



## ANTIDUMPING & SUBSIDIES COMMISSION

24 Trafalgar Road ~ Kingston 10 ~ OR ~P.O. Box 494 ~ Kingston 5 ~Jamaica

Phone: 968-7970, 920-1493/7006, 929-7973 ~ Fax: 926-4622

Email: [antidump@cwjamaica.com](mailto:antidump@cwjamaica.com)

# STATEMENT OF REASONS

**KINGSTON, JAMAICA**  
**December 16, 2003**

**REF. No. AD-01-2003**

*IN THE MATTER OF* an investigation, pursuant to section 4 of the Customs Duties (Dumping and Subsidies) Act, 1999, on the initiative of the Anti-Dumping and Subsidies Commission.

*AND IN THE MATTER OF* the Initiation of an antidumping investigation by the Anti-Dumping and Subsidies Commission, pursuant to section 4 and 23 of the Customs Duties (Dumping and Subsidies) Act, 1999

*IN RESPECT OF* the dumping in Jamaica of Ordinary Portland Grey Cement, originating in or exported from the People's Republic of China, classified under Harmonized Tariff Schedule Codes: 2523.29 and 2523.291.

### **I. SUMMARY**

Pursuant to Article 5.6 of the WTO Antidumping Agreement, an Investigating Authority may, in special circumstances, decide to initiate an investigation without having received a written application by or on behalf of a domestic industry for the initiation of such investigation, if there is sufficient evidence of dumping, injury and a causal link to justify the initiation of an investigation. There is no specific guidance in the Antidumping Agreement as to the particular circumstances that would constitute special circumstances for the application of this provision. The Commission is of the view that where, during the course of an investigation or otherwise, it receives information regarding the dumping of goods that are like goods produced by the domestic industry, and where an investigation concerning such dumping cannot be examined in the context of the investigation from which the information was received, that this would

constitute special circumstances for the initiation of an investigation under Article 5.6 of the WTO Antidumping Agreement

On October 16, 2003, the Commission initiated an investigation pursuant to sections 4, 6 and 8 of the Safeguard Act in respect of the increase in imports into Jamaica of OPC originating in or exported from Argentina, China, Egypt and Russia. Subsequently in furtherance of its investigation, the Commission requested further information from the parties and forwarded questionnaires to Mainland, ARC Systems, Shandong, PT Semen Cibinong of Indonesia, Siam Cement Public Company Limited of Thailand, Sinai Cement of Egypt, Novoros Cement of Russia and Loma Negra CIASA of Argentina.

Information that came before the Commission contains evidence to suggest that the goods originating in or exported from the PRC have been dumped. Further, this investigation was initiated after the Commission found sufficient evidence that the subject products were being imported from the PRC at dumped prices and that the dumping of the goods has caused, is causing and is likely to cause injury to the Jamaican industry producing like goods.

As a result the Commission, pursuant to sections 4, 22(2)(3)(4) and 23 of the Customs Duties (Dumping and Subsidies) Act, 1999 and in keeping with Article 5 of the World Trade Organisation Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994, has today initiated an investigation into the dumping in Jamaica of Ordinary Portland Grey Cement, originating in or exported from the PRC on behalf of the domestic industry.

The Commission is of the view that this constitutes the “special circumstances” referred to in Article 5.6 of the WTO ADA that an authority may initiate an investigation without the receipt of a written application by or on behalf of the domestic industry only if they have sufficient evidence of dumping, injury and a causal link to justify the initiation of an investigation and further, the Commission shall “...carry out on its own initiative...investigations in relation to the dumping of goods”.

The Commission has concluded that the industry standing in terms of Sections 22(3) and (4) of the Act has been met and the investigation is supported by the domestic industry.

Pursuant to section 23 of the Act the Commission informed, the domestic industry, by letter dated December 16, 2001 and the Government of the PRC by letter dated December 17, 2002, that an investigation was being initiated.

## **II. PARTIES TO THE INVESTIGATION**

**The Domestic Industry** is Caribbean Cement Company Limited, also referred to as “CCCL”, with registered offices located at Rockfort, Kingston. CCCL is a limited liability company incorporated under the laws of Jamaica and is in the business of manufacturing and selling bagged, bulk and ready-mix cement. CCCL is also an importer of cement.

**The Importer** is Mainland International Limited hereinafter referred to as “Mainland”, with registered offices located at 8 March Pen Road, Spanish Town, St. Catherine.

**The Exporter** Shandong Metals & Minerals I/E Corp., 9 Tangyi Road, Qingdao, China 266011, Tel: 86-532-575-5583, Fax: 86-532-575-5615; also referred to as “Shandong”

**The Producer** Longkou Fanlin Cement Company Limited, Zhu You Guan Town, Longkou, Shandong, China, Tel:0535-856-1336, fax: 0535-856-1337 also referred to as “Longkou”.

**Other Parties** are Blue Atlantic Investments Limited, hereinafter referred to as “Blue Atlantic” with offices at The Courtyard 12 Hill Street, St. Hellier Jersey JE2 4UB, and International Materials Incorporated hereinafter referred to as “IMI” with offices at 936 County Lane Road, Bryn Mawr, Pennsylvania 19010, USA.

## **III. SCOPE OF THE INVESTIGATION**

The Commission defines the scope of the investigation as follows:

***ORDINARY PORTLAND GREY CEMENT USED FOR BUILDING OR CONSTRUCTION PURPOSES  
ORIGINATING IN OR EXPORTED FROM ALL SOURCES.***

The narrative definition is covered under separate sub-headings of the Tariff Schedule and represents the scope of the investigation, notwithstanding the tariff classifications below, which are provided for Customs' purposes.

2523.20	Portland Cement
2523.2910.0	Building Cement (grey)
2523.29	Other

**A. GOODS UNDER CONSIDERATION**

The scope of the investigation includes the goods under consideration that fall under the above tariff classifications for OPC imported from PRC and the Commission finds support from the relevant Customs C-78 entry forms. The imported cement products that are the subject of this investigation are goods that fall within the scope of this investigation. They have typically been classified under the tariff heading 2523.29. They may also be classified under the other tariff headings that are listed above.

The particular good produced by the Domestic industry in Jamaica is Ordinary Portland Grey Cement (OPC), classified under the tariff heading, HS 2523.29 and HS Code 2523.291. Owing to the fact that in the Jamaican market all cement types are substitutable and thus a single fungible product, the Commission asserts that the scope of the investigation should encompass all cement types imported under the Harmonized System ("HS") Codes 2523.20, 2523.291 and 2523.29 that are used for any building or construction purposes, regardless of type or quality, whether sold or imported per metric ton or in bulk, 1.0 or 1.5 MT O.P. Big (or Jumbo) Bags, 42.5 kg sacks or 50 kg sacks, or packaged in any other form, and for distribution or sale on the local market in any form. The scope of the investigation has been defined narrowly and specifically excludes oil-well cement (2523.292), as it is a specialized product with unique properties unlikely to be imported into Jamaica as a substitute for OPC. The Commission notes that despite similarities between the investigated product and White Portland cement, white cement is also not within the scope of the investigation.

## **B. PHYSICAL CHARACTERISTICS AND USE**

Ordinary Portland Cement is a hydraulic cement consisting mainly of compounds of lime, alumina, calcium, silica and iron oxide which, when mixed with water and aggregate, chemically react to form concrete, the most widely used construction material in the world. Cement is used predominantly in the production of concrete, it is the binding agent in concrete and is consumed almost wholly by the construction industry regardless of the type of cement. The chief end uses are, highway construction using ready-mix concrete, building construction using ready-mix concrete, concrete blocks, pre-cast concrete units and individual smaller units. There are eight types of Portland cement, which are classified as Types I through V. In addition, a number of special purpose hydraulic cements are manufactured, among which is White cement. White Portland cement is identical to Grey Portland cement except in colour. The setting properties and strengths of White Portland cement are similar to Grey Portland cement and its uses may be similar. However, White cement may be preferred to Grey cement for architectural and aesthetic purposes. In the Jamaican market, White cement is not substitutable for grey cement because of its significantly higher cost, and was not imported into Jamaica over the Period of Investigation hereinafter referred to as the "POI".

The goods under consideration in this case have been labelled and imported as OPC Type I or ordinary building grey cement. The Investigating Authority is of the opinion that both the domestic and the imported goods conform to technical industry standards accepted worldwide and developed by the American Society for Testing and Materials (ASTM), specifically ASTM C-150. White Portland Cement also conforms to the same industry standard.

## **C. PRODUCTION PROCESS**

Portland Cement, the basic ingredient of concrete, is a closely controlled combination of calcium, silica, aluminium, iron and small amounts of other ingredients to which gypsum is added in the final grinding process to regulate the setting time of the concrete. Common among the materials used in the manufacture are limestone, shell and chalk or marl combined with shale, clay, slate or blast furnace slag, silica sand and iron ore. There are mainly two different processes, dry and wet, used in the manufacture of Portland cement.

Rock mined from a quarry is crushed and then stored with other raw materials to be further processed. After analysis, the raw materials are proportioned, ground to fine powder and blended. In the wet process, the raw materials are ground with water and fed into a kiln as slurry (there is enough water to make it fluid). This process is used where the limestone, shale and clay are soft. Later in the process, additional energy is used to remove the excess water. In the dry process, the raw materials are ground, mixed and fed to the kiln in a dry state. This process is used when the limestone, shale and clay need to be ground. In other respects, the two processes are alike. As the raw materials move through the kiln, they are dehydrated (give off water vapour) and calcinated (give off CO<sub>2</sub>). The material is then transformed to clinker from which cement is produced.

#### **IV. LIKE GOODS**

Like goods, in relation to any other goods, are goods, which are identical in all respects with those other goods, or in the absence of identical goods as aforesaid, goods of which the uses and other characteristics closely resemble those of the other goods.

The OPC produced by the domestic industry shares substantially the same physical and chemical characteristics, production process, and quality and performance characteristics as the goods under consideration. Also, the domestic like good is distributed and used in much the same fashion as the goods under consideration. The domestic like good is substitutable for and interchangeable with the goods under consideration, and vice versa.

Therefore, the Commission has concluded that the OPC produced by the Jamaican industry are “like” the goods under consideration previously defined in the section on scope.

#### **V. PERIOD OF INVESTIGATION**

The period of investigation (POI) is the timeframe selected for which imports into Jamaica will be assessed to determine whether the imports from the named countries have been dumped and, if so, the effect of the dumping.

The POI for dumping commences one year prior to the date of initiation, that is December 15, 2002, through December 16, 2003. The goods under consideration were first imported in August 2002, then in December 2002 and more recently in March 2003.

The POI for the injury analysis commences three years prior to the date of initiation, that is December 15, 2000 through December 16, 2003, in addition to the post initiation period for which data is available. At initiation the Commission had information available to it up to September 2003.

## **VI. THE JAMAICAN MARKET**

The Jamaican cement market is composed of one producer and many small suppliers that include retailers, distributors and ready-mix operators. The number of suppliers in the market over the period of investigation has increased from two to three. Currently the three suppliers are Mainland, ARC and CCCL. The consumption of cement has grown consistently over the period of investigation. The primary factors responsible for the growth in consumption are activities in the non-residential and residential sub-sectors. A number of major projects have come on stream over the period of investigation, which has boosted demand in the sector, notwithstanding a low level of growth in the economy. With the increase in the number of suppliers in the market, supply has grown to meet the increased consumption needs. Additionally, given the range of substitutes available cement demand is relatively more elastic than previously. The growth in consumption is expected to continue due to a further increase in activities in residential and non-residential construction.

## **VII. EVIDENCE OF DUMPING**

Dumping occurs when the normal value of the goods exceeds the export price of the goods shipped to the country of import. This investigation relates to the injurious dumping into Jamaica of Ordinary Portland Grey cement, originating in or exported from China. Due to the fact that China<sup>1</sup> is a non-market economy this would render normal methodologies inappropriate.

---

<sup>1</sup> The People's Republic of China has government controls on various aspects of its economy. In the Chinese cement industry it is estimated that 24 per cent of cement companies are state owned and 56 per cent collectively owned.

In such circumstances the Commission is allowed, pursuant to Section 4 of the Customs Duties (Dumping and Subsidies) Regulations 2000 to designate an appropriate market economy for comparative analysis. Indonesia<sup>2</sup> was selected as the designated country on which to determine the normal value.

The normal value of the goods is the price at which like goods are sold in the ordinary course of trade for domestic consumption in the exporting country. The export price of goods shipped to Jamaica is generally the transaction price to the importer in Jamaica. Both prices are adjusted for costs, charges and expenses that would affect price comparability. The normal value and export price are discussed below.

**A. NORMAL VALUE**

The Commission has relied on Indonesian prices pre-tax for cement, specifically manufacturer to distributor prices, as the basis for normal value calculations.

The price that the Commission has used as the base price for the normal value calculations is based upon Indonesian information<sup>3</sup> on the Commission's records currently.

**B. EXPORT PRICE**

Section 19 of the Act addresses the determination of the export price of the goods under consideration. It states in pertinent part that:

The export price of the goods sold to an importer in Jamaica, notwithstanding any invoice or affidavit to the contrary, is an amount equal to the lesser of –

1. the exporter's sale price for the goods adjusted by deducting therefrom [export price adjustments]..., and
2. the price at which the importer has purchased or agreed to purchase the goods, adjusted by deducting therefrom all costs, charges, expenses, duties and taxes described in paragraph (a).

---

Also, deregulation of the industry involved some amount of price controls; see "Toward a Sustainable Cement Industry, March 2002, a study by the World Business Council for Sustainable development.

<sup>2</sup> The Commission considers Indonesia to be at the same level of development as China and is a significant producer of cement for sale on the domestic market and for export.

<sup>3</sup> The data for Indonesia was selected based on availability taking all issues relating to price comparability into consideration.



A permissible interpretation of this provision would contemplate a situation where the “exporter’s sale price” and the “price at which the importer has purchased the goods” is not the same. Usually where there are two parties to a transaction, exporter and importer, there is only one transaction price in relation to the purchase of the goods. The exporter’s sale price and the importer’s purchase price would be the same and making the same adjustments to the two would yield the same result. In such a case, the provision concerning “the lesser of” the two would be superfluous.

In the instant case, there are more than two parties in the transaction, Exporter – Shandong, Buyer – Blue Atlantic and Importer – Mainland. The Commission submits that this is the precise scenario in which the guidelines set forth in the Act have the optimum effect. In the instant case, the “exporter’s sale price” would be the price between Shandong and Blue Atlantic and the importer’s purchase price would be the transaction price between Blue Atlantic and Mainland. The Act contemplates that the two prices, once the appropriate export price adjustments have been taken such as for freight and insurance, will be compared and the lesser of the two will be the resulting export price. The Commission found, based on invoices supplied by the exporter and the importer, that the lower price is that between the exporter and the buyer. This therefore is the appropriate export price to be used as the base price for export price calculations.

### **C. ISSUES OF PRICE COMPARABILITY**

To ensure price comparability, adjustments are made to base prices to account for differences that may arise between countries, because of variations in quantities, levels of trade, physical characteristics, and any other differences that are demonstrated to affect price comparability, including differences that arise from different selling conditions in different markets. At this stage of the investigation, the Commission relied on information available on Indonesia to make the appropriate adjustments. As the investigation progresses parties are responsible for claiming and supporting adjustments. In the instant case, adjustments are based on any differences that are deemed to exist between cement sold in the designated country on their local market and that sold for export. The adjustments discussed below are made to the base (starting) prices to arrive at the ex-factory prices to be used for dumping margin calculations.

## **1) NORMAL VALUE ADJUSTMENTS**

Discounts or Rebates - The information on the record indicates no discounts or rebates are given to distributors in Indonesia. Therefore no adjustment has been made at this time.<sup>4</sup>

Packing - The evidence on record indicates that there was a difference between the bags used for export to Jamaica and used on the domestic market. The Commission therefore made an adjustment for the difference between the cost of packing for export and that of domestic sales.

Difference In Quantities Sold In Indonesia - Indonesian cement is sold on its domestic market in 40kg or 50kg bags and the cement sold for export to Jamaica is in 42.5kg bags. Because of the conversion to metric tons throughout the analysis, an adjustment for this difference was not necessary.

Movement Expenses - The Commission found that some Indonesian producers include the cost of transportation in prices; an adjustment is therefore made for this.

Indirect Selling Expenses - Indirect expenses are not sale-specific and are generally incurred regardless of whether the sale is made or not, and therefore do not affect price comparability. In certain jurisdictions, this adjustment is made to normal value when it is being compared to a constructed export price in limited circumstances, such as where normal value is determined at a different level of trade than constructed export price sales. Indonesian domestic sales were at the same level of trade as those to the Jamaican market, therefore the adjustment is not applicable in this instance.

Physical Characteristics - Longkou has indicated that there is no difference between the cement produced for export and that sold on its local market. Preliminary indications are that there is no difference between the cement produced for sale on the Indonesian market and that exported to Jamaica from either China or Indonesia. In addition, the standards for OPC Type I seem to correspond from country to country. The Commission therefore did not make an adjustment for differences in physical characteristics.

## **2) EXPORT PRICE ADJUSTMENTS**

---

<sup>4</sup> Ordinarily the amount for discounts or rebates is subtracted to arrive at the net price to the purchaser, which forms the basis for normal value calculations.

Transportation – The Commission has found that some producers in Indonesia include the cost of transporting the product from the factory to the port in the price. The Commission has deducted the transportation costs from the base price.

Freight - No adjustment was necessary, as base prices are Free on Board (FOB).

Additional Export Packing - The Commission found that slings were used in the packaging of the goods exported to Jamaica. The Commission has therefore deducted the cost of packaging in slings from the base price.

Loading Costs – The Commission found that costs for loading the goods for shipping are included in export prices. The Commission has therefore deducted these charges from the base price.

#### **D. MARGIN OF DUMPING**

The margin of dumping refers to the differential between the normal value and export price, expressed as a percentage of the export price. The margin of dumping is based on a comparison of the ex-factory price for normal value, and the ex-factory price for the export.

In the current case because of the use of a designated country, the margin is based on a comparison between the ex-factory export price from China and the ex-factory price charged by Indonesian manufacturers for sale in Indonesia. This margin is then expressed as a percentage of the FOB export price to determine the percentage margin of dumping. The resulting margin of dumping is 43.42 per cent for the goods under consideration.

#### **VIII. ECONOMIC CONDITION OF THE DOMESTIC INDUSTRY 1997-2002**

The Jamaican industry has seen steady improvements in growth, stability and profitability over the 5-year period 1997 -2002. CCCL incurred losses for the years 1997 and 1998 and through a major restructuring in 1999 it eliminated its long-term debt and the consequent finance charges. Further improvements were made by CCCL in 2000, notwithstanding the competition reportedly being faced by the entity during this period. For the year 2001, CCCL reported operating profits representing a 6 per cent reduction from its 2000 levels and a further growth of 33 per cent in 2002 over 2001.

CCCL's return on investment (ROI) has also shown a similar recovery, up from a low of 4.29 per cent in 1998 to 16.98 percent in 2002. With regard to sales, CCCL for the 6 years prior to 2002 has had a steady growth in both its volume and value of sales since the marginal negative volume reduction in 1998. However, another factor of decline was the marginal reduction in the volume of sales for the year 2001 compared to the same period in 2000.

CCCL's production has also grown marginally in 2002 over its 1997 levels, although its local production since 1999 has been reducing as a percentage of the market for the POI. Additionally, CCCL's restructuring in 1999 reduced its level of debt financing to approximately 10 per cent of what it was over the years 1997-1998. This allowed CCCL to eliminate the heavy finance charges, which were the main factors for the reported operating losses up to 1998.

## **IX. EVIDENCE OF INJURY**

With respect to the question of material injury to the domestic industry, the Commission has observed from the data provided loss in market share, price undercutting, a period of price depression in 2002 corrected by price increases, and price suppression. In addition, the Commission found that the presence of Chinese cement at lower prices than other cement in the market had a negative effect on the domestic industry's volumes of production, sales (from its own production) and clinker inventory.

### **A. EFFECT ON MARKET SHARE**

The Commission considers that while there is no entitlement to a particular market share, where there is an erosion of market share due to unfairly priced imports, the Commission must address it. The domestic industry's production of cement has grown marginally between 1999 and 2002 compared to a 31 per cent growth in the market for the same period. In 1999 locally produced cement controlled a significant portion of the domestic market, rising by 6 per cent in 2001, but during the course of the POI was reduced by September 2003, the period for which dumped Chinese cement was still on the market.

## **B. PRICE EFFECTS**

Price effects refer to changes in the level of prices in absolute and relative terms that are the direct result of increased imports into the Jamaican market. Price effects can be evaluated based on changes relative to previous price levels, the competition's price or the domestic industry's unit costs of production. Price effects are analysed in terms of price depression, price undercutting and price suppression.

### **(1) PRICE DEPRESSION**

Price depression is usually the result of downward pressure on prices as a result of increased supply in the market or a deliberate lowering of prices to retain market share. This can be assessed on the basis of percentage changes in prices or trends in the levels of prices before and during the period when the dumped imports were in the market. In this regard, the Commission has looked at the net selling prices of the domestic industry over the POI to take account of discounts, rebates and credit charges offered by the domestic industry. The Commission notes that the domestic industry maintained in the past that its gross selling prices are set independently of market forces such as the increase in supply or the need to maintain its market share. The domestic industry maintains that its prices are set on the basis of increases in the cost of production and changes in exchange rates.

In the most recent period, January to September 2003, the Commission observed that the domestic industry's average monthly net selling prices showed a price depression of 3 per cent in August 2003, a time at which Chinese cement was present in the market. The industry's net selling prices for September 2003 shows recovery from the price depression which occurred in August 2003.

### **(2) PRICE UNDERCUTTING**

Price undercutting refers to instances where the goods under consideration are sold for prices below the domestic like good. In order to assess the extent of any price undercutting, the prices of the imported product and the domestic product must be compared at the same level of trade.

The Commission observed that the importer has engaged in price undercutting, but this phenomenon has been greater on Chinese cement. The Commission finds, on a comparison of the ex-factory and warehouse prices of the domestic industry and Mainland, that Mainland, selling Chinese cement, undercut the domestic industry's price by as much as 7 per cent. This level of undercutting is the largest of all the suppliers, supplying cement from any source in the market at the time. As at July 2003, the Commission also observed undercutting of the domestic industry's retail price by Mainland by 6 per cent, again higher than the level of undercutting by any other supplier.

**(3) PRICE SUPPRESSION**

Price suppression is experienced when the domestic industry's margin between unit cost and selling price cannot be maintained, usually as a result of, but not limited to, an inability to make offsetting price increases.

In the most recent period of the POI, during which time Chinese imports were present in the market, there was a marginal reduction in the margin between cost and selling price. The Commission notes that although the domestic industry has in the past, increased prices based on these factors, notwithstanding devaluation and inflation, the domestic industry has not increased its ex-factory price since July 2003.

**C. VOLUME EFFECTS**

The term "volume effects" refers to changes in the pattern of imports of the investigated product and its absolute and relative effect on the domestic industry's production, carrying inventory, sales and consumption quantities.

**(1) PRODUCTION**

The domestic industry's production for the first nine months of 2003 shows a 3 per cent decline compared to the same period in 2002. However, the Commission is of the view that a further review of the data is required for a conclusive finding on the effect of dumped Chinese imports on the production levels of the domestic industry, but notes that the 3 per cent decline is in the face of improvements made to their operations.

**(2) INVENTORY**

A review by the Commission of CCCL's cement inventory as at September 2003 was inconclusive. However, CCCL's clinker inventory levels as at September 2003 showed a marked increase over previous years. In addition, the Commission notes the absence of imported clinker in this period, as opposed to previous comparable periods.

**(3) SALES**

The Commission has found that in the nine months up to September 2003, sales of local cement fell by 4 per cent in terms of volume, when compared to the similar period in 2002.

**D. ECONOMIC IMPACT**

**(1) PROFITABILITY**

Profitability refers to an excess of revenues over the cost of generating those revenues. This is usually taken to be the normative indicator of injury, as it reflects the viability of a going concern.

The Commission's determination of injury along the lines of profitability is based on the overall historical profitability along with the impact in the first nine months of 2003. The Commission finds that while the domestic industry's sales volume in the local market for the nine months to September 2003 declined by 4 per cent, its revenue from these reduced quantities grew by 6 per cent above the similar period of 2002. The Commission also finds that this is partly due to price increases taken in May 2003. The Commission notes however, that the domestic industry's price increases in May 2003 were reduced two days later with the further reduction in its price in July 2003 resulting in its price being maintained at levels below the increase in May 2003.

The Commission finds that operating profits before finance charges grew by 10 per cent in 2003, of which 68 per cent represents increased exports. Profits expressed as a percentage of sales shows a marginal increase over the two previous periods; up to 29 per cent in 2003 from 28 per cent in 2002, and 26 per cent in 2001. The changes in operating profits mirror the changes in the profitability of the domestic industry. The profitability, which is normally expressed in terms of its profits as a percentage of assets or capital employed or return on

investments, will vary with the level of its profits, as there was no significant capital investment in 2003. While the domestic industry is not satisfied with its current return on investment it continues to improve its profits against the background of reduced sales volumes.

**(2) CASH FLOW**

The Commission has found that the current ratio, which expresses the domestic industry's ability to meet short-term financial requirements, continues to show improvements in 2003, improving from 83 per cent at the end of 2002 to almost 1:1 at 93 per cent at the end of September 2003. Although this is not significant, one of the main reasons for the improved current ratio is the holding of local trade receivables. The Commission is of the view that because the domestic industry did not suffer any loss in profits or the need for forced short term spending while improving its current ratio, the domestic industry has not suffered any negative effect on its cash flow or access to short-term funds.

**(3) ABILITY TO RAISE CAPITAL**

Share prices reflect the market's valuation of a company, as well as investors' confidence in the ability of an organisation to maintain a certain level of stability and profitability. Share prices for the domestic industry have fallen from a high of J\$2.70 in January 2001 to \$2.50 as at July 2003, this compares with J\$3.00 in January 2003. Share prices on the listed market can be used to show how investors view the strength of the company it is not a sufficient tool to determine the company's ability to raise capital. To be conclusive on the company's ability to raise capital, the Commission also looked at other factors that would determine if the company would have difficulties raising capital from other sources such as banks or private investors.

The Commission, at this time, did not reach a conclusion as to whether the presence of Chinese cement in the market has any effect on share prices or its ability to raise capital from other sources.



## **X. THREAT OF MATERIAL INJURY**

In accordance with Regulation 13 of the Act, a determination of threat of injury may only be made where a particular situation is likely to develop into material injury and is clearly foreseen and imminent.

The factors to be examined cover issues relating not only to the ability of dumpers to supply the Jamaican market, but also the factors that underlie the demand by importers for dumped cement. These factors together indicate the likelihood that dumped imports will be exported to Jamaica. In addition economic indicators of the present state of the domestic industry are examined to see if their situation could potentially worsen in the near future.

### **A. FACTORS THAT POINT TO A THREAT OF MATERIAL INJURY**

#### **(1) RATE OF INCREASE OF DUMPED IMPORTS**

The importer, Mainland has imported from two dumped sources since 1999. In addition one of its more recent sources, China is the subject of this investigation. In addition to adopting the practice of switching its sources, the importer has, as of 2002 increased the number of shipments (of similar volumes) it receives annually from two to three. As of 2002, dumped imports (known and alleged) increased by approximately 49 per cent over 2001. The last known shipment from China entered Jamaica in March 2003. Chinese imports were still present on the market in September 2003.

#### **2) CAPACITY IN THE COUNTRY OF ORIGIN OR EXPORT ALREADY IN EXISTENCE OR WHICH WILL BE OPERATIONAL IN THE FORSEEABLE FUTURE, AND THE LIKLIHOOD THAT THE RESULTING EXPORTS WILL BE TO JAMAICA, TAKING INTO ACCOUNT THE AVAILABILITY OF OTHER EXPORT MARKETS TO ABSORB THE INCREASE**

To analyse this criteria, the Commission examined the export capacity in China as well as that of the producer, Longkou, in conjunction with the financial incentive that importers have to continue to import cement at dumped prices as well as developments in the primary export market of China and existing trade barriers against Chinese exports. The Commission found that there is considerable actual and potential capacity in China. In addition initiatives taken in China

to upgrade cement operations have significantly added to this capacity. Further, Longkou has an average production capacity on par with that of the domestic industry and this is projected to increase by approximately 8 per cent by 2006. Given the fierce nature of competition in the Chinese cement industry Chinese producers have adopted an aggressive export policy. Because of the low prices at which Chinese cement enters the Jamaican market, importers are able to make significant margins. These significant margins enable importers to sell at prices below the domestic industry while still making substantial profits. The Commission notes, however, that the sale price of the allegedly dumped cement is only marginally below the price at which the domestic industry sells to the end users. This makes it very likely that Mainland will continue to source cement from this dumped source, resulting in further imports of dumped cement from this source. Additionally, recent indications are that there is declining demand in the US market, which accounts for approximately 42 per cent of Chinese exports. While there are currently no trade remedies imposed against cement from China, given the foregoing, it is likely that producers in China will likely be looking for additional markets. Longkou has indicated that it intends to expand exports to meet demand from wherever in the world it arises, and will undertake the necessary improvements to its infrastructure to achieve this. The exporter has also projected continued imports to Jamaica.

### **3) POTENTIAL FOR PRODUCT SHIFTING**

The concept of product shifting means the availability of additional goods is facilitated with no additional costs or time being incurred in moving the goods under consideration into production. Longkou has indicated that it does not produce other cement types using the same equipment and machinery used to produce OPC Type 1. However, Longkou has indicated that it can shift production to other types of cement in a relatively short period of time.

### **4) INVENTORIES OF THE GOODS UNDER CONSIDERATION**

The existence of inventories of the dumped products points to the possible extent of further import penetration and reductions in the domestic industry's market share. It is estimated that Mainland is still holding inventories of Chinese cement as at September 2003. It is also estimated that as at September 2003 China has significant inventories of cement, most of which

is OPC Type 1, as OPC Type 1 represents the majority of cement production. Of this, Longkou is also holding inventories of the product.

**5) WHETHER IMPORTS ARE ENTERING AT PRICES THAT WILL HAVE A SIGNIFICANT DEPRESSING OR SUPPRESSING EFFECT ON DOMESTIC PRICES, AND WOULD LIKELY INCREASE DEMAND FOR FURTHER IMPORTS**

This factor is examined to determine the possible extent of price effects that the dumped imports could have on the domestic industry, and well as the likelihood that they may lead to demand for further imports. Currently the importer is undercutting the domestic industry only marginally. They have allowed the domestic industry to set prices and have adjusted their prices to undersell them. However, given the low price at which Chinese imports have been sourced, even taking into account the additional safeguard measure that has been recommended,<sup>5</sup> the importer could profitably offer the goods under consideration for sale at approximately 32 per cent less than is currently the case. This represents the extent to which the importer could actually undersell the domestic industry, instead of the current 7 per cent. This is to be viewed in a context where cement is a product for which even marginal differences in price can have a significant impact on sales volumes and revenues, leading to increased price depression and price suppression. Chinese cement currently undercuts the domestic industry's price to a greater extent than cement supplied from any other source and has in fact been on the market longer.

**6) ACTUAL AND POTENTIAL EFFECTS ON EXISTING DEVELOPMENT AND PRODUCTION EFFORTS, INCLUDING EFFORTS TO PRODUCE A DERIVATIVE OR MORE ADVANCED VERSION OF LIKE GOODS**

The domestic industry has indicated its plans to develop a derivative product. To the extent that dumped imports undermine the company's performance, these efforts will be negatively affected

**7) THE MAGNITUDE OF THE MARGIN OF DUMPING**

The magnitude of the margin of dumping is an indication of the extent of negative price effects that the goods under consideration could have on the domestic industry. As mentioned previously, the margin of dumping is estimated at 43.42 per cent, which given the current level of

---

<sup>5</sup> Including the current duty applicable at the time of importation.

domestic industry prices, could translate to a more significant level of price undercutting than is currently being experienced.

#### **8) OTHER FACTORS**

The Commission examined other factors such as, the practice of source switching, the business ambitions of importers as well as the change in the market dynamics, to determine if there could be further demand by importers for Chinese cement. The practice of source switching by the importer makes further imports from China a possibility. The integral role that cement plays in the business of the importer indicates a continued need for low priced cement supported by the changing dynamics of the market.

#### **B. CHANGE IN CIRCUMSTANCES**

The Commission analysed whether the potential change in circumstances (i.e. damage) of the domestic industry could lead to material injury that is clearly foreseen and imminent. This analysis is conducted through an examination of the injurious pressures being exerted on the domestic industry presently and the ability of the dumped imports to exacerbate these circumstances in the future. The Commission considers that the best indicator of the state of the domestic industry in the very near future is data from the most recent past.

As at September 2003, the domestic industry has suffered a decline in the volume sold from its own production, a build up in clinker inventories, declines in production and negative price effects as a result of the presence of low priced Chinese imports on the Jamaican market. These injurious pressures could potentially worsen and develop into declines in profitability and other indicators. Also the domestic industry would not be able to compete with prices offered by Mainland should Mainland decide to increase the extent to which they undercut the domestic industry's price.

#### **C. CONCLUSION**

The totality of the circumstances, which the domestic industry faces, supports a finding of a threat of material injury to the domestic industry from the importation of dumped cement from China. The Commission concludes that there is a likelihood of substantially increased dumped

imports from China to the Jamaican market in the near future and that this will affect the domestic industry's ability to supply its product to the market and consequently its viability. The Commission concludes that further dumped imports from China in substantially increased quantities are imminent and that unless action is taken material injury is clearly foreseen.

## **XI        CAUSAL LINK**

Where the Commission finds dumping and material injury or threat of material injury, the evidence before it must demonstrate that the injury to the domestic industry is attributable to the effects of the dumping, before duties may be imposed. In its analysis of the causal connection between dumping and injury, the Commission is required, pursuant to Regulation 12 (6) and (7), to examine any known factors, other than the dumped imports, which at the same time are injuring the domestic industry. The injury caused by the "other" factors must not be attributed to the dumped imports. While other factors may at the same time be exerting a negative influence on the domestic industry, the dumped imports need only be a cause of injury or threat of injury to the domestic industry. It is difficult to quantitatively separate the impact on the domestic industry of the dumped imports from any other factors. However, the relative influence of the dumped imports can be assessed so as to establish whether or not they are, in fact, exerting an influence on the domestic industry.

Many of the factors used to examine a threat of injury are directly related to dumping. In this regard, there is an obvious relationship between dumping and threat of material injury. The Commission examined the likelihood that factors other than the dumped imports might have an impact on the industry in future.

The Commission examined all factors other than the dumped imports, which at the same time could be negatively affecting the domestic industry, under the following broad headings: macroeconomic influences, discretionary policy changes affecting the importation of cement, developments in technology, contraction in demand or changes in the pattern of consumption, production difficulties, limitations in the ability to produce or import clinker, export performance and productivity of the industry, anti-competitive behaviour by industry players, and other imports as well as the length of time that these other imports were on the market. During the POI

(specifically during the period from September 2001 to May 2002) the Commission found that adverse weather conditions and continued devaluation of the exchange rate could have had a negative impact on the domestic cement industry. However, any such negative impact was mitigated by corrective actions taken by the domestic industry earlier in the POI. It was found that the presence of increased volumes of imports from other sources also exerted a negative influence on the domestic industry. However, Chinese imports have been on the market for a longer period within the POI than any other source and have represented the majority of Mainland's sales over the length of the POI in particular the most recent period. Outside of these, none of the other factors examined was found to have impacted negatively on the domestic industry.

In summary, the Commission is of the view that because the dumped imports compete directly with the domestic industry's product, (as evidenced in the level of price undercutting), they are a source from which injury is likely to be caused to the domestic industry. In addition the negative effects of Chinese imports have been demonstrated in the most recent period for which the Commission had information available to it, that is, January to September 2003.

### **DECISION**

The Commission finds that there is sufficient evidence of dumping and threat of injury to the domestic industry and has decided to initiate an investigation today on behalf of the domestic industry, pursuant to sections 4, 22(2)(3)(4) and 23 of the Customs Duties (Dumping and Subsidies) Act, 1999 and in keeping with Article 5 of the World Trade Organisation Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994, with respect to the dumping in Jamaica of Ordinary Portland Grey Cement, originating in or exported from the PRC on behalf of the domestic industry.

## **XV. INFORMATION**

Interested parties are invited to file written submissions presenting facts, arguments and evidence that they feel are relevant to the alleged dumping or injury. Interested parties should identify themselves as such as soon as possible so that the Commission may forward to them the relevant guidelines for the filing of written submissions. Written submissions should be forwarded to the attention of the officer identified below. To be given consideration in this phase of the investigation, all information should be received by the Commission within 30 days of the date of initiation of the investigation by January 16, 2004.

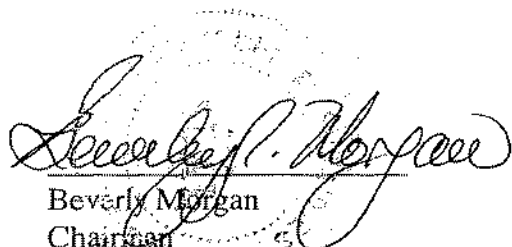
Any information submitted to the Commission by interested parties concerning this investigation is deemed to be public information unless clearly marked confidential. Where the submission by an interested party is confidential, a non-confidential version of the submission (which summarizes the information in the confidential submission) must be provided at the same time. This non-confidential version will be made available to other parties and the public upon request.

This Statement of Reasons along with the Notice of Initiation of this investigation has been provided to interested parties of these proceedings. For further information, please contact the Commission as follows:

Mail: Anti-Dumping and Subsidies Commission  
24 Trafalgar Road, Kingston 10 or  
P.O. Box 494, Kingston 5.

Attention: Sara-Ruth Allen, General Manager

Telephone: (876) 920 7006 or (876) 968 7970



Beverly Morgan  
Chairman

ANTI-DUMPING AND SUBSIDIES COMMISSION

