

NON-CONFIDENTIAL CONSOLIDATED VERSION

**PETITION FOR AN APPLICATION OF SAFEGUARDS
INVESTIGATION
ON CERAMIC FLOOR AND WALL TILES
BY
FEDERATION OF MALAYSIAN MANUFACTURERS -
MALAYSIAN CERAMICS INDUSTRY GROUP (FMM MCIG)**

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INTRODUCTION

PRODUCT: CERAMIC FLOOR AND WALL TILES

PRODUCT DETAILED DESCRIPTION: Ceramic tiles are thin slabs made from a mixture of clay, sand and other natural substances, which may be glazed or unglazed, used as paving, hearth or wall tiles categorised into five (5) groups according to water absorption coefficient by weight at $\leq 0.5\%$, $>0.5\%$ to $\leq 3\%$, $>3\%$ to $\leq 6\%$, $>6\%$ to $\leq 10\%$ and $>10\%$.

THE HS CODES AND AHTN CODES BELOW SHALL BE SUBJECTED TO SAFEGUARD DUTIES

CODES UNDER HS 2012 CLASSIFICATION		
No.	HS CODES BEFORE 1 APRIL 2017	AHTN CODES BEFORE 1 APRIL 2017
1	6907.10.100	6907.10.10.00
2	6907.90.100	6907.90.10.00
3	6908.10.100	6908.10.10.00
4	6908.90.100	6908.90.11.00
		6908.90.91.00
CODES UNDER HS 2017 CLASSIFICATION		
HS CODES FROM 1 APRIL 2017		
1	6907.21.21.00	
2	6907.21.23.00	
3	6907.21.91.00	
4	6907.21.93.00	
5	6907.22.11.00	
6	6907.22.13.00	
7	6907.22.91.00	
8	6907.22.93.00	
9	6907.23.11.00	
10	6907.23.13.00	
11	6907.23.91.00	
12	6907.23.93.00	

Note: The HS Code and AHTN Codes are given for information only and these classifications of the subject merchandise have no binding effect.

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PERIOD OF INVESTIGATION: 1 JANUARY 2017 – 31 DECEMBER 2019

For the purpose of this questionnaire submission:

For the purpose of this questionnaire submission:

Year 1 : 1 JANUARY 2017 – 31 DECEMBER 2017
Year 2 : 1 JANUARY 2018 – 31 DECEMBER 2018
Period of Injury Determination (POID) : 1 JANUARY 2019 – 31 DECEMBER 2019
Period of Investigation : 1 JANUARY 2017 – 31 DECEMBER 2019

STATUTORY REFERENCE:

Safeguards Act 2006
Safeguards Regulations 2007

SUBMIT THE PETITION TO:

THE DIRECTOR
TRADE PRACTICES SECTION
MINISTRY OF INTERNATIONAL TRADE AND INDUSTRY
MITI TOWER
NO.7, JALAN SULTAN HAJI AHMAD SHAH
50480, KUALA LUMPUR

FACSIMILE: 603-6201 6394

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MINISTRY OF INTERNATIONAL TRADE AND INDUSTRY

Petition for Safeguards Investigation

DECLARATION

I request in accordance with Section 10 of the Safeguards Act 2006 that the Government impose a safeguard duty, in respect of the products subject to this application.

This application is made on behalf of the Malaysian industry producing like products or directly competitive products, to the imported products, which is the subject of this application.

I believe that the information contained in this application:

- provides reasonable grounds for the publication of the notice(s) requested; and
- is complete and correct.

Signature:

Name: Dato' John Chua

Position: Chairman

Association: **FMM-MCIG**

Date: 30 June 2020

Association's Official Stamp:

SECTION A: LIST OF PARTICIPATING MEMBERS (PETITIONERS)

A-1 Identity and Communication

Petitioner's Information:

Name: Federation of Malaysian Manufacturers-Malaysian Ceramic Industry Group
Official Address: Wisma FMM, No. 3, Persiaran Dagang, PJU 9, Bandar Sri Damansara,
52200 KUALA LUMPUR

Official Correspondence and Communication:

Contact Person:

Name: Ms. Hasliana Abd Rahman
Telephone: 03-6286 7200
Facsimile: 03-6277 6714
Email: IGDivision@fmm.org.my/hasliana@fmm.org.my

The aims and objectives of the FMM-MCIG:

FMM MCIG is an industry group under the umbrella of FMM. The FMM Malaysian Ceramic Industry Group (MCIG) was formed in 1977 was the first industry group manage by FMM. FMM MCIG consists of direct members who are engaged in the manufacture of ceramic products and associate members comprising suppliers that support the ceramic manufacturing industry. Currently we have 21 members producing ceramic tile, sanitary ware, roofing tile, tableware, and clay pipes. The associate members are companies providing raw materials, machines, adhesive, testing and research.

FMM MCIG is a recognised body and represents ceramic group under the Ceramic Industry Club of ASEAN and actively involved in dialogue/meeting/consultation sessions with MITI, MIDA, Customs, SIRIM and CIDB in formulating policies and regulations.

1. Participating Company

Name: Kim Hin Industry Bhd.
Address: Lot 5 Jalan Kilang
Jalan 217, 46050 Petaling Jaya
Selangor Darul Ehsan
Telephone: 03-77839811 x 838
Facsimile: 03-77839511
Contact person
Name: Peter Chiam
Position/Designation: Chief Financial Officer
Telephone: 082-451 567
Facsimile: 082-425 135
Email: peter@kimhin.com.my / pl.ang@kimgres.com

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Factory

i) 4 1/2 Miles, Kung Phin Road Off Penrissen Road, 93250 Sarawak

Telephone: 082-451567

Facsimile: 082-452135

ii) Lot No 10807, Tuanku Jaafar Industrial Estate, P O Box , 70720 Seremban, Negeri Sembilan Darul Khusus

Telephone: 06-677 4611/4609

Facsimile: 06-677 3566

2. Participating Company

Name: White Horse Ceramic Industries Sdn Bhd

Address: PLO 464, Jalan Gangsa, Zone 11

Pasir Gudang Industrial Estate

81700 Johor Darul Takzim.

Telephone: 07-2518555 / 2511111

Facsimile: 07-2518855 / 2522001

Contact person

Name: Mr Raymond Loo

Position/Designation: General Manager

Telephone: 07-2518555 / 2511111

Facsimile: 07-2518855 / 2522001

Email: raymond@whitehorse.com.my

Factory

Address:

i) PLO 464, Jalan Gangsa, Pasir Gudang Industrial Estate, 81700 Pasir Gudang Johor Darul Ta'zim.

Telephone: 07-2535 300

Facsimile: 07-2529 160

ii) PLO 29, Jalan Rumbia, Jalan Persiaran Tanjung Langsat, Kawasan Perindustrian Tanjung Langsat, 81700, Johor.

Telephone: 07-2563 888

Facsimile: 07-2563 757

A-2 Legal Representative/Consultant

Name of legal representative : Jason Tan

Firm : Lee Hishammuddin Allen & Gledhill

Name of contact person : Jason Tan

Address : Level 6, Menara 1 Dutamas, No. 1, Jalan Dutamas 1, 50480 Kuala Lumpur

Telephone : 0123707037

Email : tjx@lh-ag.com

SECTION B: DOMESTIC INDUSTRY

1. The table below provides the list names and contact information of known Malaysian domestic producers of the Like/Directly Competitive Products:

Table B-1.1: Contact Information of Malaysian Producers – Petitioners

No	Name of company and Address	Contact Person	Contact Details
1.	Kim Hin Industry Bhd. Lot 5 Jalan Kilang Jalan 217, 46050 Petaling Jaya Selangor Darul Ehsan	Mr. Peter Chin Chief Financial Officer E-mail: peter@kimhin.com.my	Tel: 03-77839811 Fax: 03-77839511
2.	White Horse Industries Sdn Bhd PLO 464, Jalan Gangsa, Zone 11 Pasir Gudang Industrial Estate 81700 Johor Darul Takzim	Mr Raymond Loo Chief General Manager E-mail: General Manager	Tel: 07-2518555/ 2511111 Fax:07-2518855/ 2522001

Table B-1.2: Contact Information of Malaysian Producers – Supporting Producers

No	Name of company and Address	Contact Person	Contact Details
1.	Guocera Sdn Bhd Level 2 Block D PJ City Development 15A Jalan 51A/219 46100 Petaling Jaya Selangor Darul Ehsan	Mr Alberto Bonilauri Managing Director E-mail: alberto@guocera.com	Tel: 03-78639611 (Peter) / 79584891 / 03-7863 9599 Fax: 03-79587691 / 76212823 http://www.guocera.com.my
2.	Malaysian Mosaics Sdn Bhd 1A, Jalan 205, Off Jalan Tandang 46050 Petaling Jaya Selangor Darul Ehsan	Mr Dickson Yong Chief Operating Officer E-mail: dicksonyongtj@mmosaics.com	Tel: 03-2172 5261 Fax: 03-2172 5286 http://www.mymml.com
3.	Times Ceramica Sdn Bhd Lot No 153, Jalan Teruntum 3 Kawasan Perindustrian Tg Langsat Mukim Sungai Tiram 81700 Pasir Gudang, Johor	Mr Chen Wen-Chuan General Manager E-mail: psyche@times-ceramica.com	Tel: 07-254 1689 Fax: 07-256 5388 http://www.times-ceramica.com

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4.	Venus Ceramic Industry Sdn Bhd PLO 58, Kawasan Perindustrian Kluang II Batu 4, Jalan Mersing 86000 Kluang Johor	Mr Robin Chang Chiang An Managing Director E-mail: venusselayang@gmail.com / robin@venustiles.com.my	Tel: 07-787 8999 Fax: 07-787 8887 http://www.venustiles.com.my
5.	Yi Lai Industry Bhd. Lot 7020, Batu 23, Jalan Air Hitam, 81000 Kulai, Johor, Malaysia	Ann Liew York Tho General Manager Email: ylm.info@alpha-tiles.org	Tel: 07- 652 2652 Fax: 07-652 3388 https://www.alpha-tiles.com.my

Table B-1.3: Contact Information of Malaysian Producers – Either Neutral/Opposing Producers

1.	Niro Ceramic (M) Sdn Bhd Lot 2, Persiaran Sultan, Seksyen 15 40200 Shah Alam Selangor Darul Ehsan	Mr Ian Kok Fai Tet Executive Director E-mail: iankok@nirogroup.com	Tel: 03-5033 9333 Fax: 03-5033 9323 https://www.nirogranite.com
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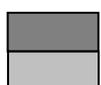
2. FMM-MCIG is submitting the Petition on behalf of seven (7) domestic producers (two (2) participating producers as Petitioners and five (5) supporting the Petition) operating in Malaysia. The collective output of like products or products directly competitive with the product under investigation of the two Petitioners constitutes a major proportion (40.04%) of the total domestic production of those products as provided in Table B-2 below.
3. List of relevant industry association:
 - (i) Building Materials Distributors Association of Malaysia
Suite P4.02, 4th Floor, Lot 2,
Jalan 51A/243,
46100 Petaling Jaya, Malaysia.
Tel:+60 3-7874 4989
Fax: 03-78744761
 - (ii) Master Builders Association
No. 2, Jalan 2/109E,
Desa Business Park,
58100 Kuala Lumpur,
Wilayah Persekutuan, Malaysia
Email: ed@mbam.org.my
Tel: +603-7984 8636
Fax: +603-7982 6811

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- (iii) Real Estate & Housing Developers' Association
 Wisma REHDA
 No. 2C, Jalan SS5D/6
 Kelana Jaya
 47301 Petaling Jaya
 Selangor Darul Ehsan
 Tel: 03-7803 2978
 Fax: 03-7803 5285
 Email: secretariat@rehda.com
 Website: http://rehda.com

4. Total Production of domestic industry, during the POID is shown below:

Table B-2: Total Production of Domestic Industry (POID)

 Producer's data
 Calculated data

Ceramic Tiles	Volume (m ²) (POID)	Percentage
A. Petitioner(s)		
Kim Hin Industry Bhd.	XXX	
White Horse Ceramics Industries Sdn. Bhd.	XXX	
TOTAL	XXX	40.43%
B. Companies supporting the application*		
Guocera Sdn Bhd.	XXX	XXX
Malaysian Mosaics Sdn. Bhd. (MML)	XXX	XXX
Times Ceramica Sdn. Bhd. (Times)	XXX	XXX
Venus Ceramic Industry Sdn. Bhd. (Venus)	XXX	XXX
Yi Lai Industries Bhd. (Yi Lai)	XXX	XXX
Total domestic producers who support the application, including the Petitioners [(A+B)]	XXX	97.11%
C. Companies: Unsure of position whether neutral/opposing on the application		
Niro Ceramic (M) Sdn Bhd (Niro)	XXX	XXX
Total domestic producer neutral/opposed to the application	XXX	2.89%
D. Total Malaysian Production (estimated) A+B+C=D	XXX	100.00%

Note:

- Petitioners and Supporting Producers actual figures for 2019.

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- **Supporting producers' production based on support letters. Appendix 1.*
- *Niro is estimated: Capacity - based (industry knowledge) and production (based on Petitioners capacity utilisation rate)*
- *Estimation of Domestic Industry production is provided as in Appendix 2 (Confidential)*

5. Standing Requirement

The participating two (2) producers (Petitioners) and five (5) supporting the application of the petition for safeguards investigation, are based on actual production data as provided by them for POID (2019). The other one (1) producer's production is estimated based on industry knowledge for installed capacity and capacity utilization rate in 2019 of the Petitioners. These eight (8) producers comprise the Domestic Industry in Malaysia.

The two (2) Petitioners who are domestic producers operating in Malaysia and the collective output of like products or products directly competitive with the product under investigation (PUI) account for 40.43% of total production and constitutes a major proportion of the total domestic production of those products and defines the Domestic Industry (DI).

SECTION C: PRODUCT DESCRIPTION

PRODUCT UNDER INVESTIGATION

Ceramic tiles are thin slabs made from a mixture of clay, sand and other natural substances, which may be glazed or unglazed, used as paving, hearth or wall tiles categorised into five (5) groups according to water absorption coefficient by weight at $\leq 0.5\%$, $>0.5\%$ to $\leq 3\%$, $>3\%$ to $\leq 6\%$, $>6\%$ to $\leq 10\%$ and $>10\%$. Details of the HS Codes are as follows:

CODES UNDER HS 2012 CLASSIFICATION		
No.	HS CODES BEFORE 1 APRIL 2017	AHTN CODES BEFORE 1 APRIL 2017
1	6907.10.100	6907.10.10.00
2	6907.90.100	6907.90.10.00
3	6908.10.100	6908.10.10.00
4	6908.90.100	6908.90.11.00
		6908.90.91.00
CODES UNDER HS 2017 CLASSIFICATION		
HS CODES FROM 1 APRIL 2017		
1	6907.21.21.00	
2	6907.21.23.00	
3	6907.21.91.00	
4	6907.21.93.00	
5	6907.22.11.00	
6	6907.22.13.00	
7	6907.22.91.00	
8	6907.22.93.00	
9	6907.23.11.00	
10	6907.23.13.00	
11	6907.23.91.00	
12	6907.23.93.00	

Note: The HS Code and AHTN Codes are given for information only and these classifications of the Product Under Investigation have no binding effect.

LIKE PRODUCTS / DIRECTLY COMPETITIVE PRODUCTS

Ceramic tile are virtually identical, produced in the same manner and used for the same purpose.

C-1 Imported Product Specifications

Product Details:

ISO 13006 ‘Ceramic tiles-Definitions, classification, characteristics and marking’ categorises different types of tiles according rate of water absorption. Tiles with lower water absorption are more compact and therefore stronger and more durable. Wall and floor tiles perform two functions: decorative/aesthetic functions as well as technical function, that is to resist different types of environmental stress without breaking or deteriorating. These two functions are fundamental consideration when choosing tiles to suit the application. The table below shows the types of ceramic tile according to water absorption:-

Grouping		Specifications		Types of tiles		Compactness & Durability
Extruded tiles	Dry pressed tiles	Water absorption %	Minimum breaking strength (N)	Technical terminology	Common terminology	
-	<u>BIa</u>	≤ 0.1	1300	Technical Porcelain	Porcelain / Homogeneous / Impervious	
-	<u>BIa</u>	≤ 0.5	1300	Porcelain	Porcelain / Homogeneous / Impervious	
AI	<u>BIb</u>	> 0.5 to ≤ 3	1100	<u>Gres Tiles</u>	Ceramic Floor Tiles	
<u>Alla</u>	<u>BIIa</u>	> 3 to ≤ 6	1000	Semi <u>Gres Tiles</u>	Ceramic Floor Tiles	
<u>Allb</u>	<u>BIIb</u>	> 6 to ≤ 10	800	Semi Porous Tiles	Ceramic Floor Tiles	
<u>AllI</u>	BIII	> 10	600	Porous Tiles	Ceramic Wall Tiles / <u>Monoporosa</u>	

Composition of Raw Materials

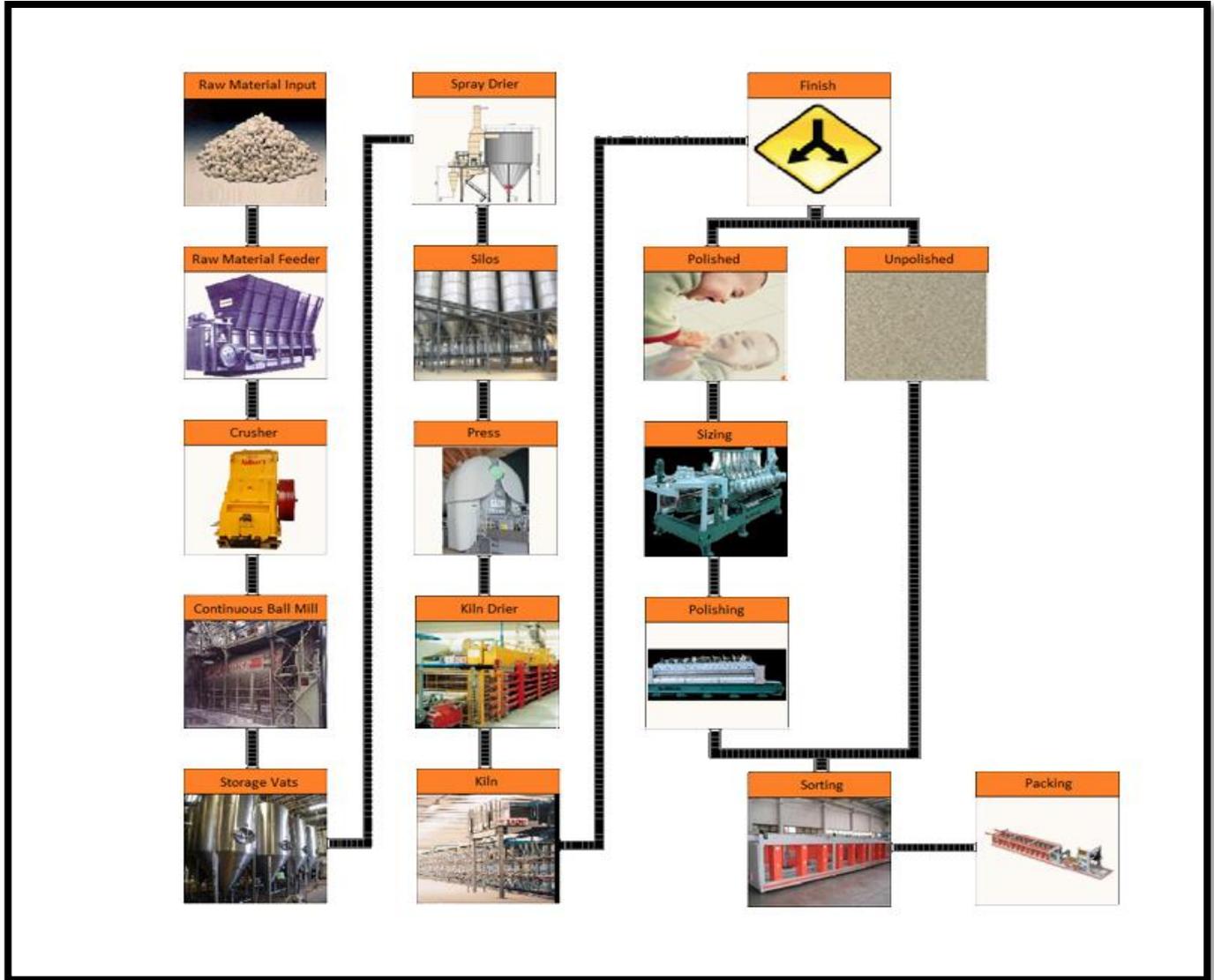
The major raw materials used to form the tile body are ball clay and feldspar which are available locally. Glazing materials are imported from Europe, China and Taiwan.

Production Process

Ceramic tile is a masonry product made from clay and various other materials (feldspar, sands, silica), which is fired at high temperatures to create flat tiles that are suitable for covering surfaces. Ceramic tile is available in many shapes, sizes, colours (including solid colours, designs and digital printing) and specifications. It is used in the residential and commercial sector to cover surfaces, including floors, walls, counters and swimming pools, among others. Ceramic tile used as ‘floor tile’ or ‘wall tile’ requires different specifications, with floor tile generally requiring greater strength and

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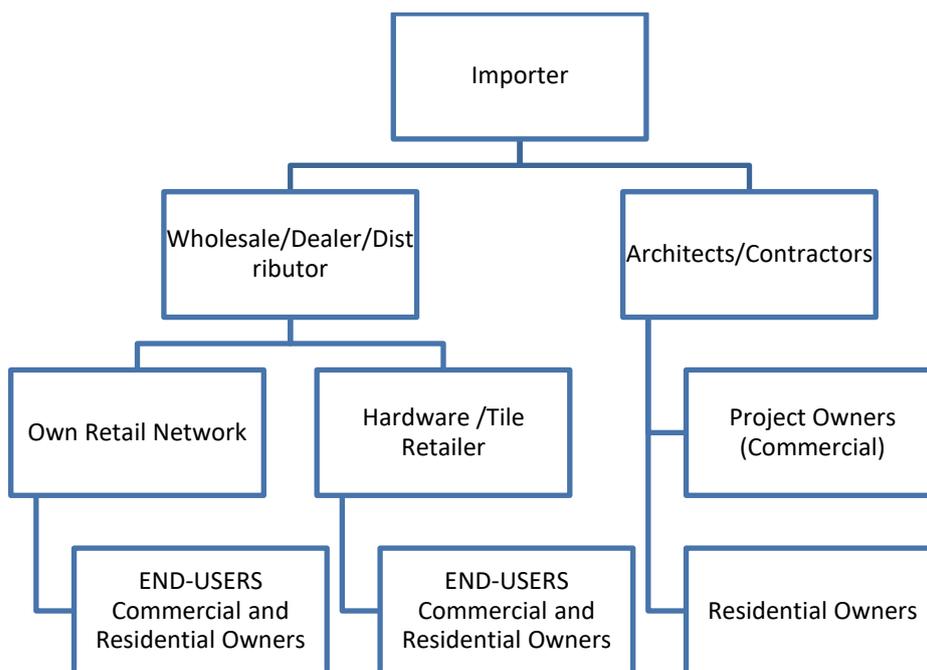
durability while wall tile tends to be thinner to adhere more readily to walls. Ceramic tile includes numerous varieties such as finishing tile (tile in shapes such as corners or moulding that allow installation to cover all desired surfaces), and porcelain ceramic tile (tile made to higher water absorption requirements). Ceramic tile surfaces may also be glazed or unglazed, depending on the intended final end-use application. Typically the production process is provided below:



Distribution Channels

The finished products are distributed to wholesalers, distributors, developers and contractors. From the wholesalers or through the company's own retail network, these are then channelled to hardware and tile retailers where end-users can source their tiles.

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Users

The major users of ceramic tiles are construction companies engaged in private and public housing and infrastructure projects as well as direct purchasers at the retail level such as homeowners (renovation). Local contractors also utilise ceramic tiles in residential and commercial buildings.

C-2 Customs Classification

- The following information provides the latest Malaysian Customs Tariff Classification:

Table C-2: Current Malaysian Tariff Classification and Duty Rate

HS Code	Description (Unit of Measurement: m ²)	MFN Rate
		%
	Ceramic flags and paving, hearth or wall tiles; ceramic mosaic cubes and the like, whether or not on a backing; finishing ceramics.	
	- - Of a water absorption coefficient by weight not exceeding 0.5%:	
6907212100	- - - - Paving, hearth or wall tiles, unglazed	50
6907212300	- - - - Paving, hearth or wall tiles, glazed	60
6907219100	- - - - Paving, hearth or wall tiles, unglazed	50
6907219300	- - - - Paving, hearth or wall tiles, glazed	60
	- - Of a water absorption coefficient by weight exceeding 0.5% but not exceeding 10%:	
6907221100	- - - - Paving, hearth or wall tiles, unglazed	50
6907221300	- - - - Paving, hearth or wall tiles, glazed	60
6907229100	- - - - Paving, hearth or wall tiles, unglazed	50
6907229300	- - - - Paving, hearth or wall tiles, glazed	60

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	- - Of a water absorption coefficient by weight exceeding 10%:	
6907231100	- - - - Paving, hearth or wall tiles, unglazed	50
6907231300	- - - - Paving, hearth or wall tiles, glazed	60
6907239100	- - - - Paving, hearth or wall tiles, unglazed	50
6907239300	- - - - Paving, hearth or wall tiles, glazed	60

Source:

- a. Import Duty: Based on Customs Duties Order 2017 – as per **Appendix 3**
- b. Malaysia's FTA Rates as per **Appendix 4**.

2. Currently loopholes in the tariff classification do exist and the explanation is provided below.

As can be noted from above table, imports from ASEAN Member States and PRC carry zero duty rate and if the safeguards (SG) measure is put in place, local importers could circumvent paying the SG duties by declaring the ceramic floor and wall tiles under "Others" category that is not within the scope of the investigation is presented below.

"OTHERS" CATEGORIES NOT LISTED FOR ACTION

HS Code	Description (Unit of Measurement: m ²)	MFN Rate	AFTA	ACFTA
		%	%	%
	Ceramic flags and paving, hearth or wall tiles; ceramic mosaic cubes and the like, whether or not on a backing; finishing ceramics.			
	- - Of a water absorption coefficient by weight not exceeding 0.5%:			
6907212200	- - - - Other, unglazed	5	0	0
6907212400	- - - - Other, glazed	5	0	0
6907219200	- - - - Other, unglazed	10	0	0
6907219400	- - - - Other, glazed	10	0	0
	- - Of a water absorption coefficient by weight exceeding 0.5% but not exceeding 10%:			
6907221200	- - - - Other, unglazed	5	0	0
6907221400	- - - - Other, glazed	5	0	0
6907229200	- - - - Other, unglazed	10	0	0
6907229400	- - - - Other, glazed	10	0	0
	- - Of a water absorption coefficient by weight exceeding 10%:			
6907231200	- - - - Other, unglazed	5	0	0
6907231400	- - - - Other, glazed	5	0	0
6907239200	- - - - Other, unglazed	10	0	0
6907239400	- - - - Other, glazed	10	0	0

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Once the SG measure is put in place with SG duties, there needs to be vigilant scrutiny of the declaration of importers under “Others” HS Codes when importing ceramic floor and wall tiles at entry point by the Customs and strict enforcement to ensure SG duty collection. The absence of such scrutiny and enforcement, the SG measure put in place will be rendered ineffective and the Malaysian Domestic Industry will not be given the relief it is seeking through the imposition of SG duties that is supposed to allow the Domestic Industry to be able to adjust itself to meet competition.

C-2(2) Product Comparability

The following captures the comparability of the products produced by the Petitioners and the Product Under Investigation.

Table C-2: Product Comparability

Types of Product Produced by the Domestic Industry	Imported Competitive Products	Identical Characteristics	Differences
(i) Group Bla – Glazed Porcelain and Polished Tiles	(i) Group Bla – Glazed Porcelain and Polished Tiles	Basically, all ceramic tiles conform to similar technical specifications in the dimensional, physical and chemical properties as the tiles are produced in accordance to the ISO 13006 standard.	In the types of pattern/drawings on the tile surface
(ii) Group BIIa – Glazed Ceramic Floor Tiles	(ii) Group BIIa – Glazed Ceramic Floor Tiles		
(iii) Group BIIb – Glazed Ceramic Floor Tiles	(iii) Group BIIb – Glazed Ceramic Floor Tiles		
(iv) Group BIII – Ceramic Wall Tiles	(iv) Group BIII – Ceramic Wall Tiles		

C-3 Domestic Product Specifications

Ceramic tiles are thin slabs made from a mixture of clay, sand and other natural substances, which may be glazed or unglazed used floor or wall tiles.

The details of the Like Product or Directly Competitive Product specifications is as follows:

MS ISO 13006 '*Ceramic tiles-Definitions, classification, characteristics and marking*' categorises different types of tiles according to its method of manufacture, as well as the rate of water

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absorption. Most Malaysian manufacturers employ the dry pressing method of manufacture. Ceramic tiles are further sub-divided into 5 groups according to their rate of water absorption. Tiles with lower water absorption are more compact and therefore stronger and more durable. The table below shows the types of ceramic tile according to water absorption:-

Types of Ceramic Tiles

Grouping		Specifications		Types of tiles		Compactness & Durability
Extruded tiles	Dry pressed tiles	Water absorption %	Minimum breaking strength (N)	Technical terminology	Common terminology	
-	<u>B1a</u>	≤ 0.1	1300	Technical Porcelain	Porcelain / Homogeneous / Impervious	
-	<u>B1a</u>	≤ 0.5	1300	Porcelain	Porcelain / Homogeneous / Impervious	
<u>A1</u>	<u>B1b</u>	> 0.5 to ≤ 3	1100	<u>Gres Tiles</u>	Ceramic Floor Tiles	
<u>A1a</u>	<u>B11a</u>	> 3 to ≤ 6	1000	Semi <u>Gres Tiles</u>	Ceramic Floor Tiles	
<u>A1b</u>	<u>B11b</u>	> 6 to ≤ 10	800	Semi Porous Tiles	Ceramic Floor Tiles	
<u>A11</u>	<u>B111</u>	> 10	600	Porous Tiles	Ceramic Wall Tiles / <u>Monoporosa</u>	

The mechanical strength is indicated by the breaking strength which measures the maximum force needed to break the tile. The breaking strength value gives an indication of the compactness of the ceramic tile. The higher the breaking strength is, the denser the microstructure of the tile.

Both of these properties, the water absorption and the breaking strength provide a good guide in selecting the durability of the tiles for the intended application.

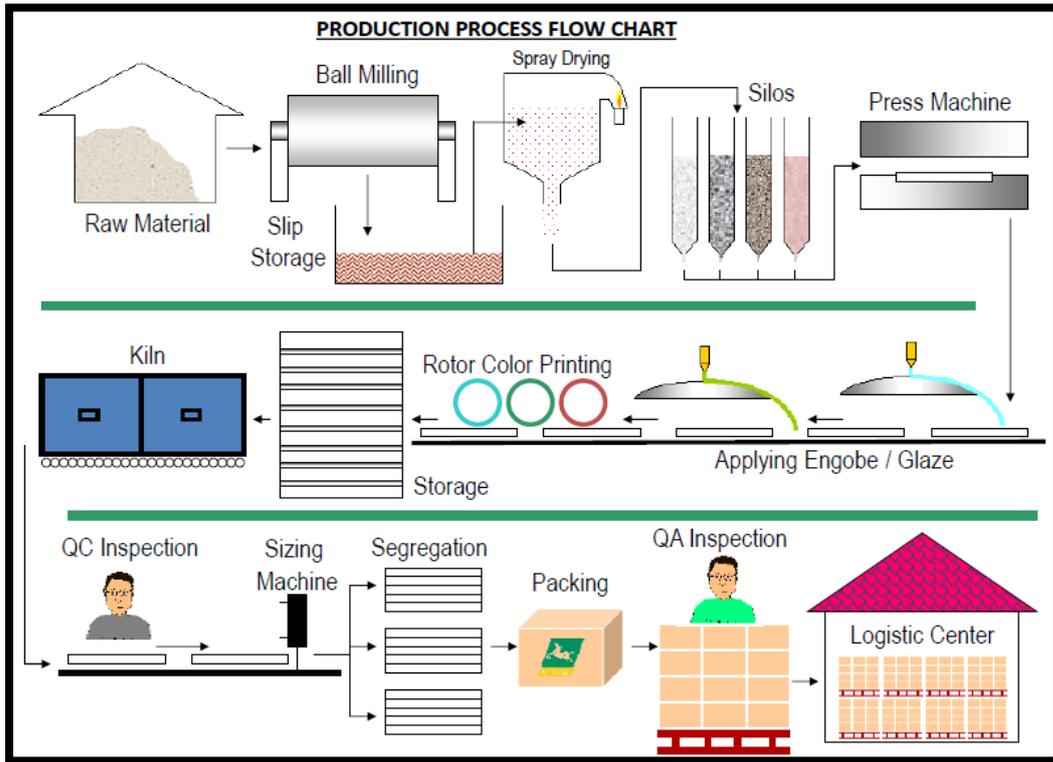
Composition of Raw Materials

The major raw materials used to form the tile body are ball clay and feldspar which are available locally. Glazing materials are imported from Europe, China and Taiwan.

Production Process

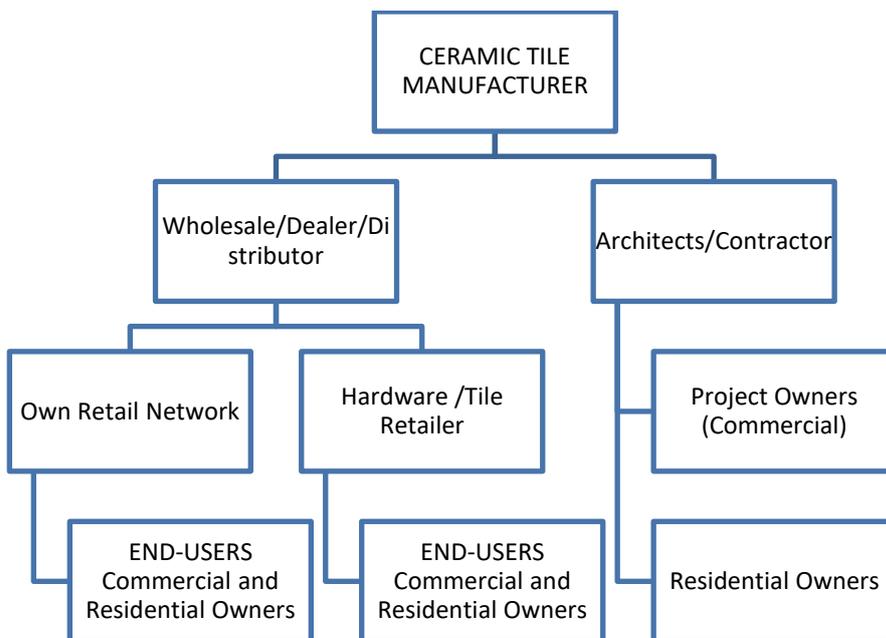
Ceramic tile is a masonry product made from clay and various other materials (feldspar, sands, silica), which is fired at high temperatures to create flat tiles that are suitable for covering surfaces. Ceramic tile is available in many shapes, sizes, colours (including solid colours, designs and digital printing) and specifications. It is used in the residential and commercial sector to cover surfaces, including floors, walls, counters and swimming pools, among others. Ceramic tile used as ‘floor tile’ or ‘wall tile’ requires different specifications, with floor tile generally requiring greater strength and durability while wall tile tends to be thinner to adhere more readily to walls. Ceramic tile includes numerous varieties such as finishing tile (tile in shapes such as corners or moulding that allow installation to cover all desired surfaces), and porcelain ceramic tile (tile made to higher water absorption requirements). Ceramic tile surfaces may also be glazed or unglazed, depending on the intended final end-use application.

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Distribution Channels

The finished products are distributed to wholesalers, distributors, developers and contractors. From the wholesalers or through the company’s own retail network, these are then channelled to hardware and tile retailers where end-users can source their tiles.



Users

The major users of ceramic tiles are construction companies engaged in private and public housing and infrastructure projects as well as direct purchasers at the retail level such as

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homeowners (renovation). Local contractors also utilise ceramic tiles in condominium and shopping malls (commercial building).

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SECTION D: PRODUCT UNDER INVESTIGATION

PRODUCT UNDER INVESTIGATION (PUI)

1. The source countries of the imports into Malaysia in terms of volume and value during the Period of Investigation i.e. for Year 1 (2017), Year 2 (2018) and POID (2019):

Table D-1: Malaysia Import Data of HS/AHTN 6907 (Year 1- POID)

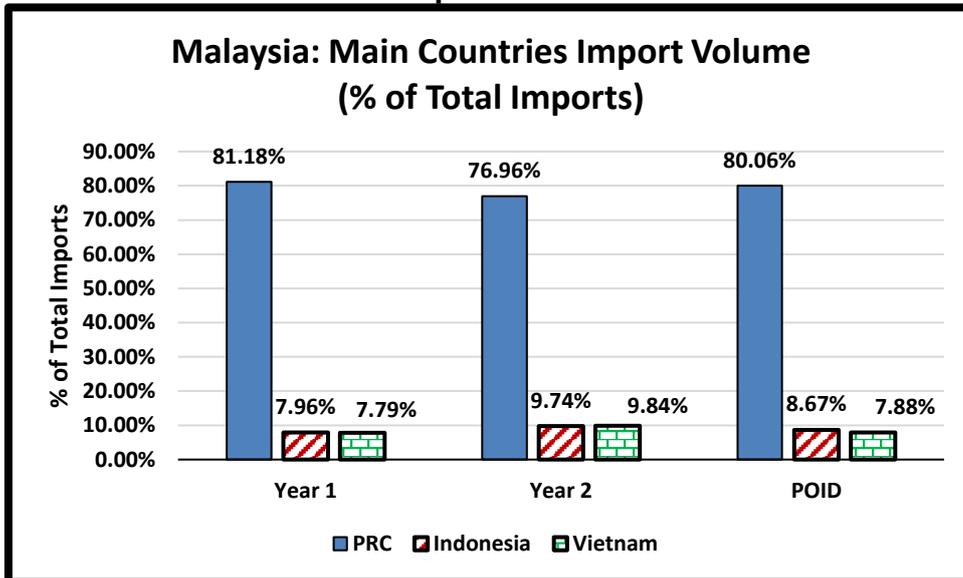
Country	Year 1 (Jan – December 2017)		Year 2 (Jan – December 2018)		Year 3 (Jan –Dec 2019)		Import Volume as % of Total Volume during POI (2017 - 2019)
	Volume of Imports (M2)	% of Total Imports	Volume of Imports (M2)	% of Total Imports	Volume of Imports (M2)	% of Total Imports	
CHINA	22,685,745	81.18%	24,352,565	76.96%	23,414,649	80.06%	79.31%
GERMANY	7,000	0.03%	4,300	0.01%	15,150	0.05%	0.03%
HONG KONG					9,841	0.03%	0.01%
INDIA	1,032	0.00%	533	0.00%	49	0.00%	0.00%
INDONESIA	2,223,231	7.96%	3,082,821	9.74%	2,536,165	8.67%	8.83%
ITALY	29,856	0.11%	14,375	0.05%	11,656	0.04%	0.06%
JAPAN	8,967	0.03%	324	0.00%	155	0.00%	0.01%
MALAYSIA			151	0.00%			0.00%
PORTUGAL	2,101	0.01%					0.00%
SINGAPORE			887	0.00%	48,419	0.17%	0.06%
SPAIN	104,807	0.38%	280,537	0.89%	42,559	0.15%	0.48%
THAILAND	704,284	2.52%	784,020	2.48%	861,489	2.95%	2.65%
TURKEY			7,163	0.02%	1,532	0.01%	0.01%
UNITED STATES					1,552	0.01%	0.00%
VIET NAM	2,176,570	7.79%	3,113,707	9.84%	2,304,700	7.88%	8.55%
Grand Total	27,943,592	100.00%	31,641,383	100.00%	29,247,915	100.00%	100.00%

Source: Department of Statistics (DOS), Malaysia) – Appendix 5

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The total imports from the various countries is provided in the above table. From the above table the main sources of imports are captured in the chart below:

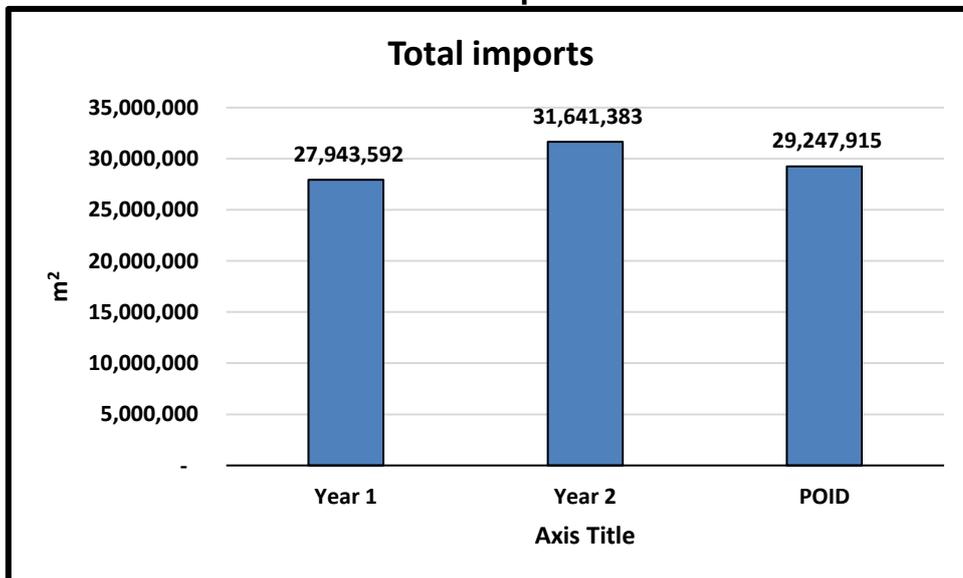
Chart D-1.1: Main Countries with Import Volume more than 3% of Total Imports



(Source: Department of Statistics, Malaysia)

The overall import volume trend is captured in the following chart:

Chart D-1.2: Overall Import Volume Trend



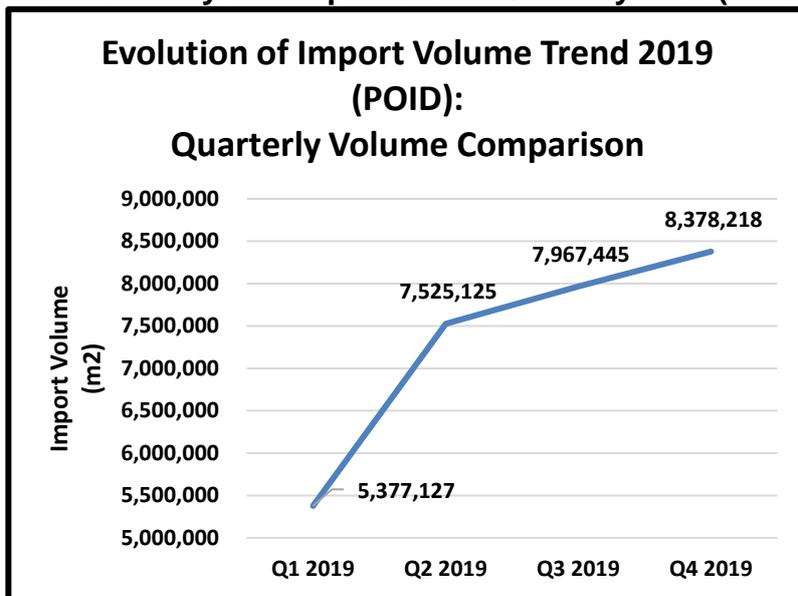
(Source: Department of Statistics, Malaysia)

As can be seen the import volume remained high throughout the Period of Investigation (POI) peaking in Year 2, and dropping slightly in POID, due to drop in consumption, but the import volumes during POID remained higher than in Year 1. It is important to note that the volumes remained consistently high despite drop in consumption throughout POID. One cannot expect the imports to continuously increase over the POI, especially if there is a contraction in demand – probably related to major mega projects put on hold or these were re-negotiated to scale down.

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The total import volume peaked from 27,943,592 m² in Year 1 to 31,641,383m² in Year 2, an increase by 13.23%; decreased slightly to 29,247,915m², by 7.56%, during POID but overall during POI, the volumes during POID was higher than Year 1 by 3.65%. The fact remains that the volume of imports did increase during POI i.e. POID higher than Year 1. Having established that the import volumes remained high, peaking in Year 2, in order to show the sharp increase in the volumes of imports especially during POID, the evolution of the imports during POID is compared on a quarterly basis to show the sharp increase trend especially during Q4 POID. Following this, then Q4 import volumes of POID is then compared with Q4 of Year 2017 and Year 2018. The following two charts show the comparison of import volume trend during POID on a quarterly basis.

Chart D-1.3: Malaysian Import Data - Quarterly Data (POID)

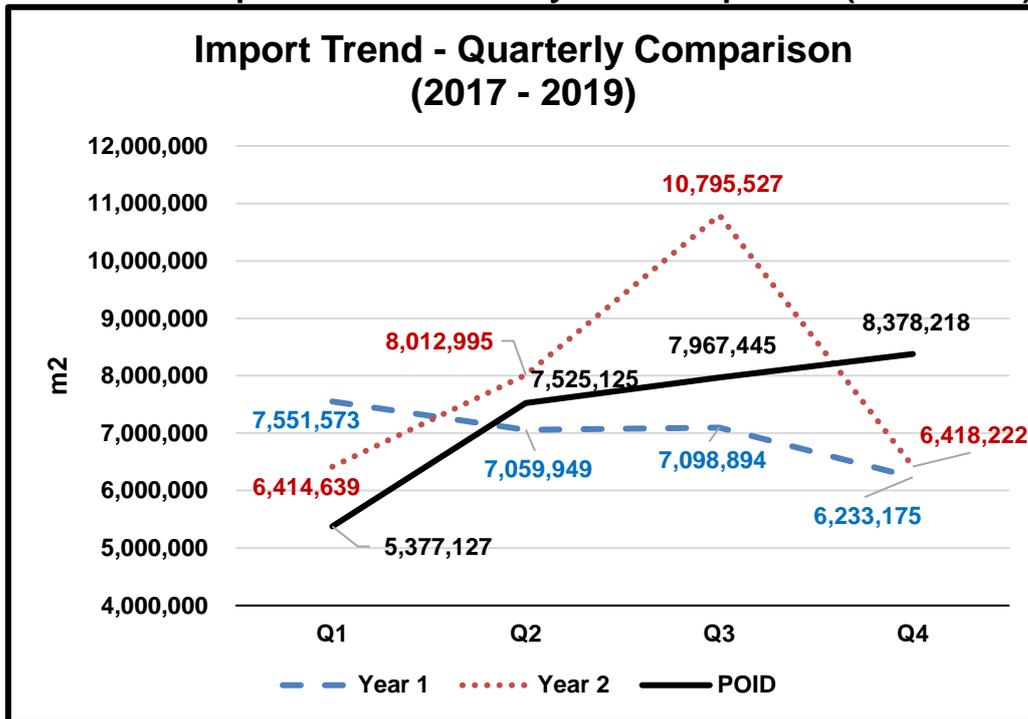


(Source: Department of Statistics, Malaysia)

The above chart provides sufficient evidence to show sharp, sudden, significant and recent increase import volume during POID. It has already been noted that the overall the import volume during POID is slightly lower than Year 2, as the volume peaked in Year 2, and also that the import volumes have remained high throughout POI and it would be difficult to show an overall significant increase during POI on a year-to-year basis. However, the above chart proves/satisfies the existence of sharp, sudden, significant and recent increase criteria as one compares Q1, Q2, Q3 and Q4 import data during POID – the most recent period.

Of course, one may claim that this pattern of imports is not specific to POID and common in Year 1 and Year 2. For this purpose, the quarterly import trend during Year 1, Year 2 to POID is compared below which shows sharp increasing trend comparing Q1, Q2, Q3 and Q4 data occurs only during POID and consistent decrease in volumes in Q4 in Year 1 and Year 2 – substantiating that there is a sharp increasing pattern during POID compared to Year 1 and Year 2.

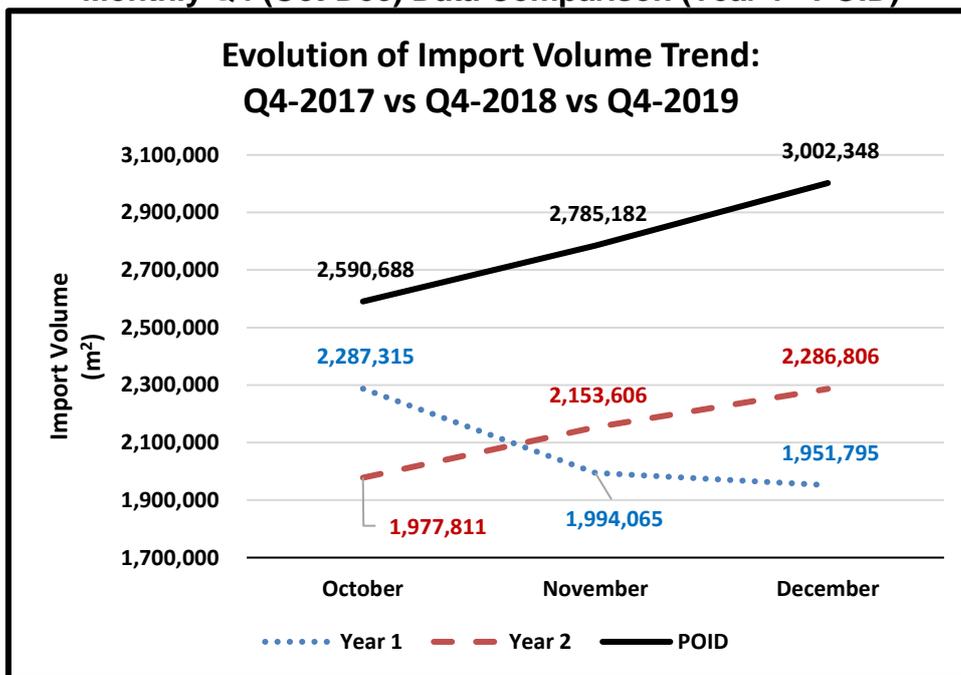
Chart D-1.4: Import Trend – Quarterly Data Comparison (2017 - 2019)



(Source: Department of Statistics, Malaysia)

Further, the monthly import volume during Q4 (October, November and December) during Year 1, Year 2 and POID is also analysed that further substantiates recent, sharp, significant and sudden increase during Q4 (October, November and December) POID compared to Q4 (October, November and December) import volumes in Year 1 and Year 2.

Chart D-1.5: Import Trend – Monthly Q4 (Oct-Dec) Data Comparison (Year 1 - POID)

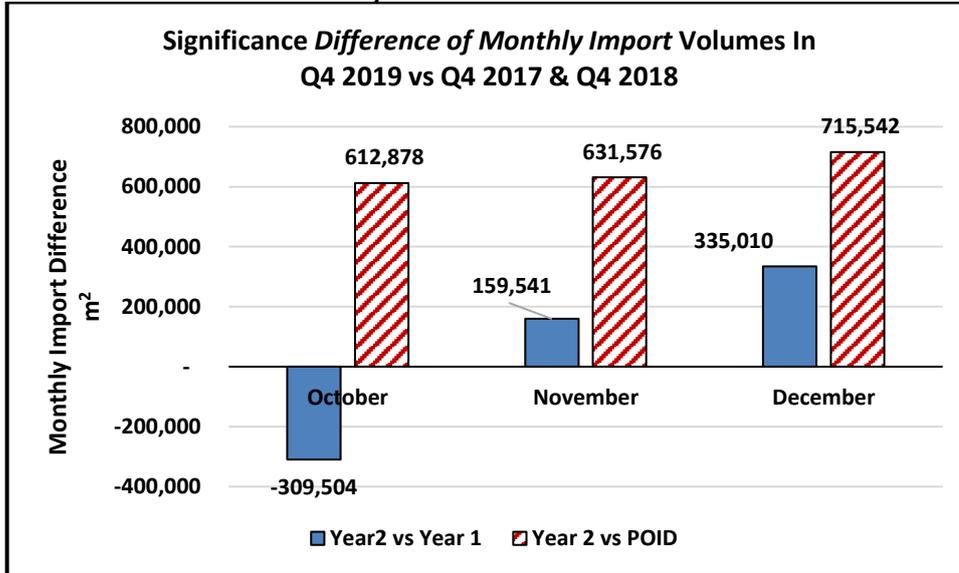


(Source: Department of Statistics, Malaysia)

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As can be seen that the import data trend during Q4 POID, the most recent period, is completely different from Q4 of Year 1 and Q4 of Year 2 - increasing significantly, sharply and suddenly. At the same time looking at the quantum of import volume on a monthly basis (October to December) for all the three years, the quantity is at much higher levels during Q4 POID as against Q4 2017 and Q4 2018 and is clearly demonstrated in the chart below.

Chart D-1.6: Monthly Import Data Comparison – Q4 POID (October, November & December)



(Source: Department of Statistics, Malaysia)

It has to be highlighted that the import volume from October of Year 1 to Year 2 and from Year 2 to POID, and similarly for the months of November and December shows for the Q4 period, the monthly increase is showing significantly much higher increase trend the highest difference recorded in December 2019. One can safely conclude that the monthly import volume trend during Q4 POID representing the most recent period during POI is much higher than during the same three (3) months (October to December) in 2017 and 2018, thus meeting the requirement of sharp, significant and sudden increase and satisfies the requirement of increased imports in absolute terms.

2. The names, addresses, contact details of importers who the Petitioners believes to the best of knowledge are importing or are likely to import PUI.

TABLE D-2: IMPORTERS OF THE PRODUCT UNDER INVESTIGATION (PUI)

No	COMPANY NAME	ADDRESS	CONTACT DETAILS (TEL/FAX/EMAIL)
1	Apex Ceramics Gallery Sdn Bhd	286 & 288, 2 1/2 Miles, Jalan Ipoh 51200 Kuala Lumpur.	Tel:03 4043 8333 Fax:03 4043 3338 hq@bellezzaceramiche.com
2	CeraTrade (M) Sdn. Bhd.	No 27, Jalan Utara, 46200 Petaling Jaya, Selangor	Tel: 03-7957 1199 Fax: 03-7958 6882 cera@ceratrade.com.my
3	Feruni Ceramiche Sdn Bhd	No 12. Jalan 51A/213, Seksyen 51A, PJS 51, Petaling Jaya, 46050, Selangor	Tel:03-7784 7277 Fax:03-7784 7727 enquiry@feruni.com

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4	Finecera Tiles (Sabah) Sdn Bhd	Miles 8, Jalan Putatan/Lokawi, Dumpil Meruntum (1,634.30 km) 88200 Putatan, Sabah.	Tel : 088-766 997 finecerasb2018@gmail.com.
5	GNG Distributors Sdn Bhd (679213-U)	No. 15, Jalan Pendidik U1/31, Seksyen U1, Hicom Glenmarie Industrial Park, 40150 Shah Alam, Selangor.	Tel: 03-5569 4779 Fax: 03-5569 4791 petertan@terracotta.com.my
6	Ideen Materials Sdn Bhd	B-G-6, Seri Gembira Avenue, Jalan Senang Ria, Taman Gembira, 58200 Kuala Lumpur.	Tel: 03-7972 0902 darrenquah@ideen.my
7	Jubin BMS (1990) Sdn.Bhd.	Plot 7, Jalan Kencana Mas 2/1, Kawasan Perindustrian Tebrau 3, 81100 Johor Baru, Johor.	Tel:07-3608888 Fax:07-3608800 enquiries@jubinbms.com.my
8	Leo Ceramiko Sdn Bhd	No 25, Jalan Astaka U8/84a, Bukit Jelutong, 401520 Shah Alam, Selangor	Tel:03-7859 8688 Fax: 03-7859 9188 enquiry.leoceramiko@live.com
9	Muda Seramik Sdn. Bhd.	Lot 2157, Jalan Baru, Kg Baru Sg Buloh, Shah Alam, 47000 Selangor.	Tel:03-61404145 Fax:03-61404152, admin@mudaseramik.com
10	My Gres Tiles Gallery Sdn.Bhd.	1, Jalan limau Manis, Off Jalan Lintas, 88450 Kota Kinabalu, Sabah	Tel:088-902028/29 Fax:1700 813736/37 mygrestiles@gmail.com
11	MyDecor Marketing Sdn Bhd	Lot 17513, Jalan 2, Taman Selayang Baru, 68100 Batu Caves, Selangor.	Tel:03-6120 7831 Fax:03-6120 7833 info@mydecor.com.my
12	Sumber Beskaya Sdn Bhd	No.33-3, Jalan Puteri 1/3, Bander Puteri, 47100 Puchong, Selangor, Malaysia.	Tel: 03-8051 4590 mingke999@gmail.com
13	Topcera Sdn. Bhd.	Wisma Topcera, A18, Jalan Kuang Bulan, Taman Kepong, 51200 Kuala Lumpur.	Tel:03-62762488 Fax:03-62762588 hq@bellezzaceramiche.com
14	Vecera Tiles (KK) Sdn. Bhd.	KM 11, Jalan Putatan, 88200 Putatan, Kota Kinabalu, Sabah	Tel:088-772 228 /017 943 7509 veceratileskk.sales@gmail.com
15	VENICERA Ceramiche Sdn Bhd	9-4-2, Block A, Jalan 2/125E, Megan Salak Park, Taman Desa Petaling, 57100 Kuala Lumpur.	Tel : 03 – 9057 8868 Fax : 03 – 9054 6828 enquiry@venicera.com.m
16	W.K.Ceramic Distributor Sdn.Bhd.	Wisma W.K. Lot 5, Jalan 51A/227, 46100 Petaling Jaya, Selangor.	Tel:03-7874 0112 Fax:03-7876 7553 info@lorenzaceramica.com
17	Zhen Hua Hung Trading Sdn Bhd	13 ½ Miles Oya Road, Sibul Sarawak	Tel :016 -886 4326 Tel: 016-879 7326 zhenhuahung@yahoo.com

SECTION E: SERIOUS INJURY

In this section the Petitioners provide information on sufficient evidence to reach a reasonable conclusion that the increased imports are causing or threatening to cause serious injury to the major proportion of the Domestic Industry represented by the Petitioners.

SERIOUS INJURY

Serious injury means significant overall impairment in the position of a domestic industry, which is best captured by the profitability of the Domestic Industry. Full explanation on all the other required injury factors are provided below and the relevance to serious injury claims. This claim of serious injury is also sufficiently supported by factual information and documentary evidence as the factors are discussed.

1. Increased imports

Surge in imports in absolute values has been clearly established earlier in Section D. Here imports relative to Domestic Production is shown in Table E-1 and Chart E-1 and a comparison done.

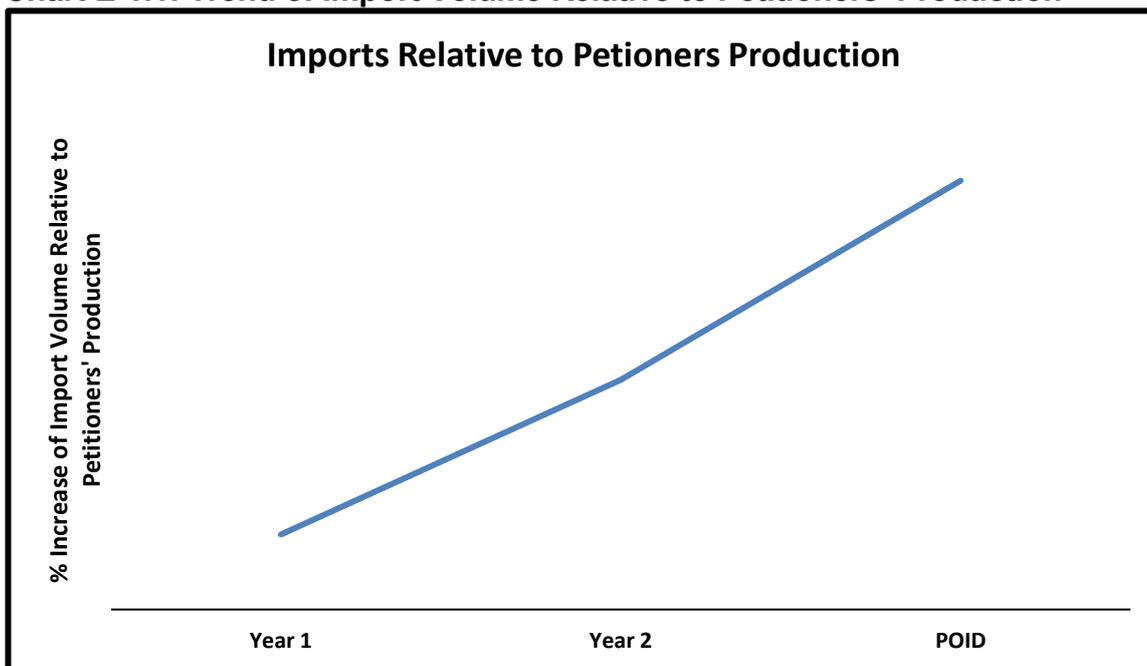
Table E-1: Imports/Relative to Production

Description (Consolidation)	Year 1	Year 2	POID
Total Production of Petitioners (m ²)	100	95	74
Total Imports (DOS, Malaysia) (m ²)	27,943,592	31,641,383	29,247,915
Imports Relative to Production	100	119	142

Source: DOS, Malaysia & Petitioners Data

The above data is presented in the following chart:

Chart E-1.1: Trend of Import Volume Relative to Petitioners' Production



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Based on the data in the above table and chart, it is clearly establishes that the imports indeed increased sharply compared to the Petitioners' production, especially during POID. The total imports relative to Petitioners' production surged sharper from Year 2 to POID compared to Year 1 to Year 2. The imports increased by 16.31 percentage points from Year 1 to Year 2, increased by a higher percentage points by 19.92% and overall, during POI, the imports relative to the Petitioners' production increased by a hefty xxx%, thus satisfying the surge in imports requirement - relative to total production of the Petitioners.

Based on the foregoing the Petition has satisfied the requirement to establish that indeed there has been a surge in increase of the PUI both in absolute terms (in Section D during POID) and relative to Petitioners production during POI, which has contributed to the serious injury to the Petitioners.

2. Market share

The share of domestic market of the Product Under Investigation (PUI) taken over by increased imports and is shown in Table E-2.1 and the trend reflected in Chart E-2.1 below.

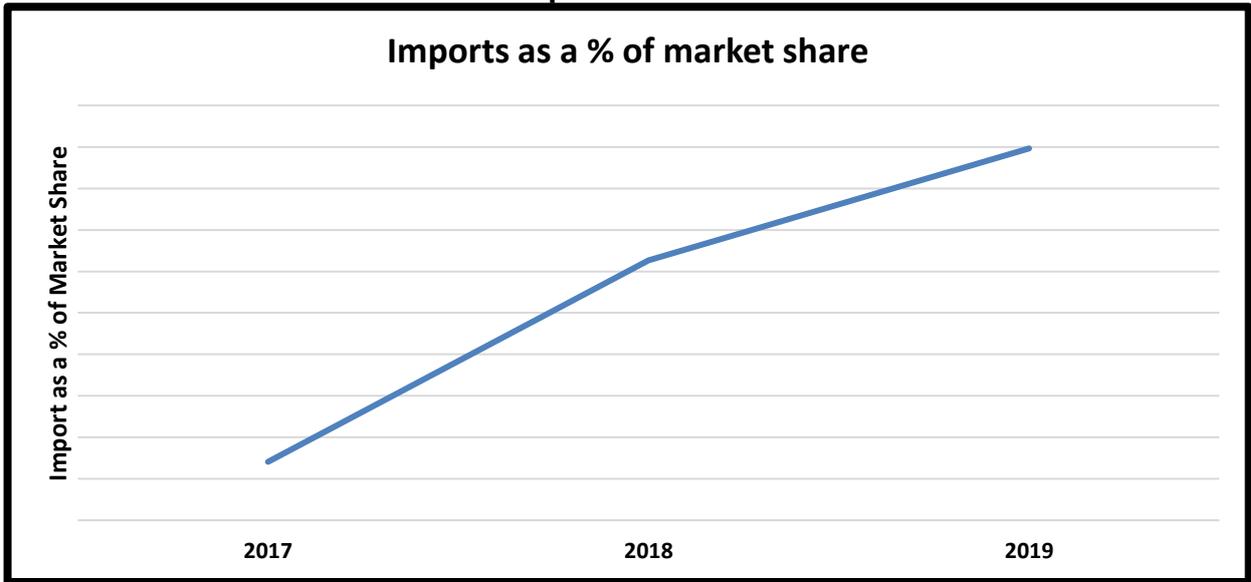
Table E-2.1: Market Share – Apparent Consumption

Description	Year 1	Year 2	POID	% Change POID vs Year 1
A. Imports	100	113	105	
% Change of Imports	-	13.23%	-7.56%	4.67%
Imports as % of Apparent Consumption	100	114	123	
B. Total Exports of the Like Products/Directly Competitive Products*	100	110	85	
C. Total Estimated Production of the Domestic Industry	100	95	77	
% Change of Estimated Total Domestic Production	-	-100	-400	-482
% of Apparent Consumption	100	97	92	
D. Apparent Consumption (Total Malaysian Market) = (A -B+ C)= D	100	98	85	
% Change of Apparent Consumption	-	-100	-862	-948
E. Petitioners' Total Domestic Sales	100	102	80	
% Change of Petitioner's Domestic Sales	-	100	-1175	-1096

Source: DOS, Malaysia & Petitioners

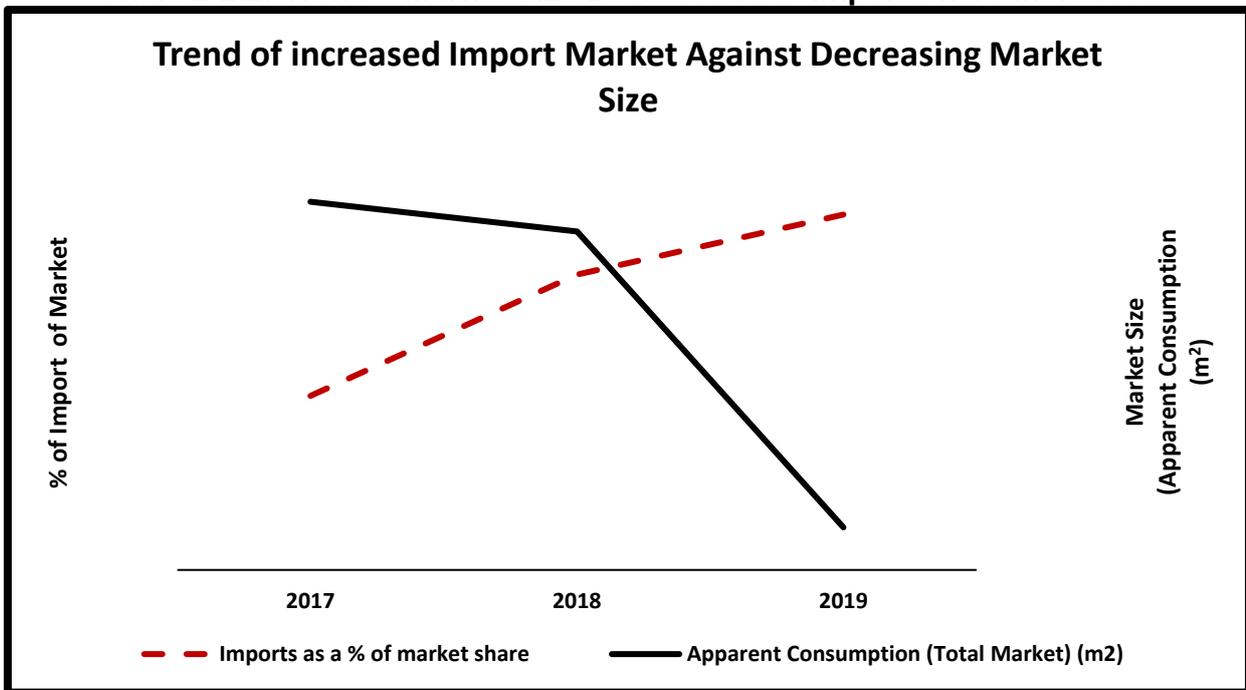
The market share increase of imports is presented in the following chart shows the trend of imports taking up market share:

Chart E-2.1: Trend of Import increase of Market Share



Source: DOS, Malaysia and Industry

Chart E-2.2: Trend – Market Size Decreased but Import Share Increased



Source: Petitioners/DOS, Malaysia

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Based on the above table and charts, it is clearly evident that the Petitioners suffered serious injury in terms market share as the import market share increased, which implies the DI was losing market share, against the backdrop of decreasing market size.

3. Sales

The domestic sales and the export sales of the Petitioners are provided below in Table E-4 and the cumulative sales is provided in Chart E-4 below.

Table E-3.1: Sales of Product of Petitioners

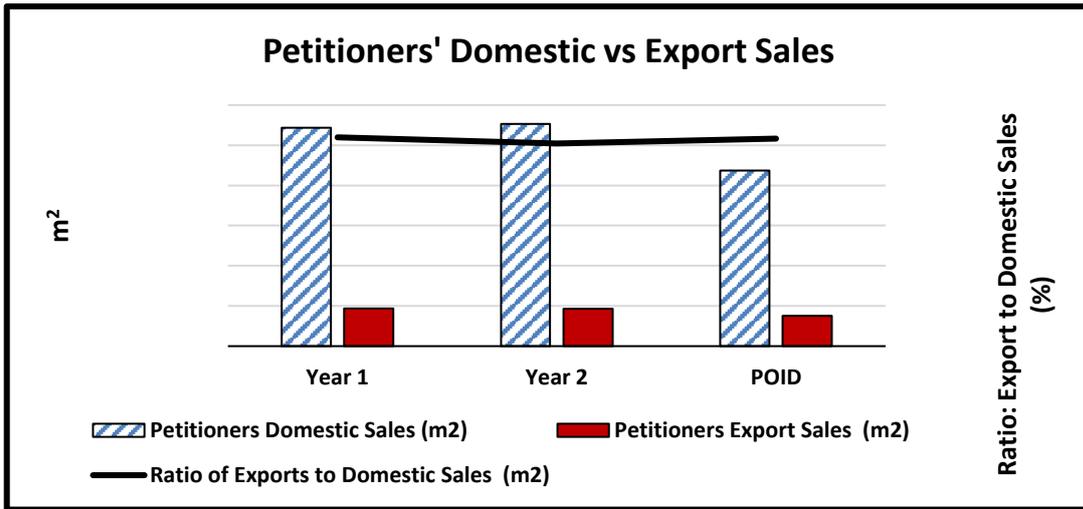
Description	Year 1		Year 2		POID	
	Qty (m ²)	Value (RM)	Qty (m ²)	Value (RM)	Qty (m ²)	Value (RM)
PETITIONERS						
Domestic Sales of Petitioners	100	100	102	106	80	87
% change			100		-1173	
Export Sales	100	100	99	88	80	72
% change			-100		-1595	
Total Sales (Domestic + Export)	100	100	101	102	80	84

Source: Petitioners

The domestic sales of the Petitioners increased slightly from Year 1 to Year 2 by XXX% (the imports increased by a larger 13.23%) but Petitioners domestic sales dropped by a larger rate of XXX% from Year 2 to POID (the imports dropped by a lower 7.56% against the backdrop of a larger drop in apparent consumption of XXX%). Overall the domestic sales of the Petitioners dropped by XXX% during POI (the imports moved in the opposite direction and increased by 4.67% against a backdrop of decreased apparent consumption of XXX%). The Petitioners suffered serious injury in the form of domestic sales

On export sales of the Petitioners, the sales remained about the same level both in terms of volume and exports relative to domestic sales of the Petitioners as shown below:

Chart E-3.1: Petitioners' Domestic vs Export Sales



Source: Petitioners

The above chart shows that the Petitioners were able to continually export and the volumes were a small percentage of domestic sales. The volumes declined slightly from XXXm² in Year 1 to XXXm² in Year 2 and to XXXm² during POID. However the ratio of export sales to domestics remained within less than a one (1) percent difference at XXX% in Year 1, XXX% in Year 2 and XXX% during POID. Based on the foregoing, exports could not be a cause to the serious injury suffered by the Petitioners in terms of sales.

4. Sales listing details is submitted in the confidential version of individual Petitioner’s submission as in **Appendices 7 & 8**.
5. Credit note details is submitted in the confidential version of individual Petitioner’s submission as in **Appendices 7 & 8**
6. Sales price determination.

Sales price is based on price list subject to price negotiation.

7. Minimum Profit Required

The Petitioners are expecting a reasonable profit margin at least 10%, which includes contribution to return on investment.

8. Cost to Make and Sell

Tables E-5 and E-6 provides the cost to make and sell of the Petitioners on a quarterly basis during POID and Year 1, Year 2 and POID respectively below.

Table E-8.1: Cost to Make and Sell per Unit (YEAR1, YEAR 2 AND POID) – Consolidated Petitioners

	COST TO MAKE	Year 1	Year 2	POID (2019)
A.	Production Quantity	100	95	74
	(specify unit of measurement)			
B.	Variable Manufacturing Costs	100	103	78

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	Raw materials:	100	92	84
	- local			
	- imported			
	Direct labour	100	98	92
	Other (specify)			
C.	Fixed Manufacturing Costs	100	96	86
	Depreciation	100	84	86
	Other mfg. Overheads (specify)	100	96	92
D.	Work In Progress	100	-60	-65
	(+) Opening work in progress	100	100	81
	(-) Closing work in progress	100	81	92
E.	TOTAL COST TO MAKE (B+C+D)	100	101	82
F.	UNIT COST TO MAKE (E/A)	100	106	111
	COST TO MAKE & SELL			
G.	Sales Quantity (specify unit of measurement)	100	101	72
	- Domestic sales of local production (excluding internal transfers)	100	105	110
	- Export sales of local production	100	91	76
H.	Selling & Distribution Expenses (specify)	100	88	80
I.	Administration & Other Expenses (specify)	100	110	103
J.	Financial Expenses (specify)	100	114	110
K.	TOTAL COST TO SELL (H+I+J)	100	105	98
L.	UNIT COST TO SELL (H+I+J)/G	100	104	137
M.	UNIT COST TO MAKE & SELL (F+L)	100	105	116

Source: Petitioners

The average unit cost to make and sell (CTMS) consistently increased in every year. It has to be highlighted here that the Petitioners had only slight increase in sales in Year 2 but decreased by larger amount during POID

Further as also demonstrated earlier, the total production of the Petitioners increased slightly during Year 2 but decreased sharply during POID. The presence of high import volumes throughout POI acted as ready stock for sales in the Malaysian market and affecting the sales and profitability of the Petitioners.

Based on the foregoing, the Petitioners suffered serious injury in terms of CTMS.

Cost to Make and Sell per Unit (QUARTERLY DURING POID) is provided of the two Petitioners:

Table E-8.2: Cost to Make and Sell per Unit (POID) Consolidated Petitioners - Quarterly (2019)

CONSOLIDATED - PETITIONERS				
	Q1	Q2	Q3	Q4

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COST TO MAKE	Ended 31/3/2019	Ended 30/6/2019	Ended 30/9/2019	Ended 31/12/2019
Production Quantity	100	99	101	95
(specify unit of measurement)	-	-	-	-
Variable Manufacturing Costs	100	105	104	110
Raw materials:	100	81	114	121
- local	-	-	-	-
- imported	-	-	-	-
Direct labour	100	112	95	103
Other (specify)	-	-	-	-
Fixed Manufacturing Costs	100	90	109	113
Depreciation	100	99	98	92
Other mfg. Overheads (specify)	100	96	106	132
Work In Progress	-100	-638	223	1,409
(+) Opening work in progress	100	108	88	96
(-) Closing work in progress	-100	-81	-88	-104
TOTAL COST TO MAKE (B+C+D)	100	101	105	113
UNIT COST TO MAKE (E/A)	100	102	104	118
COST TO MAKE & SELL				
Sales Quantity	100	102	98	95
(specify unit of measurement)				
- Domestic sales of local production (excluding internal transfers)	100	105	108	113
- Export sales of local production	100	129	162	144
Selling & Distribution Expenses (specify)	100	111	114	125
Administration & Other Expenses (specify)	100	105	109	135
Financial Expenses (specify)	100	88	98	82
TOTAL COST TO SELL (H+I+J)	100	104	109	126
UNIT COST TO SELL (H+I+J)/G	100	102	110	133
UNIT COST TO MAKE & SELL (F+L)	100	102	106	121

Source: Petitioners

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The quarterly CTMS in 2019 also shows that the consolidated Petitioners CTMS increased every quarterly, just as the surge in imports took place on a quarterly basis during 2019 as demonstrated early, confirming the serious injury suffered by the Petitioners in terms of CTMS.

9. Production and Capacity Utilization

The capacity utilization of the Petitioners is provided in Table E-9.1 and in relative to consumption in Chart E-9.1 below. The installed capacity of all the producers in Malaysia is estimated at XXXm² which is more than enough/adequate to cover/fulfil the domestic demand/consumption at its highest of XXXm².

Table E-9.1: Production and Capacity Utilization of the Two Petitioners

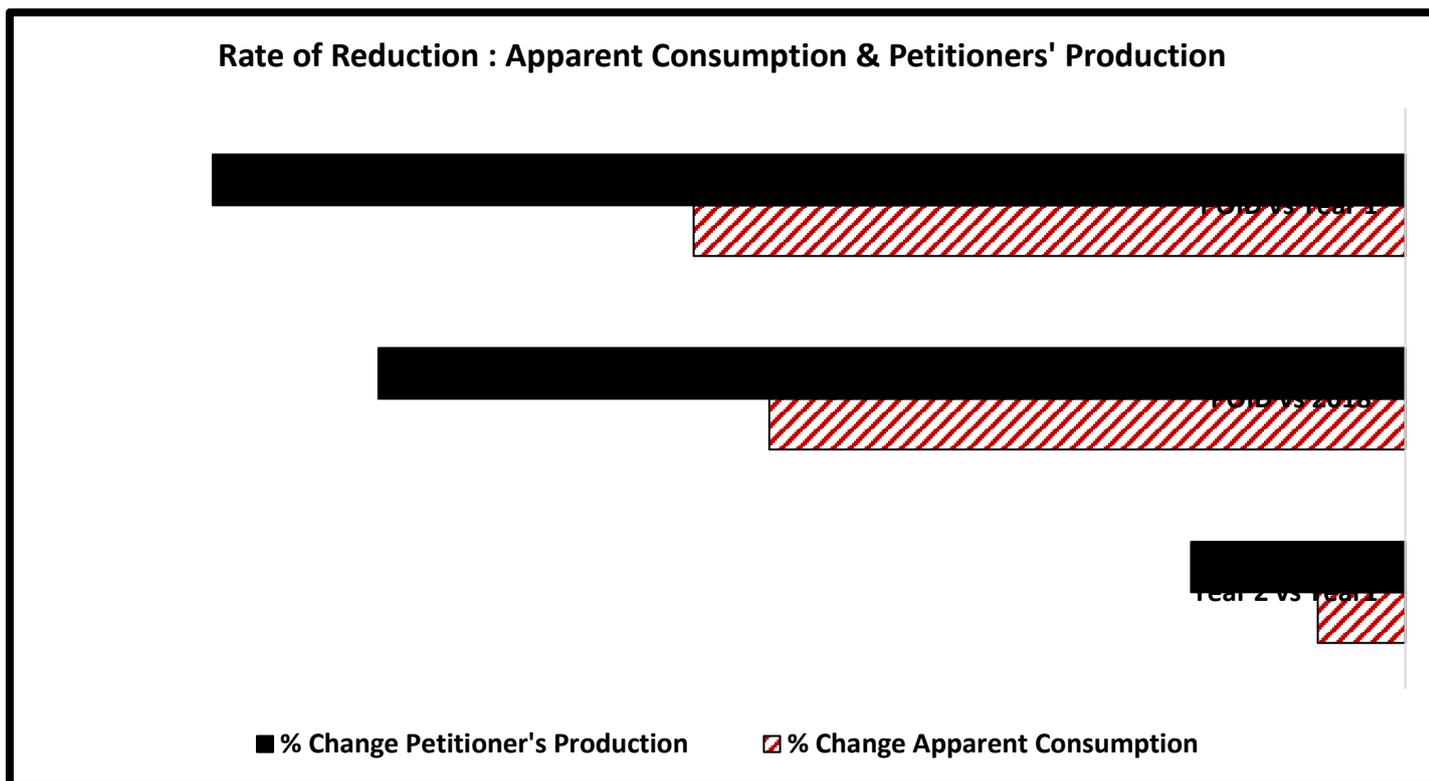
CONSOLIDATED -PETITIONERS			
Description	Year 1 (2017)	Year 2 (2018)	POID (2019)
A. Production capacity (m²)	100	100	100
B. Actual production (m²)	100	95	74
C. Capacity utilisation (%)	100	95	74

Source: Petitioners

The capacity utilization of the Petitioners decreased throughout POI. It reduced from XXX% in Year 1 to XXX% in Year 2 and further decreased sharply to XXX% to unhealthy levels. Additionally, the production reduced at a higher than the decreasing apparent consumption as shown in the following table.

Based on the foregoing, the Petitioners suffered serious injury in terms of capacity utilisation.

Chart E-9.2: Comparison of Rate of Apparent Consumption and Petitioner's Production



Source: Petitioners & DOS, Malaysia

Based on the foregoing, the Petitioners, as well as the DI as a whole, clearly suffered in terms of serious injury by not being able to benefit by taking a fair share of the decreasing market size due to the presence of the increased imports relative to production especially during POID.

10. Profit and Loss

Table E-10.1: Petitioners' Consolidated Profitability

CONSOLIDATED - PETITIONERS						
Description	Year 1		Year 2		POID	
	Domestic (RM)	Export (RM)	Domestic (RM)	Export (RM)	Domestic (RM)	Export (RM)
Sales	100	100	106	88	87	72
Less:						
Cost of Sales	-100	-100	-105	-94	-89	-80
Gross Profit	100	100	113	70	72	49
Less:						

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Selling, General and Administrative Expenses	100	100	107	99	102	87
Profit/ (Loss)	-100	-100	-96	-41	-160	-98
Other Income/ (Expense)	100	100	69	15	75	28
Net Profit	-100	-100	-182	-26	-431	-64

Source: Petitioners

The Petitioners faced heavy losses throughout POI in their domestic sales suffering losses of RMXXX in Year 1 doubling the losses in Year 2 an RMXXX and the losses were recorded at five (5) times the losses in POID compared to Year 1 at RMXXX.

The losses in terms of percentage, the Petitioners' losses increased by XXX% comparing Year 2 to Year 1, and the losses further increased by XXX% comparing POID to Year 2 and overall losses recorded at XXX% comparing POID to Year 1.

The profit and loss is one of the most important measurement of the health of a company and as can be seen that there is very clear indication that the Petitioners have been impaired. As we have noted and demonstrated that the import volumes were maintained at high amounts throughout the POI and further noticed the causal relationship of this high volume of imports to the continuous losses incurred by the Petitioners.

Based on the foregoing, the Petitioners are impaired (serious injury) in terms of profitability due to the high volume presence of the imports.

11. Cash Flow

Table E-11.1 provides the details of the cash flow.

Table E-11.1: Cash Flow

CONSOLIDATED-PETITIONERS			
Description	Year 1 (RM)	Year 2 (RM)	POID (RM)
Cash flow (+/-)	100	80	197

Source: Petitioners

The Petitioners did not suffer in terms of cash flow in Year 1 and Year 2 and POID and this reflected to maintaining a decreasing low level of inventories. If this prudent step was not taken,

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the Petitioners would have also suffered in terms losses in cash flow in running their operations.

12. Productivity

Table E-12.1: Productivity

CONSOLIDATED-PETITIONERS			
Description	Year 1 (2017)	Year 2 (2018)	POID (2019)
Production of PUI (m²)	100	95	74
No. of employee involved in production of PUI	100	97	80
Machine hours used (hours)	100	93	75
Productivity level(m²/hour)	100	102	99
Productivity (m²/employee)	100	99	92

Source: Petitioners

The productivity is captured both in terms of output per machine hour (m²/hour) and output per employee (production) suffered during POID compared to Year 2 based on output per machine hour and both Year 1 and Year 2 for output per employee.

The machine-hour productivity increased in Year 2 to XXX m²/hr from XXX m²/hr compared to Year 1, but decreased to XXX m²/hr during POID. Similarly in terms of output per employee (operations), for the same period it decreased from XXX m² in Year 1 to XXX m² in Year 2 and decreased further to XXX m² per employee.

The Petitioners' productivity suffered injury during POID both in terms of machine output per hour and output per employee.

13. Employment

Table E-13.1: Number of Employees

CONSOLIDATED-PETITIONERS			
Description	Year 1	Year 2	POID
Personnel employed in the production period process of PUI	100	97	80
Personnel employed in sales, general and administration	100	99	95
Total Personnel	100	97	84

Source: Petitioners

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The number of employees involved in the production and sales decreased all three (3) years. Due to decreasing sales and production of the Like/Directly Competitive products and consistently making losses overall for the two (2) Petitioners, the Petitioners had no choice but retrench some of the staff to cut further losses. The retrenchment was carried out consistently for Year 2 and POID compared to the previous years. XXX% of total employees was retrenched in Year 2 compared to Year 1 and a further XXX% of employees was retrenched during POID compared to Year 2. Overall XXX% of total employees were retrenched during POI. Of these the loss of production workers were the highest at XXX% from Year 1 to Year 2, XXX% during POID compared to Year 2 and overall XXX% or loss of one fifth of production workers during POI. The loss of workers is expected as the production decreased throughout POI and with largest drop in production in POID; similarly the losses also followed the same pattern.

The Petitioners suffered in terms of employment numbers overall and especially a higher retrenchment in the production side.

14. Wages

Table E-14.1: Wages of the Two Petitioners

CONSOLIDATED - PETITIONERS			
Description	Year 1 (RM)	Year 2 (RM)	POID (RM)
A. Wages	100	98	92
B. Cost of social benefits	100	100	97
C. Total labour costs (A+B)	100	99	92

Source: Petitioners

There was a reduction in total wages throughout POI; the wages reduced by XXX% from Year 1 to Year 2 and further reduced by XXX% in POID compared to Year 2. Overall the wages decreased by a significant value of XXX% comparing POID to Year 1. This reduction is in line with decreasing workers throughout POI through retrenchment.

The Petitioners suffered serious injury in terms of wages.

SECTION F: THREAT OF SERIOUS INJURY

THREAT OF SERIOUS INJURY

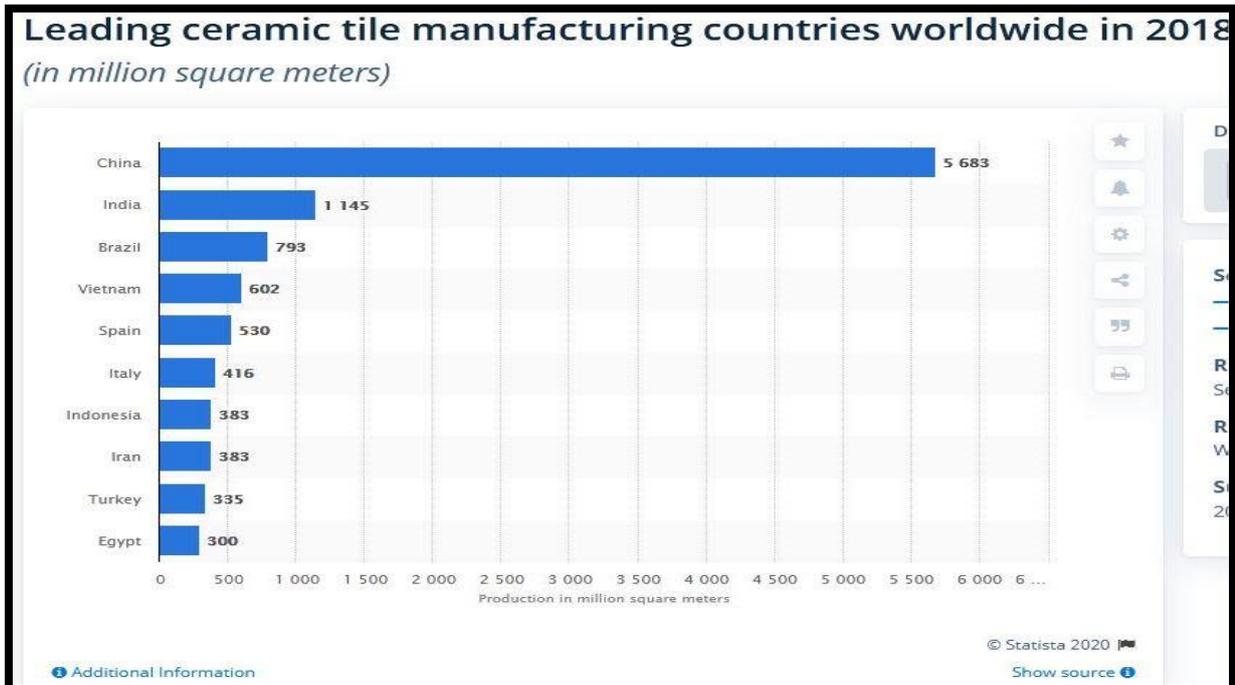
The Petitioners, which is reflective of the Domestic Industry (DI) as a whole, is already facing serious injury as demonstrated in Section E. Here the Petitioners would like claim and demonstrate that the threat of continued serious injury looking ahead will continue unless remedial action is taken to temporarily arrest the infliction of serious injury by the continued large imports. The temporary relief through as safeguard measure, as provided for under the WTO Safeguards Agreement (SGA) will provide the DI time out to regroup and improve through instituting adjustment plans to meet competition. To start with, we have already seen that the import volumes are already at very high levels during POI and have demonstrated during POID how these imports can sharply and quickly increase within the year (POID) – supporting the claim that imports into Malaysia can come in freely and easily.

F-1 Export Capacity of Main Import Countries

The global ceramics market was valued at USD 229.13 billion in 2018 and is projected to grow at lucrative CAGR of 8.6% from 2019 to 2025. Increasing government spending on infrastructure and rising construction activities around the world are the key drivers for the market. (<https://www.grandviewresearch.com/industry-analysis/ceramics-market>)

The following table shows the major ceramic tile manufacturing countries in 2018:

Chart F-1.1: Global Leading Manufacturing Countries (2018)

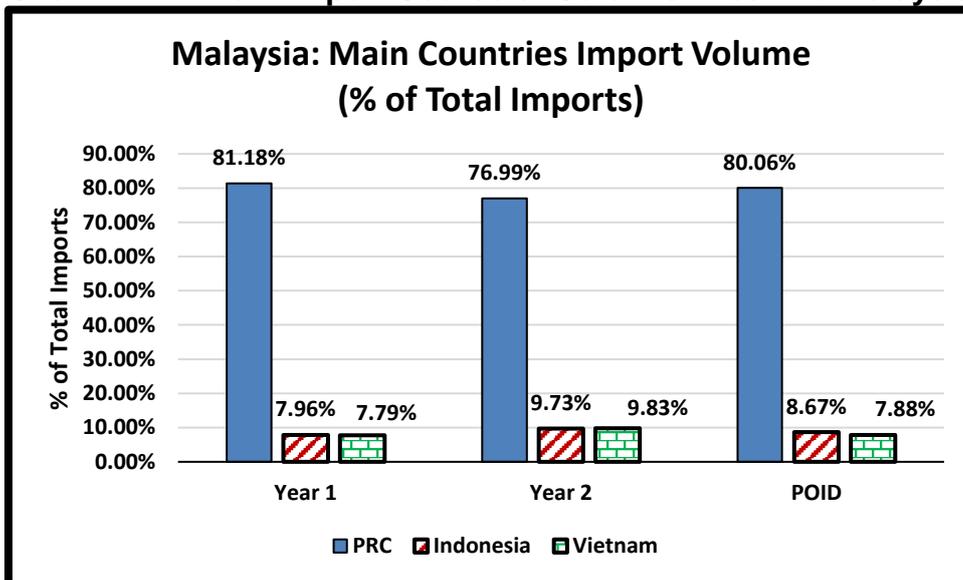


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As it can be seen PRC leads the rest of the world and looking at the size of capacity available, production at 5.6 billion m² exceeds domestic consumption – the excess production has to be shed into other countries. The general practice when it comes to manufacturing/production in PRC is, produce first to achieve economies of scale and then to dispose the excess after meeting domestic demand to the rest of the world. Many countries are at the receiving end and Malaysia is one such country where consistent high imports from PRC remain. It is a good time to remind here that the Malaysian apparent consumption during Year 2 (2018) is only XXXm², representing XXX% (less than 2%) of total PRC production based on Chart F-1.1 above.

The following chart shows that the imports of ceramic tiles into the Malaysian market is dominated by imports from PRC:

Chart: F-1.2: Main Import Source of Ceramic Tiles into Malaysia



(Source: Department of Statistics, Malaysia)

Basing on the above, we then look into the Chinese Ceramic Industry, its current and future direction that poses continued threat in the future of imports coming into Malaysia.

F-2: FUTURE EXPORT PROBABILITY AND THE EVIDENCE OF THREAT OF FUTURE IMPORTS

There are now 1,452 ceramics enterprises and 3,621 production lines (including 181 Spanish tile production lines) in China with the daily ceramic tile capacity of 45.036 million square meters, according to statistics of China Building Ceramics & Sanitaryware Association. In terms of competition pattern, China building ceramics industry features a low market concentration rate. The top ten manufacturers have total annual capacity of 676 million square meters. With the implementation of new environmental protection laws, some of backward capacity will be phased out; meanwhile, the slow development of China's economy and real estate industry will lead to the fiercer market competition in the architectural ceramics industry (<https://www.reportlinker.com/p02144073/China-Ceramic-Tile-Industry-Report.html>).

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This in itself shows how aggressive the Chinese producers will act to beat and eliminate competition in order for their own survival. Let us take a look at the production capacity in PRC:

- The largest architectural ceramics enterprise NewPearl Group is made up of Guangdong NewPearl Ceramics Group, Guangdong Summit Ceramics Group and Jiangxi NewPearl Ceramics Group, with the ceramic tile capacity of more than 200 million square meters;
- The second-ranked New Zhongyuan has nine production bases located in Foshan, Gao'an and other places, with the capacity of 100 million square meters;
- The third-ranked Nabel has set up its five production bases in Hangzhou, Jiujiang and Deqing, with the investment of more than USD425 million and the capacity of over 78 million square meters; and
- Wonderful has the capacity of 58 million square meters. It planned and invested in a project with the capacity of 40 million square meters in Chongqing – whereby Wonderful's capacity will hit 100 million square meters and rank among top three.

Just these figures, without including the numerous other producers that have mushroomed all over PRC, poses no doubt on the imminent threat of possible shedding of excess production into the Malaysian market. Especially so as anti-Chinese sentiment spreads in many countries and the global sentiment to decouple, where possible, with dependence on Chinese imports. However, Malaysia has been always taken a friendly approach with PRC and such sentiments are not expected to occur on imports from PRC and in this case ceramic tiles included.

It is also to be noted that Malaysia, for the ceramic tile sector does not have in place any non-tariff measures (NTMs) that effectively acts as a non-tariff barrier (NTB) to ceramic tile imports. Malaysia only has in place the requirement for both imports and local producers to meet international standard *MS ISO 13006* for ceramic tiles set by Malaysia to ensure quality and safety. Malaysia has not imposed more stringent conditions than the standard *MS ISO 13006* on imports – making easy entry of imports.

On Chinese exports, the uninterrupted negative trend that had been underway since 2014, 2019 marked another difficult year for China's ceramic tile exports. Export volumes fell by 9.8% from 854 million m² in 2018 to 770.5 million m² in 2019, a sharp deterioration compared to the previous year's decline of 5.9%. This is in sharp contrast to the imports that have entered the Malaysian market. To demonstrate, we compare the Chinese export figures against Malaysian DOS import figures:

- 2017 vs 2018: Based on DOS, Malaysia statistics, Chinese imports of PUI saw a decrease by 12.85% against global decline in Chinese exports of 5.9%; and
- 2018 vs 2019: However this trend changed, based on DOS, Malaysia statistics, Chinese imports of PUI saw a decrease by 3.85% (smaller decrease) as opposed to a larger decrease in Chinese exports of 9.8%.

These evidences further supports how exports from PRC can easily finds itself into the Malaysian market when it comes to exporting to Malaysia as opposed to PRC's overall export figures – more exports land in Malaysia compared to overall export rate of PRC, especially during POID, the most recent trend.

To take it further on shying of exports from China by the US, where the US a large market for ceramic tiles, we take a look at the import figures into the US for the first 3 months of 2020. The following table substantiates of anti-Chinese sentiment on Chinese products that is also spreading globally and here we see how the Chinese imports into the US decreased by a hefty 98.0% comparing Q1 2019 to Q1 2020.

Table F-2.1: Tile Imports into the US – Q1 2020 vs Q1 2019

TAB 1 - USA: TILE IMPORTS IN THE FIRST QUARTER OF 2020 IN VOLUME USA: importazioni di piastrelle nel primo trimestre 2020 in volume			
Country of origin	Jan-March 2019 (sq.m)	Jan-March 2020 (sq.m)	% Var. 2020/2019
Mexico	9,477,297	7,620,293	-19.6%
Spain	7,311,453	7,376,562	0.9%
Italy	6,850,664	7,178,196	4.8%
Turkey	2,860,179	5,314,226	85.8%
Brazil	3,831,435	4,586,621	19.7%
India	646,919	3,346,080	417.2%
Peru	1,537,499	936,386	-39.1%
Malaysia	25,114	393,814	1468.1%
Vietnam	6,464	326,160	4945.8%
Colombia	303,176	324,247	7.0%
Portugal	232,086	237,939	2.5%
China	11,443,231	227,574	-98.0%
ALL COUNTRIES	46,137,618	39,257,574	-14.9%

Source TCNA

Here we also take a look at the top manufacturing (production level) of Indonesia and Vietnam and note Vietnam and Indonesia remained the largest producer and consumer countries in the Far East. In 2018, Vietnam increased both its installed capacity (estimated at 753 million m²) and output (from 560 to 602 million m², +7.5%) in response to a domestic consumption of around 542 million m² and a growing export activity which is estimated at approximately 30 million m². According to the association ASAKI, Indonesia has likewise resumed growth with production reaching 383 million m² (+24.8%) and consumption 450 million m² (**CRW 136/2019 Report**).

Further, Indonesia and Viet Nam’s imports into Malaysia remains above 4% of total imports during POI and also poses a threat for the continuous serious injury to the DI in future and potential threat of further increase in imports due to the close proximity as other markets take protectionist actions.

The threat of imminent import volume increase in future especially from PRC is clearly established from the above.

Based on the foregoing, the Petitioners’ claim that with the clear indications of the threat of future imports finding easily into the Malaysian market will further exacerbate the already serious injury faced by the DI in Malaysia. The temporary SG measure is necessary to arrest the expected continued presence of high imports into Malaysia to allow the DI to re-adjust to meet competition.

Trade Remedies

Anti- dumping duties and anti subsidy duties by US

The vote by the U.S. trade body locks in U.S. Commerce Department anti-dumping duties of up to 356.02%, and anti-subsidy duties of up to 358.81% on Chinese imports of a wide range of ceramic tile products. The duties were finalized on March 31. With such high anti-dumping and

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countervailing duties on imports from PRC.[<https://www.reuters.com/article/us-usa-trade-china/u-s-trade-body-votes-to-lock-in-high-duties-on-chinese-tile-imports-idUSKBN22C3HH>].

It will not be possible to export to the large US market. The threat of these excess capacity would definitely find other markets, Malaysia being close and currently with no import duty would be an easy market to dispose the excess production.

<https://www.reuters.com/article/us-usa-trade-china/u-s-trade-body-votes-to-lock-in-high-duties-on-chinese-tile-imports-idUSKBN22C3HH>.

F-3 Inventory

The following table and Chart shows inventory of the Petitioners.

Table: F-3.1 – Inventory of the Petitioners

CONSOLIDATED-PETITIONERS			
Description	Year 1	Year 2	POID
	m ²	m ²	m ²
Closing inventories	100	89	76

Source: Petitioners

The inventory decreased throughout POI. The inventory decreased from XXX m² in Year 1 to XXX m² in Year 2 and decreased further to XXX m² during POID. If the Petitioners had not taken appropriate steps to decrease the inventory level, it would have caused further injury to the Petitioners.

Concerning knowledge/information of inventory levels of exporting countries, the Petitioners submit that they have no access to the information on the inventory of the exporting countries. However, on potential capacity and production in future, this already been dealt under threat of injury.

F-4 Other Injury Factors

Here we examine other attributive injury factors not covered under Section E or above.

F-4-1: Forward orders and stocks

For the Petitioners, as imports have increased to high levels and this high levels increased during POID, the Petitioners' customers refrained from giving forward orders. Traders and stockists imported big and small quantities and spot sales undermined the orders received by those Petitioners, causing unpredictability in those Petitioners' planned production, which undermines such strategies. However, for some of the other producers forward orders could apply, especially with long-term customers who do not switch supplies purely based on lowest price without taking into consideration other factors, such delivery on time, consistency in quality and logistical arrangements.

F-4-2: Return on investment

The consolidated return on investment (ROI) of the Petitioners is presented below:

Table: F-4-2.1: Return on Investment (Consolidated Figures for Petitioners)

CONSOLIDATED- PETITIONERS			
Description	Year 1	Year 2	POID
A. Cost of investment (RM)	100	101	101
B. Net Profit/Loss (-) (RM)	100	-466	-1,095
Return on investment [(B/A) x100%] - (%)	100	-465	-1,100

Source: Petitioners

The return in investments for the Petitioners recorded positive XXX% but turned negative in Year 2 at XXX% and during POID continued to deteriorate during POID to negative XXX%.

The Petitioners suffered in terms of return of investments.

F-4-3: Ability to raise capital

The ability to raise capital is an important aspect as ability to capital raised, will allow for the injection of funds for the development of the Petitioner. The Petitioners normally turn to either the banks or internally source funds for development purposes. However, in recording continued losses, the Petitioners will be expected to face inability to raise capital as the banks may mark down on their rating or internally the funds may run out.

F-4-4: Any other factors deemed relevant by the Government

The trade war between the US and China is already causing turmoil to the global trading system for the last two years. The IMF has already announced that the World could enter into a situation worse off than the Great Depression of the 1930s.

With all these uncertainty one can safely conclude that threat on domestic industries on surge in imports into open markets like Malaysia is for real unless appropriate measures are put in place to check these imports and as in our case the imports are already inflicting serious injury through the presence high increased volumes.

What the Petitioners are seeking is for the Government is to ensure the continued presence of the ceramic Domestic Industry by putting in place a temporary safeguard measure to curb imports for the industry to readjust. The Government will also need to consider the socio-economic impact on employment and the spill over effects on other service providers supporting the Petitioners' economic activities.

F-4-6: Information and documentary evidence relevant to the serious injury

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The Petitioners strongly believe that this Petition has more than fully covered all the factors related to serious injury as requested by the Petitioner's Questionnaire and meets the requirements of Article 4.2 (a) and Article 4.2(b) of the WTO Safeguard Agreement. The Petition by itself also satisfies the requirements of Sub-Regulation 3 (1) of the Malaysian Safeguard Regulations 2007 for the Government to initiate the SG investigation and impose the SG measure to safeguard the interests of Malaysia's economic development.

SECTION G: CAUSAL LINK

The Petitioners would like to bring to the attention of the Investigation Authority (IA) Subsection 20 (1), Subsection 23 (1) and Section 25 of the ACT, which are consistent with Article 2 of the WTO Safeguards Agreement that increased in imports be examined in either absolute or relative to domestic production and that such conditions causes or threatens to cause serious injury. i.e. the causal link between increased imports and serious injury can be based on either absolute increase in imports or increase in imports relative to domestic production. Based on this legal basis we turn to establishing the causal link between the surge in imports (absolute or relative to production) and serious injury to the Petitioners.

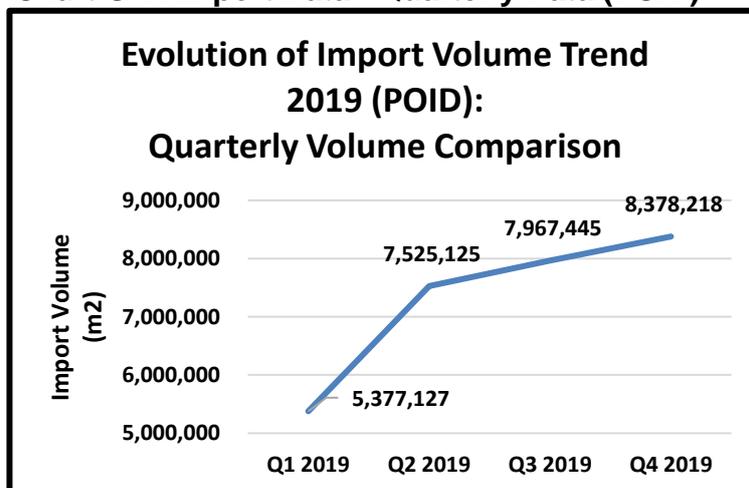
In the earlier Sections it has already been outlined with supporting evidence and arguments, the presence of increased imports both in absolute during POID where the increase in imports having met recent, significant, sudden and sharp, and relative to production; and surge in imports relative to production through POI. Subsequent to that, injury to the Petitioners in a large number of factors have also been shown to exist, cumulatively causing serious injury to the Petitioners. The Petitioners also strongly believe that the situation of the Domestic Industry (DI) as whole is in the same situation as the Petitioners –as shown by the supporting letters from four other producers who fully support this petition submission which is seeking to initiate a safeguard investigation and subsequently impose a safeguard measure to provide relief for the industry time to re-adjust to meet competition. In this Section the Petitioners will establish causal link between the increased imports and the injury factors the Petitioners are faced with.

VOLUME EFFECTS

Increased Imports Relative to Production and Apparent Consumption (Total Market)

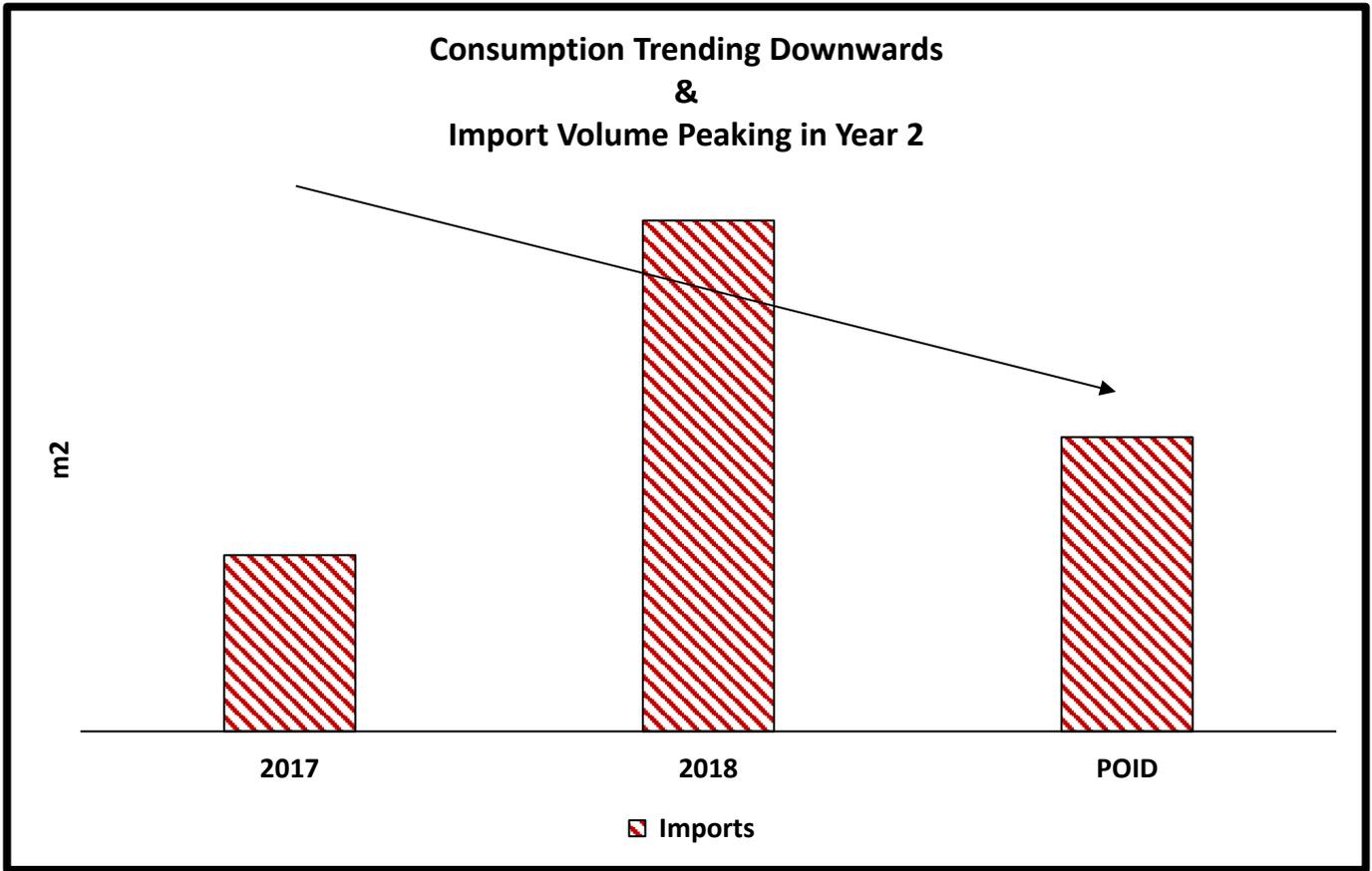
The Petitioners are claiming that the import volumes are already at high levels during POI, peaking in Year 2 and due to market dynamics of reduced consumption during POID there is a reduction in import volume. Nevertheless, in this petition it has been established that during POID there is sufficient evidence to meet recent, sudden, sharp and significant increase. Subsequently the increase in imports relative to production has also been clearly established. The following charts to confirm the claim:

Chart G-1: Import Data - Quarterly Data (POID)



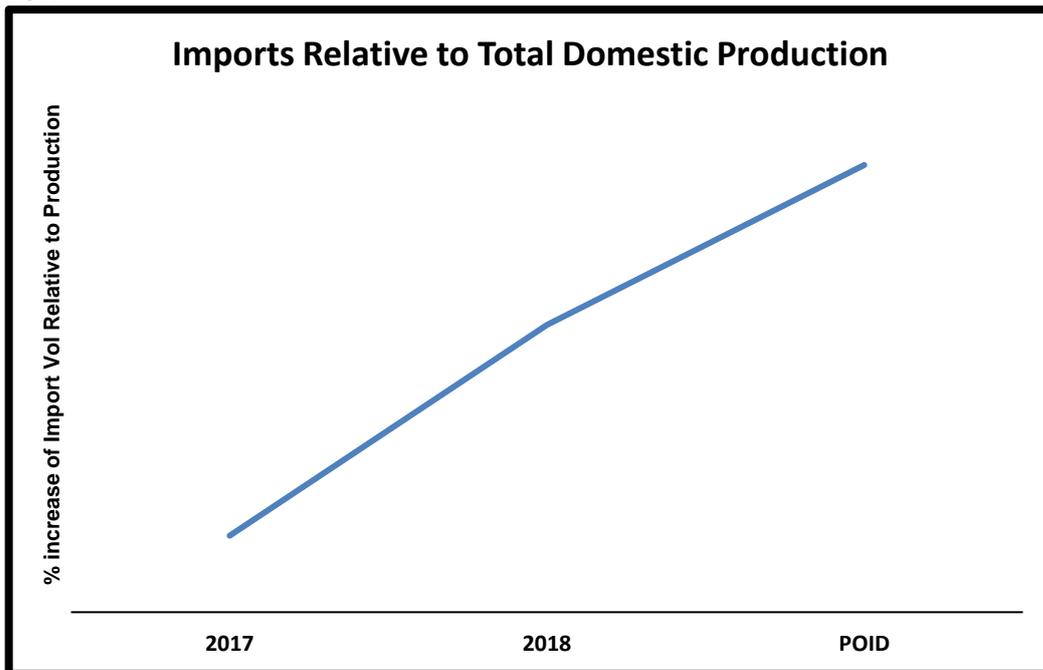
(Source: Department of Statistics, Malaysia)

Chart G-2: Apparent Consumption vs Import Trend movement



(Source: Department of Statistics, Malaysia & Petitioners' Data)

Chart G-3: Increasing Trend of Import Volume Relative to Total Domestic Industry Production



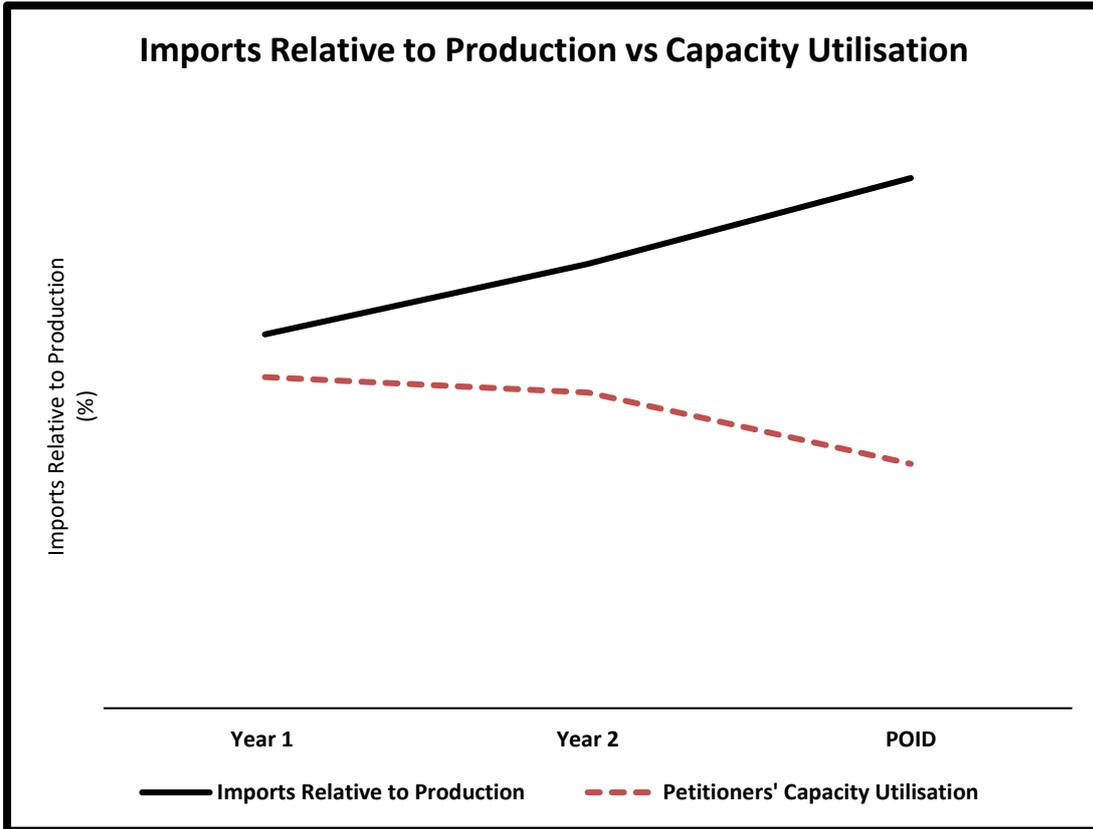
(Source: Department of Statistics, Malaysia & Petitioners' Data)

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Since the consumption decreased throughout POI whereas the imports peaked in Year 2, a fair comparison of the Petitioners' injury factors would be against imports relative to production rather than absolute import volume.

Capacity Utilisation vs Relative Import to Production

Chart G-4: Increasing Trend of Import Volume Relative to Petitioners' Consolidated Capacity Utilisation

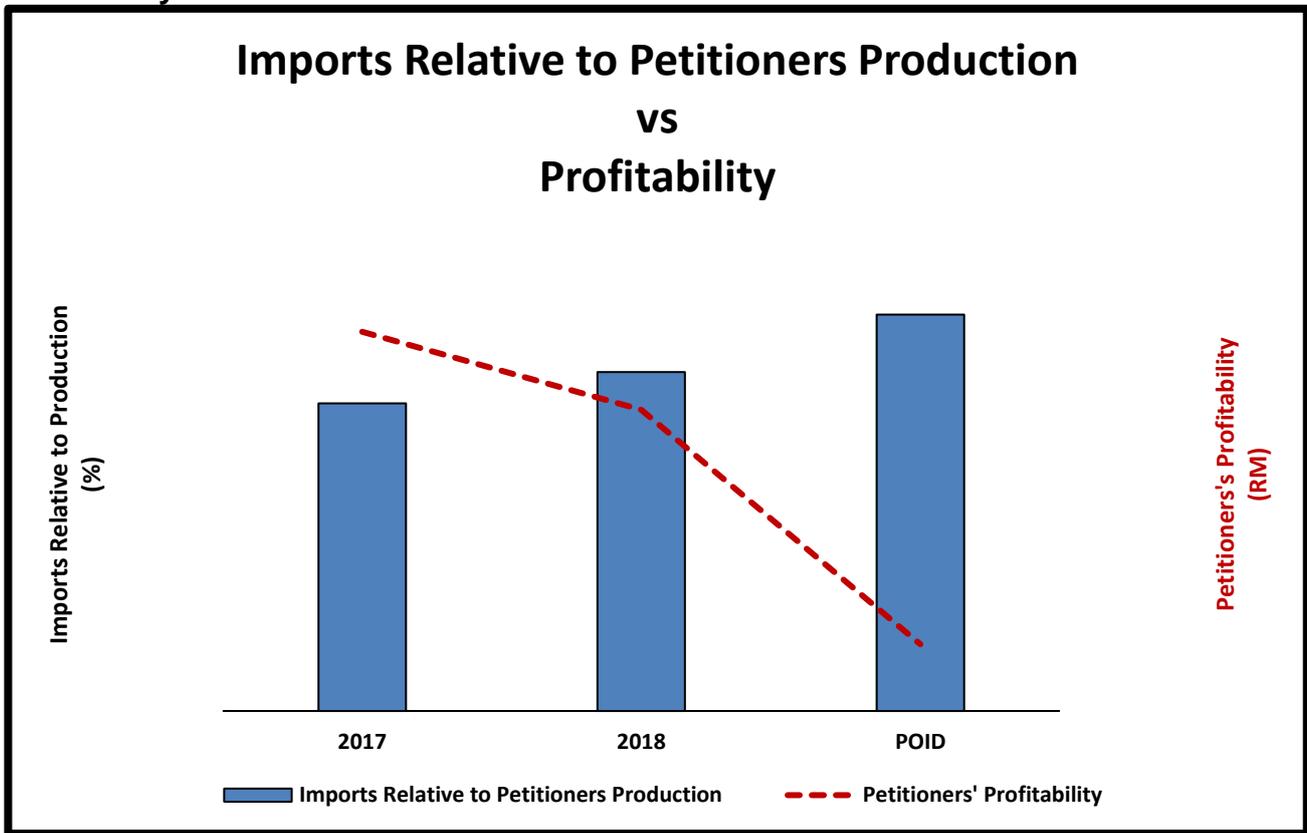


(Source: Department of Statistics, Malaysia & Petitioners' Data)

The above chart clearly shows how the capacity utilisation decreased with increasing import relative to production, establishing the causal link of reduced capacity utilisation to imports relative to production.

Profitability vs Imports Relative to Production

Chart G-5: Increasing Trend of Import Volume Relative to Petitioners' Consolidated Profitability



(Source: Department of Statistics, Malaysia & Petitioners' Data)

The consolidation of Petitioners' profitability showed that overall they were operating at losses throughout POI, as mentioned earlier, the import volumes were already high throughout POI. The losses worsened throughout the POI as the imports relative to production increased throughout POI showing the causal link between the increasing losses and increasing imports relative to production.

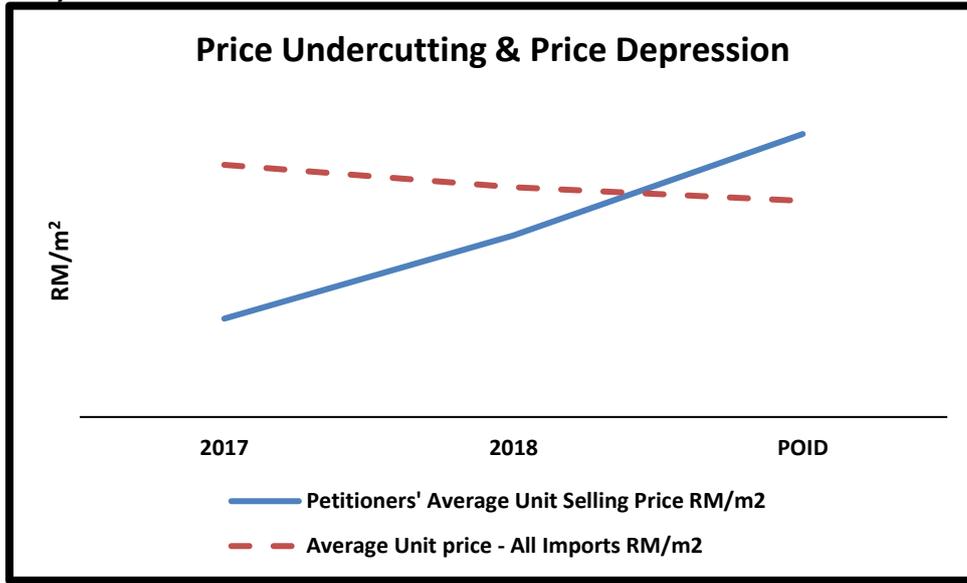
PRICE EFFECTS – Price Undercutting/Price Depression/Price Suppression

Price effects are examined on three (3) areas of price undercutting, price depression and price suppression.

Price Undercutting and Price Depression

The following chart helps to evaluate both price undercutting and price depression.

Chart G-6: Price Undercutting and Price Depression Comparison of the Petitioners (Consolidated)



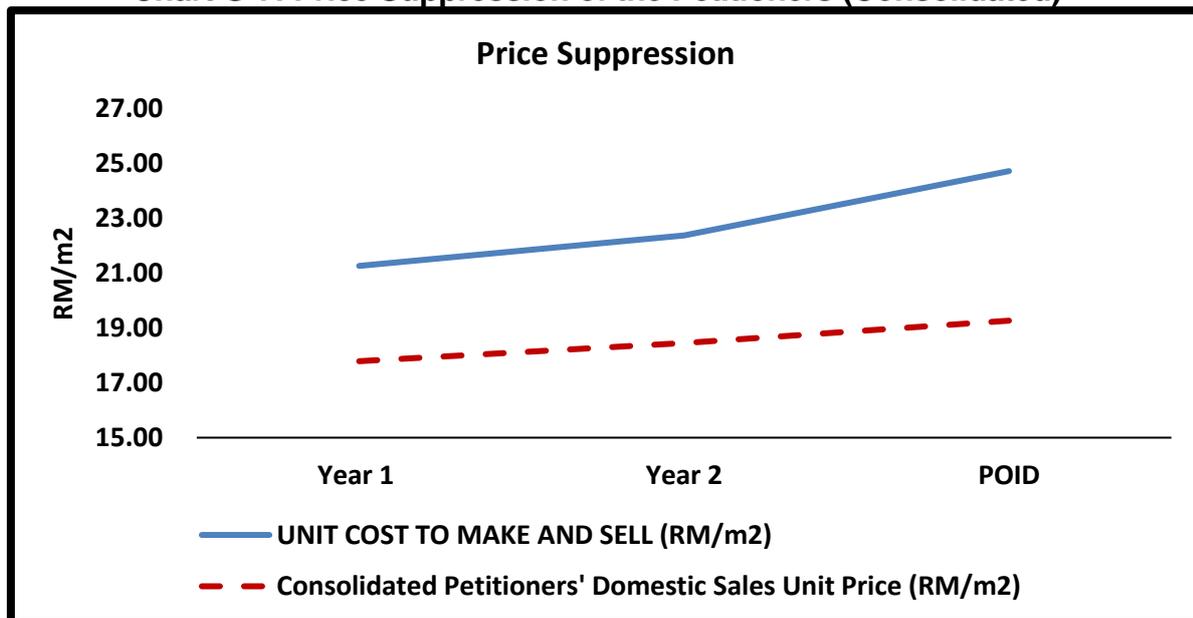
(Source: Department of Statistics, Malaysia & Petitioners' Data)

The chart evidences the presence of price undercutting whereby the average unit price of the imports was higher in Year 1 than the consolidated average unit price of the Petitioners. In Year 2 the price difference narrowed and during POID the imports significantly price undercut the consolidated price of the Petitioners, confirming presence of price undercutting during POID. Nevertheless, the average price of the Petitioners did not see price depression.

Price Suppression

The following chart compares the consolidated Petitioners' average unit price as against the unit cost to make and sell to examine if price suppression occurred.

Chart G-7: Price Suppression of the Petitioners (Consolidated)



(Source: Petitioners' Data)

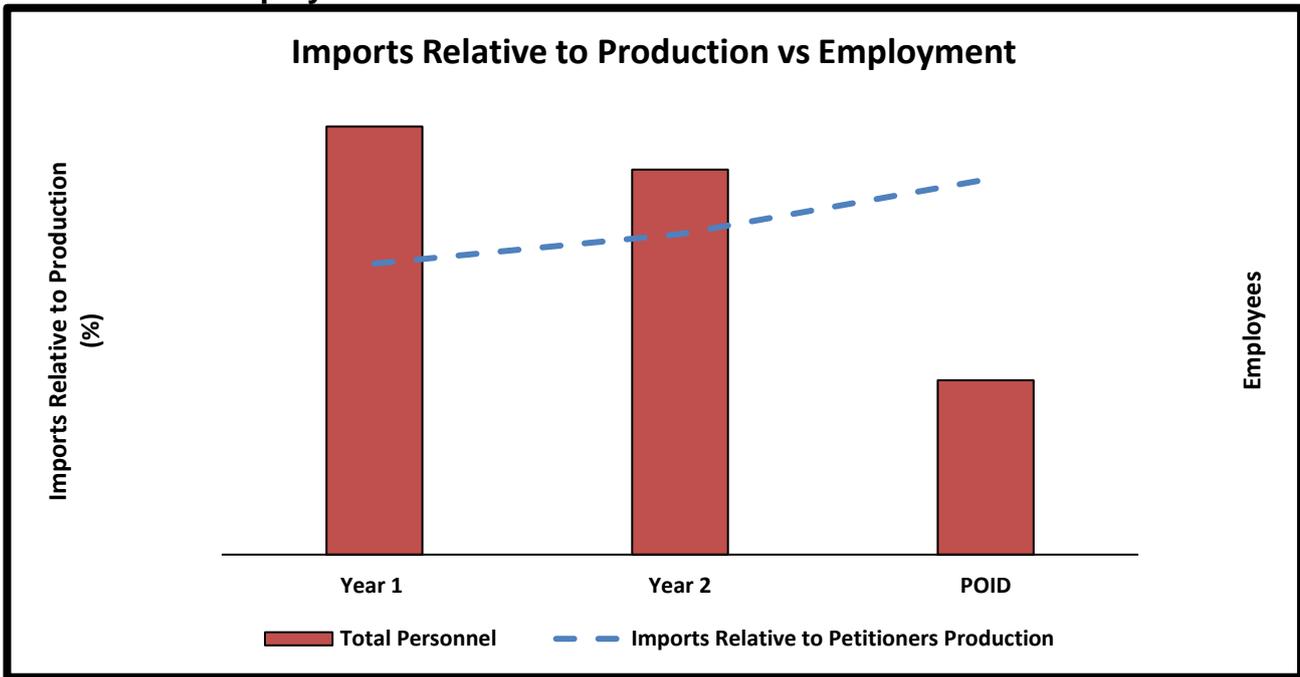
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The above chart clearly shows the presence of price suppression whereby the consolidated Petitioners' average unit selling price for all three (3) years is much lower than the CTMS supporting the net losses incurred by the consolidated profitability of the Petitioners.

In summarising, the presence of the imports has caused the negative price effects of price undercutting and price suppression on the Petitioners and affecting the Petitioners profitability.

Increased Imports Relative to Production and the Petitioners' Consolidated Employment

Chart G-8: Increasing Trend of Import Volume Relative to Production vs Petitioners' Consolidated Employment



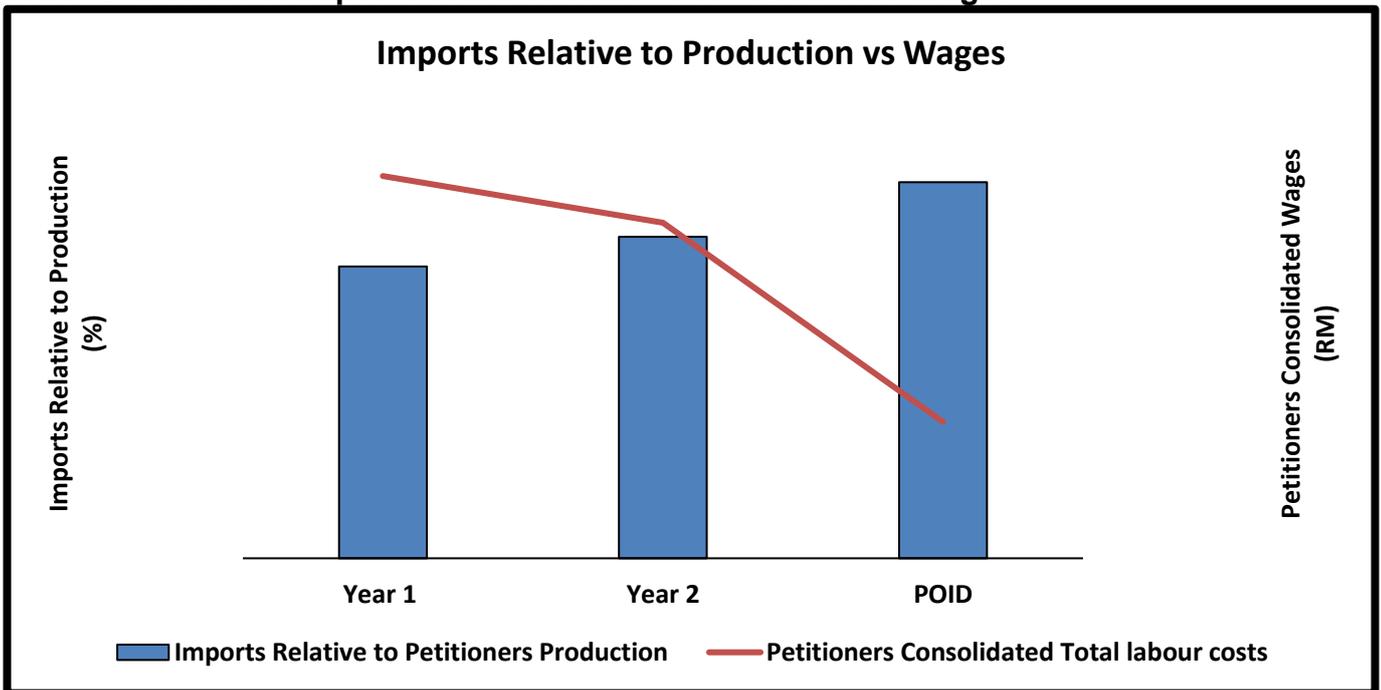
(Source: Department of Statistics, Malaysia & Petitioners' Data)

The number of employees decreased every year related to reduced production and related to the increasing trend of the imports relative to production, establishing the causal link between consolidated Petitioners' employment to imports relative to production.

Increased Imports Relative to Production and the Petitioners' Consolidated Wages

The following chart shows the relationship between the Petitioners' Consolidated Wages to the imports relative to production.

Chart G-9: Trend of Import Volume Relative to Production vs Wages

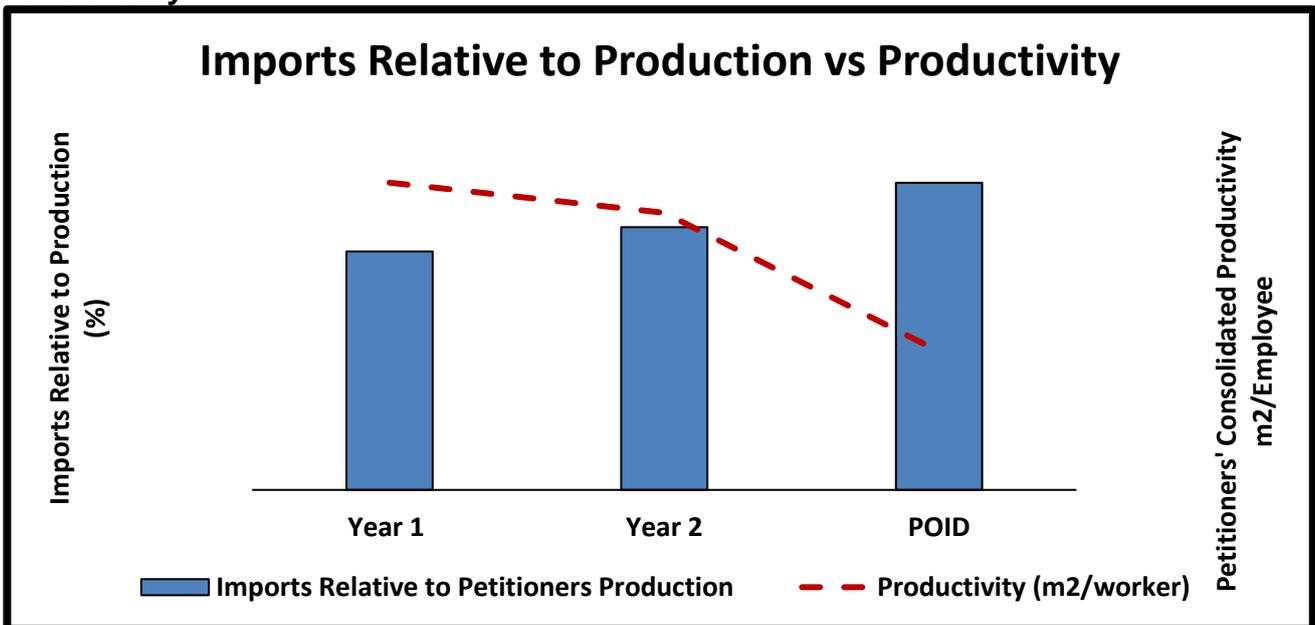


(Source: Department of Statistics, Malaysia & Petitioners' Data)

The chart clearly shows how the consolidated wages of the Petitioners decreased with the increase of the imports relative to production, creating the causal link between the reduced wages to the increase in imports relative to production.

Increased Imports Relative to Production and the Petitioners' Consolidated Productivity

Chart G-10: Increasing Trend of Import Volume Relative to Petitioners' Consolidated Productivity



(Source: Department of Statistics, Malaysia & Petitioners' Data)

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The Petitioner's productivity in terms of output per employee dropped every year with the increase in import volume relative to consolidated productivity of the Petitioners during POI. The decreasing productivity follows closely with the relative increase in imports relative to production, establishing the causal link between increase in imports relative to production decreased productivity.

NON-ATTRIBUTION FACTORS (OTHER FACTORS THAT COULD BE A CAUSE TO THE SERIOUS INJURY SUFFERED BY THE PETITIONERS)

In this part we examine whether other factors could have contributed to the cause of the serious Injury suffered by the Petitioners as provided in Section E to this Petition. For this purpose, we examine the followings factors.

- **Volume and price of imports from other countries and Exemption to Developing Countries**

The safeguard measure is applied globally on all imports with the exception to developing countries. Based on Article 9.1 of the WTO, Special and Differential treatment has to be given to Developing Countries whose individual volume is less than 3% of total volume of imports and those less than 3% cumulatively account for 9% based on imports during POID. Since this is a provision that needs to adhered to, these volumes are considered as very small and could not contribute to the serious injury suffered by the Petitioners.

- **Seasonal fluctuations**

There are hardly any seasonal fluctuations to have an effect to contribute to the serious injury suffered by the Domestic Industry.

- **General economic conditions including changes in customer preference, plant shutdowns, industrial disputes**

Generally is a commodity product, which has no significant product differentiation except preferences of customers to the designs on the tiles. The prime criteria is price as the residential/commercial developers would want to keep costs low to improve on their returns. However, the immediate availability of stock appears to have influence on sales. Thus the presence of high imported volumes kept in large stocks – especially in our case where the imports were maintained at high volumes where these imports that came in large volumes acted as ready stocks in addition to much lower pricing policy of the importers to woo long term customers of local producers and project based requirements. However as elaborated under unforeseen developments that had actually contributed to the increased presence of high volumes of imports in the Malaysian market.

As for the Malaysian labour situation for the ceramic tile sector, there were no reported industrial disputes even as there were retrenchment as the production dropped due to the presence of the increased imports.

Based on the above, the serious injury suffered by the Petitioners cannot be attributed to the general economic condition in Malaysia, customer preferences, plant shut downs (other than due to surge in imports relative to production) or industrial disputes.

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- **Developments in technology**

Petitioners are not aware of any new technology developments in this industry that is significantly different from the technology of the Petitioners; the description of the technology used by the imports and local producers is provided in Section C of the Petition.

- **Quality differences between the locally made and the imported products**

As mentioned, both imports and locally made ceramic tiles will need to meet the Malaysian Standard *MS ISO 13006* based on quality and safety and the issue of quality does not arise. Further, the locally made ceramic tiles are alike in all aspects and are directly in competition with the imported products covered in the scope of this petition submission. It is also to be highlighted that the locally produced ceramic tiles are also exported to other countries and are accepted there without any problem.

Based on the above, quality is not an issue and could not be a factor that could have contributed to the serious injury suffered by the Petitioners.

- **Competition between foreign and Malaysian producers**

The competition is between the imports and the locally produced products. However as informed earlier it is the already increased high import volumes maintained throughout POI that poses an issue which also leads to situation where the Petitioners are usually faced with the request to match the price of the imported goods. This has been demonstrated earlier under price effects of the imports on the Petitioners.

- **Any other factors which are important in Petitioner's view**

There are no other factors the Petitioners are aware of that could have contributed to the serious injury suffered by the Petitioners representing the Domestic Industry.

From the above, we can safely conclude that the serious injury faced by the Petitioners, cannot be attributed other factors.

Based on the foregoing, it has been clearly demonstrated and established that the serious injury factors examined under Section E and found to cause serious injury to the Petitioners, is due to the presence of high import volume in the Malaysian market - especially increased imports relative to production. It has also been further demonstrated that the serious injury faced by the Petitioners cannot be attributed to other factors. The Petitioners are also are claiming that the same situation applies to the rest of the Domestic Industry as a whole, which is further supported by support letters from these other main domestic producers in submitting this petition seeking safeguard measure.

Finally, such high increased imports that is easily finding its way into the Malaysian market and as has also been demonstrated that the threat of increased imports in future due to excess capacity,

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makes it beyond the Petitioners' ability to compete. The Petitioners are also not in a position to prevent such excess capacity to be brought into the Malaysia market. This excess capacity, is now coming into the market at low prices where significant price undercutting during the most recent POID has been proven to exist, which was not present in Year 1 and Year 2. Hence, the only remedy left for the Domestic Industry to meet competition due to the surge in imports (relative to production) that has been the cause of the serious injury faced by the Domestic Industry and to negate this impact, is through the imposition of a safeguard measure.

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Table G-1: Enumeration/Summary of Injury Factors

Injury Factor	Year 1	POID	Comments
Increase in imports on PUI (imports) m ²	27,943,592	29,247,915	<u>Serious Injury</u> The imports peaked in Year 2. High import volume present throughout POI. The import volume during POID was slightly lower than Year 2 as the apparent consumption contracted during POID. However, it is demonstrated that during the most recent period during POID that the imports surge was significant, sudden and substantial by the examination of quarterly import data during POID.
Increase in imports relative to Petitioners Production (% imports to Production)	100	142	<u>Serious Injury</u> The total imports relative to Petitioners' production surged sharper from Year 2 to POID compared to Year 1 to Year 2. The imports increased by 16.31 percentage points from Year 1 to Year 2, increased by a higher percentage points by 19.92% and overall, during POI, the imports relative to the Petitioners' production increased by a hefty 36.23%
Petitioners' Production (m ²)	100	74	<u>Serious Injury</u> Production reduced throughout POI and sharp decrease during POID by XXX% compared to Year 1.
Petitioners' Domestic Sales (m ²)	100	80	<u>Serious Injury</u> Domestic sales saw sharp decrease during POID
Petitioners' Domestic Market Share (%)	100	95	<u>Serious Injury</u> Against a decrease in apparent consumption from XXXm ² to XXXm ² ; sharper decrease by the Petitioners consolidated value
Petitioners' Profitability (RM)	-100	-431	<u>Serious Injury</u> The Petitioners' profitability already negative in Year 1 deteriorated to five (5) times of that value during POID.

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Petitioners' Productivity (m²/worker)	100	92	<u>Serious Injury</u> The productivity in terms of output per worker deteriorated by XXXm ² per worker from Year 1 to POID due to lower production volume.
Petitioners' Capacity Utilisation (%)	100	74	<u>Serious Injury</u> The capacity utilization of the Petitioners decreased throughout POI. It reduced from XXX% in Year 1 to XXX% in Year 2 and further decreased sharply to unhealthy level at XXX% during POID.
Total Employment	100	84	<u>Serious Injury</u> Retrenchment already in progress with sharp reduction in employment by XXX% from Year 1 to POID.
Total Wages (RM)	100	92	<u>Serious Injury</u> Sharp reduction during POID compared to Year 1 in terms of total wages due to sharp decrease in production.
CTMS	100	116	<u>Serious Injury</u> Increased with reduction in production
ROI	100	-1100	<u>Serious Injury</u> Recorded greater negative returns on investment
Inventory (m²)	100	76	Inventories kept reducing throughout POI and did not have an effect on the Petitioners
Cash Flow (RM)	100	197	Cash flow remained positive throughout POI
Ability to Raise Capital	-	-	If no relief is obtained through the SG imposition to curb imports, the Petitioners envision difficulty in raising capital

UNFORESEEN DEVELOPMENT

UNFORESEEN DEVELOPMENT

The World Trade Organisation (WTO), acclaimed as a rules based organisation, came into force on 1 January 1995 that assured among others:

- professing and advocating multilateralism to unilateralism;
- promising conduct of global international trade by setting and enforcing rules for international trade that would bring about predictability and certainty to the businesses;
- resolve trade disputes where the weak economies are treated on par with developed economies in bringing dispute cases;
- monitor and supervise liberalisation of world trade through trade policy review of WTO Member states;
- bring about discipline on many areas of trade through various agreements including government support to businesses through subsidies; all trade in goods, trade in services, and intellectual property as well as investment policies.

Further, the rules of the WTO served to:

- protect interests of small and weak economies against discriminatory practices of large and more powerful countries economically; and
- grant equal market access to all WTO members (Most Favoured Nation Treatment) and provide same treatment to both domestic and foreign goods/service provider, once the foreign goods/service provider has entered the country (National Treatment);

Most importantly, the WTO ensures that if any unilateral protectionist actions by individual countries or regional/customs body are not taken, inconsistent with the WTO rules, these protectionist actions by the countries or bodies can be brought to the WTO Dispute Settlement Body for the withdrawal of such unilateral protectionist actions. This is one of the main selling point of the WTO to the members of the WTO.

After 25 years of existence, the WTO has made achievements, among others (WTO website: https://www.wto.org/english/news_e/news20_e/dgra_01jan20_e.htm):

- Since 1995, the dollar value of world trade has nearly quadrupled, while the real volume of world trade has expanded by 2.7 times. This far outstrips the two-fold increase in world GDP over that period;
- Average tariffs have almost halved, from 10.5% to 6.4%.
- For the dozens of economies that joined the WTO after its creation (including PRC in November 2001), accession involved far-reaching reforms and market-opening commitments that research suggests have been associated with a lasting boost to national income;
- The predictable market conditions fostered by the WTO have combined with improved communications to enable the rise of global value chains (GVC);
- The rise of GVCs has been a key factor in enabling rapid catch-up growth in developing economies, while facilitating increased purchasing power and consumer choice in all countries;
- Streamlined border procedures through a landmark agreement on trade facilitation projected to lift trade by over \$1 trillion per year; and

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- Liberalised trade in information technology products and abolished harmful farm export subsidies.

However the WTO also admits having to face unmatched challenges especially over the last two years:

- governments have introduced trade restrictions covering a substantial amount of international trade — affecting \$747 billion in global imports in the past year alone; and
- The rising uncertainty about market conditions is causing businesses to postpone investment, weighing on growth and the future potential of our economies.

When the WTO was formed with the promise of all of its attractive objectives is currently unable to fulfil:

- Unable to act against/prevent unilateral actions contrary to multilateral rules; and
- the trump card that attracted smaller/weaker nations to join WTO was the platform to resolving issues through dispute settlement body which is now rendered defunct - making the WTO a toothless body to resolve disputes.

Such developments were unforeseen at the time the WTO came into force and has affected and brought about turmoil in the normal operations of international trade – including exports of ceramic tiles of PRC.

It started with President Trump of the US taking unilateral actions through:

- The global imposition of tariffs of 25% on steel and 10% on aluminium by the US under Section 232 and subsequent retaliatory action by other countries including taking additional measures *ex officio* to prevent trade diversion into their countries;
- The imposition of Section 301 specifically on PRC and retaliation by PRC imposing tariff measures in response;
- The above two actions alluding to the “US-China Trade War” – the clash of the two largest economies – the biggest economy of the West (US) against the biggest economy in the East (PRC) – which indirectly affected the globally connected Global Value Chains the rest of the world; and
- The final touch, by the refusal of the US to support appointment of new judges to the Appellate Body has effectively rendered the WTO Appellate system inoperable through the WTO Dispute Settlement Mechanism. (The US has crippled the WTO’s Appeal Court. What does it mean for Asia? (<https://www.scmp.com/week-asia/explained/article/3042511/us-has-crippled-wtos-appeal-court-what-does-mean-asia>)).

These unilateral large tariff actions by the US on PRC and the equally large retaliatory tariff actions by PRC on the US was unforeseen at the time Malaysia became a member of the WTO in 1995 where tariff concessions were made on ceramic tiles at the WTO. In fact the US was one of the main countries advocating multilateralism, against any unilateral protectionist actions and promoting countries to join the WTO to enjoy predictable and certainty in cross-border trade under the rules based WTO, has now reversed from its multilateral approach to unilateralism – these developments were indeed unforeseen.

One may question on the relevance of these arguments and its relation to ceramic tiles. To get to that point let us first look at another unforeseen development when PRC accessed to the WTO in November 2001.

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The meteoric rise of PRC was also unforeseen whereby PRC was able to take advantage of the WTO platform to be labelled as the “world’s factory”. Many countries rushed to invest in PRC when PRC joined the WTO to set up their manufacturing in various sectors with high capacities – bringing in large investments into PRC. The reasons to go PRC were based on the premises that PRC will be bound and need to abide by the rules of the WTO thus doing business will be rules based, provide advantage in terms of low labour costs and can take advantage of the of PRC’s own large market size and achieve economies of scale. With large FDIs coming in PRC gained and together with PRC government’s policies, within a short period, PRC became the second largest economy in the world and predicted to push the US to second largest and take over as the largest economy. These also helped to develop large government/state level supported enterprises to set up large capacities beyond just the domestic demand but also global market for their exports – to gain even larger economies of scale.

Such developments of capacity build up by PRC and manufacturing of ceramic tile sector is no exception. We have already seen how currently PRC accounts for 43.4% of the global production in 2018 as provided in the table below.

Table H-1: Top Global Manufacturing Countries

TOP MANUFACTURING COUNTRIES							
COUNTRY	2014 (Sq.m Mill.)	2015 (Sq.m Mill.)	2016 (Sq.m Mill.)	2017 (Sq.m Mill.)	2018 (Sq.m Mill.)	% on 2018 world production	% var. 18/17
1. CHINA	6,000	5,970	6,495	6,400	5,683	43.4%	-11.2%
2. INDIA	825	850	955	1,080	1,145	8.7%	6.0%
3. BRAZIL	903	899	792	790	793	6.1%	0.4%
4. VIETNAM	360	440	485	560	602	4.6%	7.5%
5. SPAIN	425	440	492	530	530	4.0%	0.0%
6. ITALY	382	395	416	422	416	3.2%	-1.7%
7. INDONESIA	420	370	360	307	383	2.9%	24.8%
8. IRAN	410	300	340	373	383	2.9%	2.7%
9. TURKEY	315	320	330	355	335	2.6%	-5.6%
10. EGYPT	220	230	250	300	300	2.3%	0.0%
TOTAL	10,260	10,214	10,915	11,117	10,570	80.7%	-4.9%
TOTAL WORLD	12,428	12,475	13,280	13,587	13,099	100.0%	-3.6%

Source / Fonte: Acimac Research dept. “World production and consumption of ceramic tiles”, 7th edition 2019

What was also further unforeseen was the retaliatory action by the US on Chinese imports of ceramic tiles and the anti-Chinese sentiments that saw a whopping drop in ceramic imports into the US market.

As reported in the CWR 136/2019 magazine, the figures for ceramic tile imports into the United States in the first quarter of this year (2020) confirmed PRC’s comprehensive exit from the market (-98% in both volume and value compared to the first quarter of 2019) following the introduction of countervailing and anti-dumping duties.

Overall, tile imports into the USA in the first quarter of 2020 fell sharply to 39 million m², about 7 million m² less than the 46 million m² of the first quarter of 2019 (-14.9%). These shutting of

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imports will have implications on where the excess Chinese exports will end up in adding to the unforeseen developments in the ceramic tile sector.

Additionally, due to the unforeseen trade war between US and China, companies in China were ready to shift their plant to lower-wage countries such as Vietnam, Thailand, Cambodia, Myanmar and Indonesia. Vietnam, especially, has been one of the biggest beneficiaries of companies leaving China, as they offer manufacturers access to the ASEAN free trade area and preferential trade pacts with countries throughout Asia and the EU, as well as the USA. Vietnam would be an ideal access to penetrate Malaysia market. [\[https://www.forbes.com/sites/wadeshepard/2020/03/26/covid-19-undermines-chinas-run-as-the-worlds-factory-but-beijing-has-a-plan/#69014dac459a\]](https://www.forbes.com/sites/wadeshepard/2020/03/26/covid-19-undermines-chinas-run-as-the-worlds-factory-but-beijing-has-a-plan/#69014dac459a)

Based on the foregoing where a combination of all these events and developments that have taken place were unforeseen and has contributed to the increased imports being maintained at high volumes in the Malaysian market, which again was unexpected and has caused serious injury to the ceramic tile domestic industry in Malaysia.

SECTION I: ADJUSTMENT PLAN

ADJUSTMENT PLAN

In seeking for the safeguard measure, the Petitioners are submitting their adjustment plans for the duration of proposed imposition. Individual adjustment plans are as follows:

WHITE HORSE CERAMIC INDUSTRIES SDN. BHD.

If the safeguard measure is granted as per our SG duty rate request, White Horse will adopt the following measures to improve our competitiveness:

Year 1

- We will upgrade xxx. This will have minimum XXX% energy saving on consumption of natural gas. The natural gas usage in 2019 is RMXXX million, if we upgrade XXX, will have a saving of RMXXXmillion per year.
The expected investment is in the region of RMXXX million.
- Our Research and Development Department will innovate with a target XXX.
- Our technicians and designers are to undergo training to enhance XXX in order to be able to create new designs.
- We will take steps to further penetrate the XXX markets in the XXX.
- Expand our penetration locally XXX by targeting to achieve XXX for the 3-year duration of the SG measures in place.

Year 2

- We will upgrade XXX that will allow XXX will enhance the process in order to achieve better XXX. Example XXX save electricity energy and XXX processing time. Expected to invest RMXXX into this facility and we can have saving of electricity of XXX% yearly. This will increase our competitiveness in terms of costs.
- Continue our Research and Development Department XXX every month.
- Continue our XXX undergo training to enhance their XXX in order to be able to create XXX.
- Continue to take steps to further penetrate the existing markets in the XXX and XXX.
- Continue to expand our penetration XXX per year for the 3-year duration of the SG measures in place.

Year 3

- We will upgrade one XXX enhance our productivity. This new machine will increase the production from XXX m² to XXX m² per day,
We will also XXX increase productivity. The expected cost for both XXX and XXX will be about RMXXX.
- Continue our Research and Development Department will XXX every month.
- Continue our XXX to undergo training to enhance their XXX in order to be able to create new designs.

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- Continue to take steps to XXX in the XXX and XXX.
- Continue to expand our penetration XXX to achieve at least XXX per year for the 3-year duration of the SG measures in place.

KIM HIN INDUSTRIES SDN. BHD.

The following are the priority measures Kim Hin will adopt to facilitate positive adjustment to import competition:

Year 1

We are embarking on the project to XXX Seremban plant by XXX. The project will take XXX months to completion. We have already acquired XXX and will work on the installation and commissioning of the XXX and also looking into XXX to complete the project. The project is expected to cost RMXXX.

The company will increase trainings for its staff in R&D by XXX with the view to strengthen our R&D team.

The Company will set KPI of coming out with minimum XXX the first year.

Year 2

Continue the expansion project until its commissioning. The expected increase in XXX m² per annum.

The Company will continue the trainings and will target a KPI XXX per year. Also to attend XXX and explore new XXX.

Year 3

To look into Industry 4.0 and for automating production processes after the expansion project has been completed. To collaborate with suppliers/vendors to gain updated knowledge on new technology which the Company can leverage on to improve the production process, increasing productivity.

The above is only possible if an effective SG quantum and effective enforcement is in place.

SECTION J: PUBLIC INTEREST

J-1 Malaysian Market

The ceramic tiles industry is an important part of the property development sector for both commercial and residential buildings. The demand for ceramic tiles will depend on the construction of new as well renovation of the existing buildings, the latter actually comprising a major proportion of ceramic tile demand. The ceramic tile industry also plays a supporting role in the country's economic growth. Ceramic tiles are the key materials in providing the final-touch when completing these buildings. Presence of a viable domestic ceramic tiles industry is important to ensure smooth implementation of property development projects.

The increasing population, will see greater demand for residential houses/apartments. Further, as Malaysia moves towards becoming a high-income economy, one can expect rising standard of living, increasing renovation activities in residential as well as the commercial sectors. Additionally the development of sub-urban areas in tandem with growing urbanization, one would expect the demand for ceramic tiles in the short to mid-term to be strong.

The significant increase and the maintenance of high import volumes of the ceramic tiles in the Malaysian market has undermined the profitability of the Petitioners especially in Year 2 and POID. The Petitioners are just unable to cope with the presence of large volume of the imports. Especially as it was demonstrated that examination of the import data on a quarterly basis during the most recent period of POID (2019) shows that the imports can increase in sharp and significant manner, in the most recent part of the POID i.e. Q4 POID. The serious injury effects of the imports in relative terms to DI production becomes very evident, which again has been demonstrated earlier. The Petitioners are therefore seeking temporary relief to build up their competitiveness by seeking a safeguard measure through this petition submission.

In line with the WTO SGA, the Malaysian Government enacted the Safeguards Act and its Regulations in 2006 and 2007 respectively. Malaysia only uses this Safeguards Act prudently and currently there is no safeguard measure in place. However if the case merits, the Malaysian Safeguard provisions have to be activated in order to safeguard the presence of the industry seeking relief through the Safeguard Act. In this Petition submission on behalf of the ceramic industry, the DI is of the view the request merits the initiation and imposition of a safeguard measure.

What is clear is that the Domestic Industry will be forced to cease business operations, as currently the Domestic Industry is already impaired. It has also been demonstrated that in future one can expect higher import volumes into Malaysia and the threat of increased imports is imminent and real basing on the global developments in international trade unless the safeguard measure is put in place to curb imports to ensure the viability and the presence of the ceramic tile industry.

In the absence of a viable domestic industry will result in the local demand of ceramic being totally dependent on imported goods. However, such a situation can create volatility and

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turmoil in terms of supply-demand, price fluctuations and local users may not even get their demand satisfied. Especially so when there is a global short supply or increased demand domestically in the foreign countries, or even if the second and third wave of COVID-19 pandemic strikes again as seen in Beijing, PRC currently (June 2020) – disrupting trade (supply-demand) again.

The latest trade data released by MATRADE shows that for the first time in the last twenty-two years, Malaysia has recorded a high negative balance of trade of RM3.5 billion end of April 2020 compared with RM10. Billion surplus recorded for the same month in 2019.

Table J-I.1: Summary of Malaysia's Monthly Trade 2020

Month	Total Exports (RM Billion)	Total Imports (RM Billion)	Total Trade (RM Billion)	Balance of Trade (RM Billion)
January	84.11	72.08	156.20	12.03
February	74.45	61.83	136.28	12.62
March	80.12	67.80	147.92	12.31
April	64.92	68.42	133.34	-3.50

Source: <http://www.matrade.gov.my/en/for-foreign-buyers/industry-capabilities/trade-statistics/28-malaysian-exporters/trade-statistics/5084-summary-of-malaysias-monthly-trade-2020>

Currently even when faced with serious injury, the DI is able to contribute to exports, though overall for ceramic tiles it is recorded with trade deficit during POI:

Table J-1.2: Value Ceramic Import-Export - Trade deficit

	2017	2018	2019
Ceramic Tiles Exports (RM)	376,278,682	367,091,414	325,350,374
Ceramic Tiles Imports (RM)	531,578,897	596,664,801	547,775,447
Trade Deficit (RM)	-155,300,215	- 229,573,387	- 222,425,073

In the event the DI has to shut down, as the case will be if no relief is provided through a safeguard measure, the trade deficit will worsen leading to also loss of foreign exchange.

For these reasons it would be of public interest to impose the SG measure. .

J-2 Effect of Continued Imports

Malaysian market relatively being small is vulnerable to shifts in imports especially if import volumes are maintained at high levels. The import volumes have remained high peaking in Year 2 and still remaining high during POID – that would be a very difficult situation to deal with by the DI. The DI as a whole is already facing serious injury. This presence of high import volumes it would render it impossible for the Malaysian Ceramic Industry to recover to be profitable and stay in business. Noting the importance of ceramic tiles for the

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residential and commercial building sectors, it would be of public interest to ensure the viable DI remains. Absence of a DI will affect:

- the property development project costing and logistics;
- negative spill over effects on other economic sub-sectors (energy and other utilities) and other activities that are dependent and supporting the production and sales of the ceramic tiles in Malaysia;
- during POID, based on five (5) domestic industry producers inputs, in Year 1 75.29% of total employment comprised of local workers, in Year 2, 74.87% and during POID 83.96%. During the 3-year period, POI, a total of 1,189 local workers lost their jobs and 886 foreign workers lost their job – totalling 2,075 workers. Greater loss of jobs can be expected, which will further aggravate the already bad unemployment situation due to the effects of the COVID-19 pandemic. Further loss of jobs will add on to the negative socio-economic impact;
- In the absence of this industry in Malaysia, prices of ceramics would become vulnerable to changes and subject to terms dictated by foreign producers, including any other external shocks. This is especially so during boom time where supply falls short of demand; or due to second/third wave of COVID-19 resurgence, where we can expect export embargo if the local demand is not met;
- The presence of a domestic industry will assist in moderating the prices of ceramic tiles in the Malaysian market; and
- Economic benefits due to the domestic industry should not be denied due to the presence of large import volume presence in the Malaysian market.

What is clear is that the ceramic industry in Malaysia badly needs the temporary safeguard measure to get relief from the increased imports in the Malaysian market, to ensure the viability and presence of the domestic industry.

For these reasons, imposing the safeguard measure would be in public interest.

J-3 Proposed Safeguard Duty

It is proposed that the Safeguard Duty for a period of 3 years be imposed and this rate gradually be reduced over the period of 3 years as follows:

Year 1:	29%
Year 2:	27%
Year 3:	25%

The above safeguard duty is computed based on the comparison of the consolidated Cost To Make & Sell + XXX% Profit Margin against the Import Prices of ceramic tiles declared under HS Code 3907 during POID:

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The Safeguard Duty Computation based on Consolidated Cost to Make & Sell

Determination of SG Duty Rate	POID (RM/m²)
Cost to make and sell (use average if 3 years combined KH and W during POI)	XXX
*Add: XXX% profit margin (normal profit margin in ceramic sector + additional % margin to allow for adjustment plan to be implemented)	XXX%
Required selling price	XXX
Import price (PRC POID price)	XXX
Proposed Safeguard Duty in Year 1 (%)	29
Proposed Safeguard Duty in Year 2 (%)	27
Proposed Safeguard Duty in Year 3 (%)	25

*Note:

XXX% is arrived based on industry net profit margin at XXX%;
Industry is taking conservative XXX% net profit margin;
Additional margin for execution of adjustment plan: XXX%;
Overall the profit margin arrived = XXX% + XXX% = XXX%

FINAL PRAYER TO THE INVESTIGATING AUTHORITY

The Petitioners pray:

- Appropriate safeguard duty rates be imposed for an appropriate period in order for the Safeguard measure to be effective and the duty rate finalise take into consideration of not just basing safeguard duty rate at non-injurious levels but also include consideration for the development (earn reasonable profits to allow for investment);
- The Petitioners are of the view that Petitioners have full complied and all the information as required in Petitioner's Questionnaire have been submitted in this Petition. However, in the event the IA requires additional information the opportunity for the Petitioners be provided under Sub regulations 3(6) of the Safeguards Regulations 2007, for the Petitioners, within thirty days of the initiation of the investigation, to make amendments to the petition as deemed appropriate. The Petitioners hereby submit to fully cooperate with the IA in providing the information in a timely manner without impeding the investigation. Finally, the Petitioners humbly request for the Petitioners to be given the opportunity to submit any information that the IA requires and not reject the Petition outright without giving the Petitioners the opportunity to provide the required information; and
- The Petitioners would like to bring to the attention of the Investigation Authority (IA) certain provisions of the Malaysian Safeguards Act 2006 (Act 657) in the process of evaluating this Petition request and in making the Preliminary, Final Determinations and in the determination of definitive safeguard measure.

In relations to the above, the Petitioners would like to refer Subsection 20 (1), Subsection 23 (1) and Section 25 of the ACT, which are consistent with Article 2 of the WTO Safeguards Agreement to consider above stated provisions where it is clearly provided that the evolution of imports be based on absolute **OR** relative to domestic production when looking at causal link. In other words a request for a safeguard measure can be based on either one of these two conditions and not just be based on increase in imports in absolute quantities or just relative to production. Anyone of these two will suffice and not necessarily just on increase in import volume in absolute terms. The provision gives no priority to one over the other – increase in absolute terms or relative to domestic production. Further, it is also NOT mandatory that both the conditions must be met.