price undercutting. Thus, there is a constant pressure on the domestic industry to bring down their prices. It has also been submitted that the landed value of the product under consideration from the subject country is also much lower than the prices the domestic industry ought to have realized on the sales of the subject goods.
69. It has been submitted that the cash flow position of the petitioner has deteriorated during the period of investigation. There is a decline of (\*\*\*) % over the injury investigation period.
70. It has been submitted that the demand in the country has increased over the injury investigation period by 72% whereas the market share of the domestic industry has come down drastically by 32% over the same period. The growth is also severely negative with respect to profitability, cash flow and ROCE. This clearly indicates that the exporters from China have captured a substantial share of the domestic industry's market share by selling at dumped prices which is evidently clear from the growth in imports.

71. The future investment in the sector is marred by the presence of dumped imports from China. The negative profitability, negative cash flow and negative returns clearly indicate that the ability of the domestic industry to raise capital investments for the sector is jeopardized by the dumped imports.
72. In addition to the fact that material injury is being caused to the Domestic Industry, It has been submitted that the threat of material injury to the Domestic Industry is imminent.
73. The imports from the subject country have shown a significant increase during the period of investigation as compared to the base year as well as the preceding periods. The imports have gone up from 20.46 Lacs SQM in April 2004-March 2005 to 56.18 Lacs SQM during the POI.
74. Imports from the subject country are coming at extremely low prices, which do not allow the domestic industry to earn reasonable returns. The profitability of the domestic industry due to current severe undercutting by China has become severely negative. If the same trend continues, it would not only lead to further losses to the domestic industry but it would also become very difficult for the domestic industry to operate and survive. Therefore, an immediate action to curb the present dumping from China would be in the interest of domestic industry.
75. The Domestic Industry also understands that there are huge disposable capacities and surplus production in China, which is likely to find its way into the Indian market if anti-dumping duties are not immediately imposed.
76. It has been stated that the inventories of the domestic industry have also significantly increased over the injury investigation period. It clearly indicates that the same would further increase in case immediate measures are not adopted to impose the anti-dumping duties.

Concerning Causal link it has been submitted:

77. The imports of subject goods from sources other than China are de minimis during the period of investigation. Only the imports from China are being made at dumped prices and are above the de minimis limits causing material injury to the petitioners. It has also submitted that the imports from European Union are also above the de minimis limits. However, their prices are well above the prices of China as well as current domestic prices and the desirable selling prices. Therefore, the same have not caused injury to the domestic industry.
78. The demand in the country has grown up by 72% over the injury investigation period. Hence, there is no decline in demand during the period of investigation and decline in demand is not a factor of injury to the domestic industry.
79. There is a single market for the subject goods where dumped imports compete directly with the goods produced by the domestic industry. The price determines the choice of supplier. The dumped goods are substituting the product of the indigenous producers. The imported product is also sold to meet the similar commercial grades,

standards and specifications, as domestically produced subject goods. The imported goods and the domestically produced goods are like articles and are used for the same applications/end uses. Thus, pricing becomes the most important factor for purchasing the article either from imported sources or domestic sources. The domestic industry is not realizing reasonable selling price / profit with respect to subject products. This can directly be attributed to the low priced imports from China as the domestic industry is always expected to match the prices offered by the importers from the subject country. There are no trade restrictive practices or technology issues which can be attributed to the cause of injury to the domestic industry. The productivity of the domestic industry has also gone up and, therefore, has not caused any injurious effect on the financial state of the domestic industry. As regards the competition between the foreign and domestic producers, it has been submitted that the domestic industry is suffering only on account of unfair trade due to dumped imports from China. If the imports take place at the fair normal prices, the domestic industry is totally in a position to face the competition from imports. There are no exports by the domestic industry during the injury investigation period. Therefore, the question relating to exports is not applicable.

## **G.2 View of Other Interested parties**

### **G.3 Submissions by The Karnataka Marble and Granite Association**

80. The Trade between India and China is governed by Asia Pacific Trade Agreement which describes a decreasing rate of Custom Duty.

81. On perusal of the sale prices of the Applicants' tiles in respect of the subject goods and those of other domestic producers, it will be evident that the Applicants sell their products at a price higher by Rs.15-17 per square foot from such other producers. The reason for such inflated rates of sale are unknown to other members of industry.

82. It has been submitted that domestic industry has been unable to keep up with increase in demand. It is evident that demand has increase by 60% in 2004-05 to 2007-08, whereas the domestic industry has only increase production about 17%.

83. Applicants have been investing substantial amounts in expansion of their production capacity. If despite such investment and expansion in their production capacities, the applicants have not been able to produce more, the fault ought to lie not with reasonably priced imports from various countries, but because of a fault that is peculiar to the Applicants.

## **G.4 Examination by the Authority**

84. The principles for determination of injury set out in Annexure-II of the Anti- Dumping Rules lay down that

*“A determination of injury shall involve an objective examination of both (a) the volume of dumped imports and the effect of the dumped imports on prices in*

*the domestic market for like article and (b) the consequent impact of these imports on domestic producers of such products.”*

85. As regards the impact of the dumped imports on the domestic industry para (iv) of Annexure-II of the Anti Dumping Rules states:

*“The examination of the impact of the dumped imports on the domestic industry concerned, shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the Industry, including natural and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of margin of dumping actual and potential negative effects on cash flow, inventories, employment wages growth, ability to raise capital investments.”*

86. The Authority has examined the arguments of the domestic industry and other interested parties and noted that the parameters relating to injury of the domestic industry are analyzed on the basis of data submitted by the domestic industry and verified/counter-checked from the records of the domestic industry. The analysis of various aspects of the injury to the domestic industry are as under:-

#### **Volume and market share in dumped imports**

87. Imports data from DGCI&S has been relied upon for analysis. Imports volume from subject country and other countries has been analysed as under:

#### **G.5 Market Share of Imports from the Subject country (% of Total Imports)**

88. The share of imports from the China in total imports is 87% during the period of investigation. It has been noted that during the POI, imports from China have increased to 29.36 Lacs SQM in the period of investigation from 15.76 Lacs SQM in the base year.

	<b>Apl 04- Mar 05</b>	<b>Apl 05- Mar 06</b>	<b>Apl 06- Mar 07</b>	<b>POI</b>
Imports from Subject Countries (SQM)	1576648	1696612	2408784	2936125
Total Imports (SQM)	1949098	1932083	2765639	3382305
% Share	81%	88%	87%	87%

#### **G.6 Market Share of Imports from the Subject country (% of Total Demand)**

89. Further, imports from China in comparison to the total demand in India have increased from 26% during April 04-March 05 to 36% during the period of investigation.

	<b>April 04- March 05</b>	<b>April 05- March 06</b>	<b>April 06- March 07</b>	<b>POI</b>
Imports from Subject Countries (SQM)	1576648	1696612	2408784	2936125
Total	6087707	6106192	7102276	8193071

Demand (SQM)				
% Share	25.90%	27.79%	33.92%	35.84%

### G.7 Imports from the subject country as % of domestic production

90. The imports from China as percentage of domestic production have increased from 37% in the year April 04-March 05 to 60% during the period of investigation.

	Apl 04- Mar 05	Apl 05- Mar 06	Apl 06- Mar 07	POI
Imports from Subject Countries (SQM)	1576648	1696612	2408784	2936125
Production (SQM)	4272465	4436570	4635414	4914728
% Share	36.90%	38.24%	51.96%	59.74%

91. The above data indicates that the imports from China have increased not only in absolute terms but have also increased in relation to total imports, total demand and domestic production.

### G.8 Changes in Market Share held by the Indian Producers.

92. The market share of the domestic industry has declined from 68% in April 04-March 05 to 59% during the period of investigation. It has been noted that the market share of the domestic industry has declined despite the fact that the demand in the country has increased by 35% over the injury investigation period.

	Apl 04- Mar 05	Apl 05- Mar 06	Apl 06- Mar 07	POI
Domestic industry Sales (SQM)	4138608	4174109	4336637	4810765
Total Demand (SQM)	6087707	6106192	7102276	8193071
Trend	100	100	117	135
Domestic industry Share	67.98%	68.36%	61.06%	58.72%
Trend	100	101	90	86

### G.9 Capacity, production & capacity utilization

93. Capacity, Production and Capacity Utilization of the domestic industry has been analysed as under:

94. It has been noted that capacity for subject goods is not separately available, therefore the analysis of the capacity utilization has been made by considering the production of all the products including the subject goods. The capacity of the domestic industry has increased by 28% in POI as compared to base year. Similarly the production of subject goods has increased by 15% in POI as compared to base year. The production of all goods produced in same facility has increased by 25%

during the same period. The capacity utilization however, has declined to 67% in POI as compared to base year. It has also been noted that M/s Kajaria Ceramics Ltd. one of producers started producing the subject goods in the period of investigation only. Therefore, the evaluation of the capacity utilization in the present case is cannot be taken as correct indicator of injury to the domestic industry.

	<b>Apl 04- Mar 05</b>	<b>Apl 05- Mar 06</b>	<b>Apl 06- Mar 07</b>	<b>POI</b>
Capacity (SQM)	30373500	30373500	38773500	38773500
Indexed	100	100	128	128
Production (SQM)	20723132	22764196	27827858	25835051
Indexed	100	110	134	125
Capacity Utilisation%	68%	75%	72%	67%
Production-PUC (SQM)	4272465	4436570	4635414	4914728
Indexed	100	104	108	115

## G.10 Sales

95. The sales volume of the domestic industry in the POI as compared to base year has increased by 16% over the injury investigation period. However, the market share of the domestic industry has declined by about 69% to 58% over the injury investigation period in a growing market where the total demand has increased by about 35%. Indicating that the growth in the market has been captured by the dumped imports from China PR.

	<b>Apl 04- Mar 05</b>	<b>Apl 05- Mar 06</b>	<b>Apl 06- Mar 07</b>	<b>POI</b>
Sales (SQM)	4138608	4174109	4336637	4810765
<b>Trend</b>	<b>100</b>	<b>101</b>	<b>105</b>	<b>116</b>
Sales Value (Rs Lacs)	***	***	***	***
<b>Trend</b>	<b>100</b>	<b>97</b>	<b>98</b>	<b>112</b>

96. The profitability, profits and cash flow of the domestic industry are given in the following table:-

## G.11 Profitability and Cash flows

	<b>Apl 04- Mar 05</b>	<b>Apl 05- Mar 06</b>	<b>Apl 06- Mar 07</b>	<b>POI</b>
Net Sales Price (Rs. Lacs)	***	***	***	***
Indexed	<b>100</b>	<b>97</b>	<b>98</b>	<b>112</b>
Net Sales Price( Rs / Sqm)	***	***	***	***
Indexed	<b>100</b>	<b>96</b>	<b>94</b>	<b>96</b>
Cost of sales (Rs. Lacs)	***	***	***	***
Indexed	<b>100</b>	<b>106</b>	<b>99</b>	<b>118</b>
Cost of sales (Rs./Sqm)	***	***	***	***

Indexed	100	105	95	102
Profit/Loss (Rs. Lacs)	***	***	***	***
Indexed	<b>-100</b>	<b>-328</b>	<b>-126</b>	<b>-275</b>
Profit/Loss (Rs.Sqm)	***	***	***	***
Indexed	<b>-100</b>	<b>-326</b>	<b>-120</b>	<b>-237</b>
Profit Before Interest	***	***	***	***
Trend	<b>100</b>	<b>-112</b>	<b>42</b>	<b>-36</b>
Depreciation (Rs. Lacs)	***	***	***	***
Cash profit (Profit before depreciation) In Rs. Lacs	***	***	***	***
Indexed	<b>100</b>	<b>-39</b>	<b>77</b>	<b>-31</b>

97. The data of the domestic industry shows that the cost of sale per Sqm has increased to 102 (indexed) in POI as compared to 100 of base year. In terms of value the cost of sale increase by Rs. 5 per Sqm. During the same period the net sales of realisation of the domestic industry declined to 96 (indexed) in POI as compared to 100 of the base year. In terms of value the sale price declined by Rs15/- per Sqm The loss per Sqm. has increased from -100 (indexed) in the base year to -275 in the POI.

98. The data indicates that the losses continued during the entire injury period. The PBIT which was positive in base year from 100 (indexed) become negative 36 in the POI.

## G.12 Cash Flow

99. Authority has evaluated cash profit situation of the domestic industry, which shows that cash profit declined from base year to POI. In indexed form, from 100 in base year it became -31 in POI.

## G.13 Factors affecting domestic prices

100. During the injury period the basic custom duty declined from 6.45%(under Bangkok Agreement) in 2004-05 to 4.30% in the POI. The cost of sale from base year in 2004-05 increased by Rs. 5/Sqm in POI. The landed value from subject country though, continue to increase, however, the undercutting continue throughout injury period. The undercutting of selling prices of the domestic industry by imports from subject country was significant during POI.

## G.14 Price Undercutting

101. The impact on the prices of the domestic industry on account of imports from the subject country has been examined with reference to the price undercutting, price underselling, price suppression and price depression, if any. For the purpose of this analysis, weighted average Net Sales Realisation(NSR) and the Non-Injurious Price(NIP) of the domestic industry (worked out on the basis of the costing information of the domestic industry) have been compared with landed value of imports from the subject country.

102. Comparison for subject goods during the period of investigation was made between the weighted average landed value of dumped imports and the domestic selling price in the domestic market. In determining the net sales realization of the domestic industry, taxes, the rebates, discounts and commission offered by the domestic industry have been adjusted.
103. It has been noted that the price undercutting by imports from subject country continued throughout the injury period. During the POI the undercutting from subject country was in the range of 25-35%.
104. It is also been noted that the cost of the domestic industry has increased over the injury investigation period. The selling price has declined during the same period indicating that the prices of domestic industry remained suppressed. .

	Subject Country			
	2004-2005	2005-2006	2006-2007	POI
Landed value per MT	***	***	***	***
Domestic Selling Price	***	***	***	***
Price Undercutting	***	***	***	***
<b>% Undercutting</b>	***	***	***	***

### G.15 Price Underselling

105. Authority notes that the price underselling is an important indicator of assessment of injury. Non injurious price has been worked out and compared with the landed value of the subject goods to arrive at the extent of price underselling. The non-injurious price has been evaluated for the domestic producers by appropriately considering the cost of production for the product under consideration during the POI. The analysis shows that the landed values of subject goods from subject country was much below the non-injurious price determined for the domestic industry during the period of investigation. The underselling margin was within a range of 40-50% for subject goods from subject country during the POI.

#### Price Underselling

	POI
NIP	***
Landed Price /MT	***
Price Underselling	***
<b>% Underselling</b>	***

### G.16 Return on capital employed

	Apl 04- Mar 05	Apl 05- Mar 06	Apl 06- Mar 07	POI
Capital Employed	***	***	***	***
Indexed	<b>100</b>	<b>97</b>	<b>85</b>	<b>76</b>
Profit Before Interest	***	***	***	***
ROCE (%)	***	***	***	***
<b>Trend</b>	<b>100</b>	<b>-116</b>	<b>49</b>	<b>-47</b>

106. The capital employed is a sum of net fixed assets and working capital. The net fixed assets for the product under consideration have been allocated in the production ratio for product under consideration. The working capital has been allocated in the sales ratio of product under consideration. The data shows that the capital employed has declined to 76 in POI as compared to 100 of the base year mainly due to reduction in working capital. The return on capital employed declined from base year to POI.

### G.17 Employment and Wages

	<b>Apl 04- Mar 05</b>	<b>Apl 05- Mar 06</b>	<b>Apl 06- Mar 07</b>	<b>POI</b>
No of Employees	***	***	***	***
<b>Indexed</b>	<b>100</b>	<b>89</b>	<b>81</b>	<b>70</b>
Wages Total (Rs. Lacs)	***	***	***	***
<b>Indexed</b>	<b>100</b>	<b>121</b>	<b>120</b>	<b>197</b>

107. The data shows that number of employees declined to 67% in POI as compared to base year. The wages to employees however, increased by 97% during the same period.

### G.18 Productivity

108. Productivity of the domestic industry, as reflected in terms of production per employee, is given in the following table

	<b>Apl 04- Mar 05</b>	<b>Apl 05- Mar 06</b>	<b>Apl 06- Mar 07</b>	<b>POI</b>
Production(SQM)	***	***	***	***
Employees	***	***	***	***
Production/Employee	***	***	***	***
<b>Index</b>	<b>100</b>	<b>111</b>	<b>112</b>	<b>132</b>

109. The productivity of the domestic industry i.e. production per employee improved by 32% during POI as compared to base year.

### G.19 Growth

	<b>Apl 04- Mar 05</b>	<b>Apl 05- Mar 06</b>	<b>Apl 06- Mar 07</b>	<b>POI</b>
Growth in Demand as Compared to the preceding Year (%)		0	16	15
Growth in Sales of the applicants (As compared to the preceding Year (%))		1	4	11

Growth in Market Share of domestic industry as Compared to the preceding Year (%)		1	-11	-4
Profitability as Compared to the preceding Year (%)		-228	62	-118
Cash Flow		-139	-297	-141
ROCE (%)		-216	-142	-195

110. The demand in the country has increased over the injury investigation period, the sale of domestic industry also grew whereas the market share of the domestic industry has shown declining trend. The growth is also severely negative with respect to profitability, cash flow and ROCE.

	<b>Apl 04- Mar 05</b>	<b>Apl 05- Mar 06</b>	<b>Apl 06- Mar 07</b>	<b>POI</b>
Closing stock(Sqm)	***	***	***	***
Indexed	<b>100</b>	<b>149</b>	<b>204</b>	<b>223</b>

111. The closing inventories of the domestic industry have increased in absolute terms showing the difficulty being faced by the domestic industry to sell the subject goods during the period of investigation.

## **G.20 Ability to raise capital/investment**

112. It has been submitted that the ability of the domestic industry to raise capital investment for any further expansion of capacity is not feasible in view of the low returns during the period of investigation. However in this regard it has been noted that one of constituents of domestic industry has added capacity to produce the subject goods.

## **G.21 Conclusion**

113. The production of goods have increased by 25% (642263 SQM) in POI as compared to base year. The sales have also increased by 16%(672157) against increase in demand of 35% (2105364SQM). The closing stock, however, also increased. In this period the share in demand of the domestic industry has declined from 67.98% to 58.72% in POI. The share of subject countries increased from 26% to 36% in POI, however share of imports from other countries declined from 6% to 5 %. The data indicates that the domestic industry has been able increase the production, sales, but is unable to take advantage of growth in demand as share in demand of domestic industry declined.
114. The cost of sales has increased from 100(indexed) in the base year to 102 in POI i.e. by Rs. 5 per Sqm., the selling price however declined to 96 (indexed) i.e. by Rs.15 per Sqm. the domestic industry was suffering loss (per unit) in the base year and continued to suffer loss during the injury period . The loss per unit in POI increased to -237 (indexed) from -100 in the base year. The PBIT however turned negative from in

POI from positive in the base year. The return on capital employed also turned negative in POI from positive in the base year.

## **G.22 Causal Link and Other Factors**

### **a. Volume and Prices of imports not sold at the dumped prices**

115. It has been noted the imports of subject goods from sources other than China are de minimis except in case of Spain during the period of investigation. It has also been noted that imports from Spain is at considerably higher prices, therefore imports from other countries are not causing injury to the domestic industry.

### **b. Trade restrictive practice and competition between the foreign and domestic producers**

116. The Authority did not find any trade restrictive practices followed by the domestic industry or other Indian producers.

### **c. Contraction in demand or Changes in the pattern of consumption**

117. It is noted that there is no contraction in the demand during the period under consideration. On the contrary, the overall demand has increased by 35% over the injury period. Therefore, possible decline in demand is not a factor which could have caused injury to the domestic industry. There is no argument by interested parties regarding the change in the pattern of consumption, nor has investigation shown possible changes in consumption pattern.

### **d. Developments in Technology, Export performance and productivity of the Domestic Industry**

118. None of the interested parties have raised any issue that these factors could have caused injury to the domestic industry. Further, the investigation has not revealed that technology for production of the subject goods has undergone any significant change. There is no export activity of the domestic industry during the injury period.

## **G.23 Causal Link**

119. The authority notes that there is a significance undercutting of selling price of the domestic industry by the imports from the subject country. The undercutting from subject country however, declined from base year to POI but it is still significant. It has also been noted that every domestic selling price of the subject goods has declined by Rs.15/Sqm in POI as compared to base year whereas cost of sale has gone up by average of Rs.5/sqm during the same period, consequently increasing the losses of the domestic industry. The authority has further noted that subject goods has been showing consistent growth in demand. It grew by 35% in POI as compared to base year. Despite growth in demand the share of domestic industry declined from 68% to 59% whereas the share of subject country increased from 26% to 36% during the same period indicating that advantage of the growth was cornered by the subject country.

120. It has also been noted that there is a available capacity to meet the growth in demand, however the capacity remain underutilized even though there was growth in demand. The authority did not find any other reason except the undercutting by the imports of

subject country impacting the selling price, decline in share of the domestic industry and significant rise in share of the subject country. The above analysis establishes causal link between dumped imports from subject country and injury to the domestic industry.

## H. Conclusions

121. The Authority has, after considering the foregoing, come to the conclusion that:
- a. The subject goods have been exported to India from the subject country below its normal value;
  - b. The domestic industry has suffered material injury;
  - c. The injury has been caused by the dumped imports from subject country.

## I. Indian Industry's Interest & Other Issues

122. The Authority notes that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the Domestic Industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping measures would not restrict imports from the subject country in any way, and, therefore, would not affect the availability of the products to the consumers.

## J. Recommendations

123. In view of the above, the Authority considers it necessary and recommends definitive anti-dumping duty on imports of subject goods from the subject country in the form and manner described hereunder.
124. Having regard to the lesser duty rule followed by the authority, the Authority recommends imposition of anti-dumping duty equal to the lesser of margin of dumping and margin of injury, so as to remove the injury to the domestic industry. Accordingly, antidumping duty equal to the amount indicated in Col 9 of the table below is recommended to be imposed from the date of this notification, on all imports of subject goods originating in or exported from the subject country.

**Duty Table**

S N	Tariff Item	Description of Goods	Speciation	Country of Origin	Country of Export	Producer	Exporter	Duty Amount	Unit of measurement	Currency
1	2	3	4	5	6	7	8	9	10	11
1	6908 9090	Ceramic Glazed Tiles other than Vitrified Tiles	Ceramic Glazed tiles where at least one of the sides (length or width) exceeds 17 inches/431.80 millimeters (MM) 43.18 Centimeters	China PR	China PR	<i>Foshan Bailifeng Building Materials Co. Ltd.</i>  (formerly known as Foshan New Zhong Yuan Ceramics Co. Ltd.)	Foshan Lungo Ceramics Co. Ltd. Foshan Sandebo Ceramics Co. Ltd. New Zhong Yuan Ceramics Import & Export Co. Ltd. of Guangdong	NIL	SQM	RS

			(CM) / 1.4167 Feet				Foshan Xinnanyue Building Ceramics Co., Ltd.			
							Foshan Xinyue Ceramics Co., Ltd.			
2	-do-	-do-	-do-	China PR	China PR	Sichuan New Zhong Yuan Ceramics Co. Ltd.	Sichuan New Zhong Yuan Ceramics Co. Ltd.	NIL	SQM	RS
3	-do-	-do-	-do-	China PR	China PR	Guangdong Winto Ceramic Co. Ltd.	Guangdong Winto Ceramic Co. Ltd.	NIL	SQM	Rs.
4	-do-	-do-	-do-	China PR	China PR	Foshan Sanshui Newpearl Building Ceramics Industrial Co., Ltd. or Foshan Sanshui Summit Ceramics Co. Ltd.	Foshan Newpearl Trade Co. Ltd.	NIL	SQM	Rs.
5	-do-	-do-	-do-	China PR	China PR	Any other than combination at Sr. no. 1 to 4 above		137/-	SQM	Rs.
6	-do-	-do-	-do-	China PR	Any other than China PR	Any	Any	137/-	SQM	Rs.
7	-do-	-do-	-do-	Any other than China PR	China PR	Any	Any	137/-	SQM	Rs.

125. Subject to the above, the Authority confirms the preliminary findings dated 22<sup>nd</sup> April, 2009, however duty recommended in para 124 above would be applicable from the date of imposition of provisional anti dumping duty as per Section 9A(2) of the Custom Tariff Act 1975.
126. An appeal against the findings after its acceptance by the Central Government shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act, 1975 as amended in 1995 and Customs Tariff Rules, 1995.

**(R. Gopalan)**  
**Designated Authority**