

Report No. 139

Investigation into the alleged dumping of drawn and float glass, originating in or imported from Indonesia: Preliminary determination

The International Trade Administration Commission of South Africa herewith presents its
**Report No. 139 INVESTIGATION INTO THE ALLEGED DUMPING OF DRAWN AND
FLOAT GLASS, ORIGINATING IN OR IMPORTED FROM INDONESIA:
PRELIMINARY DETERMINATION**



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INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF SOUTH AFRICA

INVESTIGATION INTO THE ALLEGED DUMPING OF DRAWN AND FLOAT GLASS, ORIGINATING IN OR IMPORTED FROM INDONESIA: PRELIMINARY DETERMINATION

SYNOPSIS

On 04 March 2005, the Commission formally initiated an investigation into the alleged dumping of drawn and float glass originating in or imported from Indonesia.

The application was lodged on behalf of the South African Customs Union (SACU) industry by PFG Building Glass (Pty) Ltd, claiming that the dumped imports from the Indonesia were causing it material injury. PFG Building Glass (Pty) Ltd is the sole manufacturer of the subject product in the SACU.

The government representative of Indonesia was advised accordingly as required by Article 5.5 of the Anti-Dumping Agreement.

The investigation was initiated through Notice No.344 in *Government Gazette* No. 27324 on 04 March 2005 after the Commission considered that there was *prima facie* proof of dumping, material injury and causal link between the dumping and the material injury suffered by the SACU industry.

Exporters and importers questionnaires were sent to various known interested parties, including the government representative of Indonesia. The deadline for comments was 15 April 2005.

Two producers in Indonesia, PT Tensindo in Semarang through their representatives in South Africa, ITS, and PT Muliaglass in Jakarta responded to the Commission's exporter questionnaire and information submitted by them was subsequently verified. A third producer in Indonesia, PT Abdi Rakyat Bakti (ARB) in Medan, did not submit a

complete response to the Commission's exporters questionnaire. The exporter subsequently responded fully to the Commission's exporter questionnaire. However, in conformity with the requirements ADR 32.4 this information was not taken into consideration for purposes of the Commission's preliminary determination.

On 24 August 2005, the Commission considered the information submitted and made a preliminary determination that:

- the subject products originating in or imported from Indonesia are being dumped on the SACU market; and that
- the SACU industry is suffering material injury .

The Commission, however, made a preliminary determination that factors, other than dumping, including the fact that output and profits increased over the years, production utilization remained at high volumes throughout the investigation period, the market share increased and the effect of other imports' prices sufficiently detracted from the causal link between the dumping and the material injury.

The Commission therefore decided to recommend to the Minister of Trade and Industry that the investigation on drawn and float glass originating in or imported from Indonesia be terminated.

1. APPLICATION AND PROCEDURE

1.1 LEGAL FRAMEWORK

This investigation is conducted in accordance with the International Trade Administration Act, 2002, (Act 71 of 2001) (the "ITA Act") and the World Trade Organisation Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade, 1994 (the Anti-Dumping Agreement) and the International Trade Administration Commission Anti-Dumping Regulations (ADR).

1.2 APPLICANT

The SACU application was lodged by PFG Building Glass (Pty) Ltd (Applicant), a manufacturer of drawn and float glass in the SACU.

1.3 DATE OF ACCEPTANCE OF APPLICATION

The application was accepted by the Commission as being properly documented in accordance with Article 5.2 of the Anti-Dumping agreement on 23 February 2005. The trade representative of the country concerned was advised accordingly.

1.4 ALLEGATIONS BY THE APPLICANT

The Applicant alleged that imports of the subject product, originating in or imported from Indonesia were being dumped on the SACU market, thereby causing material injury to the SACU industry. The basis of the alleged dumping was that the goods were being exported to the SACU at prices less than the normal value in the countries of origin.

The Applicant further alleged that as a result of the dumping of the subject products from Indonesia, the SACU industry was suffering material injury in the form of:

- price undercutting
- price depression
- price suppression
- decline in output
- decline in sales
- decline in market share
- decline in productivity
- decrease in profits
- decline in utilisation of production capacity
- decline in return on investments
- negative effect on cash flow
- decline in employment
- decline in wages per employee
- inability to raise capital
- inability to show growth
- increase in inventory levels

1.5 INVESTIGATION PROCESS

The Application was submitted on 05 November 2004 and on 24 January 2005 verification was carried out at the Applicant's premises in Springs.

The investigation was initiated through Notice No.344 in *Government Gazette* No. 27324 on 04 March 2005 after the Commission considered that there was *prima facie* proof of dumping, material injury and causal link between the dumping and the material injury suffered by the SACU industry.

Prior to the initiation of the investigation, the trade representative of the country concerned was notified of the Commission's intention to investigate, in terms of Article 5.5 of the Anti-Dumping Agreement.

All known interested parties were informed and requested to respond to the questionnaires and the non-confidential version of the petition.

A letter, dated 10 February 2005, duly confirming the determination of the non-confidentiality of the information was sent to the Applicant in the matter.

1.6 INVESTIGATION PERIOD

This submission contains information with regard to dumping for the period 01 January 2004 to 31 December 2004, and information with regard to material injury for the period 01 January 2001 to 31 December 2004.

1.7 PARTIES CONCERNED

1.7.1 SACU INDUSTRY

The application was lodged by PFG Building Glass (Pty) Ltd, the only manufacturer of drawn and float glass in the SACU.

1.7.2 Exporters/Foreign Manufacturers

The following exporters/manufacturers were identified as interested parties:

- PT Tensindo, Semarang, Java;
- PT Abdi Rakyat Bakti, Sumatera Utara;
- PT Ashimas Flat Glass TBK, Jakarta;
- PT Mulia Industrindo, Cikarang, Bekotsi;
- CV Karuna Intan Mandiri, Jakarta;
- PT Bali Permai Crafindo, Jakarta.

Two producers in Indonesia, PT Tensindo in Semarang through their representatives in South Africa, ITS, and PT Muliaglass in Jakarta responded fully to the Commission's exporter questionnaire and information submitted by them was subsequently verified.

A third producer in Indonesia, PT Abdi Rakyat Bakti (ARB) in Medan, did not submit a complete response to the Commission's exporters questionnaire. The exporter subsequently responded fully to the Commission's exporter questionnaire. However, in conformity with the requirements ADR 32.4 this information was not taken into consideration for purposes of the Commission's preliminary determination.

Comments by the Applicant on the responses from PT Muliaglass and PT Tensindo to the exporter questionnaire

The Applicant stated that it is of the view that both the responses of PT Muliaglass and PT Tensindo do not comply with the minimum requirements of transparency required in terms of the ITAC Act and the Anti-Dumping Regulations. It indicated that the responses do not allow it to gather a reasonable understanding of the case being made by the respondents, as much critical data that have allowed such an understanding and assessment of the case has been deleted from both the exporters' submissions.

It indicated that given the total deficiency of the responses, it requested that the inputs of the respondents be ignored for purposes of the investigation.

The Commission found that the information provided by the exporters is generally limited to company's name, contact and product details. Information regarding the financials is only provided for the period of investigation (which is only a year). Therefore such information is not susceptible to summarisation.

The Commission was, therefore, satisfied that the non-confidential responses of the exporters, complied with the provisions of section 33 of the ITA Act.

1.6.3 Importers

The following SACU importers were identified as interested parties:

- (a) Alpine Wholesalers, Durban
- (b) Macedonia Investments, Durban
- (c) Ice World Investments, Durban
- (d) Rustica Investments, Durban
- (e) National Glass, Port Elizabeth
- (f) Aldino Trading (Pty) Ltd, Durban
- (g) Guardian Africa, Johannesburg
- (h) Africa Glass Holdings (Pty) Ltd, Johannesburg
- (i) Glasshopper, Cape Town
- (j) PFG Building Glass, Springs
- (k) Certosa Investments, Durban
- (l) McCoys Glass, Germiston

National Glass, Aldino and Certosa responded to the Commission's questionnaire. Aldino's information was considered to be deficient and was therefore rejected and not verified.

Comments by the Applicant on the responses from Certosa Trading and Natglass Distributors to the importer questionnaire

The Applicant stated that it is of the view that both the responses of Certosa Trading and Natglass Distributors do not comply with the minimum requirements of transparency required in terms of the ITA Act and the Anti-Dumping Regulations. It indicated that the responses do not allow it to gather a reasonable understanding of the case being made by the respondents, as much critical data that have allowed such an understanding and assessment of the case has been deleted from both the exporters' submissions.

It indicated that given the total deficiency of the responses, it requested that the inputs of the respondents be ignored for purposes of the investigation.

The Commission found that as with the information required from the exporters, the information provided by the importers is also generally limited to company's name, contact and product details. Information regarding the financials is only provided for the period of investigation (which is only a year).

The Commission was, therefore, satisfied that the non-confidential responses of the two importers, complied with the provisions of section 33 of the ITA Act.

2. PRODUCTS, TARIFF CLASSIFICATION AND DUTIES

2.1 IMPORTED PRODUCTS

2.1.1 Description

The subject products are described as clear drawn and float glass of a thickness exceeding 2,5 mm, up to 6 mm.

2.1.2 Country of origin/export

The subject products are exported from Indonesia.

2.1.3 Application/end use

The imported subject products are used for building, glazing and furniture products.

2.1.4 Tariff classification

The subject products are classifiable as follows:

Table 2.1.4 (a)

Tariff subheading	Description	Rates of duty			
		Unit	General	EU	SADC
70.04	Drawn glass and Blown glass, in sheets, whether or not having an absorbent or reflecting layer, but not otherwise worked:				
7004.90 7004.90.90	-Other glass: =Other	m ²	10%	3.3%	Free

Table 2.1.4 (b)

Tariff subheading	Description	Rate of duty			
		Unit	General	EU	SADC
70.05	Float glass and surface ground or polished glass, in sheets, whether or not having an absorbent, reflecting layer or non-reflecting layer, but otherwise worked				
7005.29	=Other:				
7005.29.17	- Of a thickness exceeding 2,5 mm but not exceeding 3 mm (excluding optical glass)	m ²	10%	3.3%	free
7005.29.23	- Of a thickness exceeding 3 mm but not exceeding 4 mm (excluding optical glass)	m ²	10%	3.3%	free
7005.29.25	- Of a thickness exceeding 4 mm but not exceeding 5 mm (excluding optical glass)	m ²	10%	3.3%	free
7005.29.35	- Of a thickness exceeding 5 mm but not exceeding 6 mm (excluding optical glass)	m ²	10%	3.3%	free

2.1.5 Other applicable duties and rebates

The following anti-dumping duties were imposed on the subject products:

Table 2.1.5 (a)

Tariff subheading	Description (excluding optical glass)	Origin	Unit	Rate of anti-dumping duty
7004.90.90	Drawn glass and blown glass, in sheets, 2,5 to 6 mm manufactured by Gujarat Borosil Ltd	India	m ²	374c/m ²
7004.90.90	Drawn glass and blown glass Excluding that manufactured by Gujarat Borosil Ltd	India	m ²	587c/m ²
7004.90.90	Drawn glass and blown glass, in sheets, 2,5 to 6 mm	China	m ²	562c/m ²

Table 2.1.5 (b)

Tariff subheading	Description (excluding optical glass)	Origin		Rate of anti-dumping duty
7005.29.17	Float Glass and surface ground or polished glass, in sheets – 2,5 mm but not exceeding 3 mm.	India	m ²	720c/m ²
7005.29.17	Manufactured by Dalian Float Glass Co, 2,5 mm - 3 mm	China	m ²	359c/m ²
7005.29.17	Excluding that manufactured by Dalian Float Glass Co. 2,5 – 3 mm	China	m ²	802c/m ²
7005.29.23	3 mm - 4 mm	India	m ²	886c/m ²
7005.29.23	3 mm - 4 mm – Dalian Float Glass	China	m ²	401c/m ²
7005.29.23	3 mm – 4 mm Other than Dalian Float Glass Co.	China	m ²	802c/m ²
7005.29.28	4 mm - 5 mm Manufactured by Dalian Float Glass Co.	China	m ²	728c/m ²
7005.29.28	4 mm – 5 mm Other than Dalian Float Glass Co.	China	m ²	802c/m ²
7005.29.28	4 mm – 5 mm	India	m ²	No duty
7005.29.35	5 mm - 6 mm	India	m ²	1387c/m ²
7005.29.35	5 mm - 6 mm Manufactured by Dalian Float Glass Co.	China	m ²	668c/m ²
7005.29.35	5 mm – 6 mm Other than Dalian Float Glass Co.	China	m ²	802c/m ²

2.1.6 Production process

The raw materials are weighted and mixed and delivered to the melting furnace where it is melted. The molten mass fills the furnace at a constant level. The molten glass then moves out of a melting furnace like a continuous ribbon of molten glass and floats along the surface of a bath of molten tin. The ribbon is held in a chemically controlled atmosphere at a sufficiently high temperature for a period of time, which allows the irregularities to melt out and the surface to become flat and parallel. Because the surface of molten tin is flat, the glass also becomes flat. The thickness is controlled at this stage. The ribbon is then cooled down while still advancing across the molten tin until the surface is hard enough for it to progress through the annealing process without the rollers marking its bottom surface.

The glass produced in this manner is of uniform thickness and has a bright, fire-polished surface without the need for grinding and mechanical polishing.

2.2 SACU PRODUCT

2.2.1 Description

The subject product is described as clear drawn and float glass of a thickness of 2,5 mm to 6 mm, excluding optical glass.

2.2.2 Application/end use

The SACU product is sold in its existing form to glass merchants for general end use applications such as residential glazing, architectural glazing (industrial and commercial), picture framing and furniture manufacture.

The subject product is also used as a basic input for further processing to enhance the basic product into toughened, laminated and mirror products for use in the automotive, building, industrial and furniture markets.

2.2.3 Tariff classification

The SACU product is currently classifiable under tariff subheading 7005.29 and 7004.90. See paragraph 2.1.4 above.

2.2.4 Production process

The raw materials are weighted and mixed and delivered to the melting furnace where it is melted. The molten mass fills the furnace at a constant level. The molten glass then moves out of a melting furnace like a continuous ribbon of molten glass and floats along the surface of a bath of molten tin. The ribbon is held in a chemically controlled atmosphere at a sufficiently high temperature for a period of time, which allows the irregularities to melt out and the surface to become flat and parallel. Because the surface of molten tin is flat, the glass

also becomes flat. The thickness is controlled at this stage. The ribbon is then cooled down while still advancing across the molten tin until the surface is hard enough for it to progress through the annealing process without the rollers marking its bottom surface.

The glass produced in this manner is of uniform thickness and has a bright, fire-polished surface without the need for grinding and mechanical polishing.

2.3 LIKE PRODUCTS

2.3.1 General

In order to establish the existence and extent of injury to the SACU industry, it is necessary to determine whether the products produced by the SACU industry are like products to those originating in or imported from Indonesia.

Footnote 9 to Article 3 of the Anti-Dumping Agreement provides as follows:

“Under this Agreement the term “injury” shall, unless otherwise specified, be taken to mean material injury to a domestic industry, threat of material injury to a domestic industry or material retardation of the establishment of such an industry and shall be interpreted in accordance with the provisions of this Article.”

Article 4.1 of the Anti-Dumping Agreement provides as follows:

“For the purposes of this Agreement, the term “domestic industry” shall be interpreted as referring to the domestic producers as a whole of the like products...”

Article 2.6 of the Anti-Dumping Agreement provide as follows:

“Throughout this Agreement the term like product (produit similaire) shall be interpreted to mean a product which is identical, i.e. alike in all respects to the product under consideration, or in the absence of such a product, another product which, although not alike in all respects, has characteristics closely resembling those of the product under consideration.”.

2.3.2 Analysis

In determining the likeness of products, the Commission uses the following criteria:

- (a) raw material used;
- (b) physical appearance and characteristics;
- (c) method of manufacturing;
- (d) customer demand and end use; and
- (e) tariff classification.

(a) Raw material

The raw materials for both the imported and the domestic products are similar.

(b) Physical appearance and characteristics

The imported and the domestic products have similar physical appearance and characteristics.

(c) Method of manufacturing

The imported and the domestic products are manufactured using the same method.

(d) Customer demand and end use

The demand and the end use of the products sold domestically and those imported are the same for purposes of comparison.

(e) Tariff classification

The products sold domestically and those imported are classifiable under the same six-digit tariff subheading.

The Commission found that the SACU product and the imported product were “like products”, for purposes of comparison in terms of Article 2.6 of the Anti-

Dumping Agreement.

3. SACU INDUSTRY

3.1 INDUSTRY STANDING

Article 5.4 of the Anti-Dumping Agreement, further provides as follows:

"An investigation shall not be initiated pursuant to paragraph 1 unless the authorities have determined, on the basis of an examination of the degree of support for, or opposition to the application expressed by domestic producers of the like product, that the application has been made by or on behalf of the domestic industry. The application shall be considered to have been made "by or on behalf of the domestic industry" if it is supported by those domestic producers whose collective output constitutes more than 50 per cent of the total production of the like product produced by that portion of the domestic industry expressing either support for or opposition to the application. However, no investigation shall be initiated when domestic producers expressly supporting the application account for less than 25 per cent of total production of the like product produced by the domestic industry."

The Applicant is the sole manufacturer of the subject products in the SACU.

The Commission made a preliminary determination that the Application can be regarded as being made "by or on behalf of the domestic industry" and, therefore, was eligible for initiation under the above provisions of the Anti-Dumping Agreement.

4. DUMPING

4.1 DUMPING

Section 1(2) of the ITA Act (Act 71 of 2002), provides a definition of the term “dumping”. The Act provides as follows:

“‘dumping’ means the introduction of goods into the commerce of the Republic or the common customs area of the Southern African Customs Union at an export price contemplated in section 3 (2) that is less than the normal value, as defined in section 32(2), of those goods;”

4.2 NORMAL VALUE

4.2.1 Normal values are determined using section 32(2)(b)(i) of the ITA Act (Act 71 of 2002) as a basis. This section provides as follows:

“‘normal value’ in respect of any goods, means -

- (i) the comparable price actually paid or payable in the ordinary course of trade for like goods intended for consumption in the exporting country or country of origin; or
- (ii) in the absence of information on a price contemplated in subparagraph (i), either –
 - (aa) the constructed cost of production of the goods in the country of origin when destined for domestic consumption, plus a reasonable addition for selling, general and administrative costs and for profit; or
 - (bb) the highest comparable price of the like product when exported to an appropriate third or surrogate country, as long as that price is representative;

Section 32(4) of the ITA Act further provides as follows:

“If the Commission, when evaluating an application concerning dumping, concludes that normal value of the goods in question is, as a result of government intervention in the exporting country or country of origin, not determined according to free market principles, the Commission may apply to those goods a normal value of the goods, established in respect of a third or surrogate country.”

4.3 EXPORT PRICE

Export prices are determined in accordance with section 32(2)(a) of the ITA Act (Act 71 of 2002), which provides as follows:

“‘export price’ , subject to subsections (3) and (5), means the price actually paid or payable for goods sold for export, net of all taxes, discounts and rebates actually granted and directly related to that sale ”.

Sections 32(5) and 32(6) of the ITA Act (Act 71 of 2002) further provides as follows:

- 32 (5) The Commission must, despite the definition or “export price” set out in subsection (2), when evaluating an application concerning dumping that meets the criteria set out in subsection (6), determine the export price for the goods in question on the basis of the price at which the imported goods are first resold to an independent buyer, if applicable, or on any reasonable basis.
- 32 (6) Subsections (5) applies to any investigation of dumping if, in respect of the goods concerned-
- (a) there is no export price as contemplated in the definition of dumping;
 - (b) there appears to be an association or compensatory arrangement in respect of the export price between the exporter or foreign manufacturer concerned and the importer or the third party concerned; or
 - (c) the export price actually paid or payable is unreliable for any other reason.

4.4 ADJUSTMENTS

Article 2.4 of the Anti-Dumping Agreement provides as follows:

“A fair comparison shall be made between the export price and the normal value. This comparison shall be made at the same level of trade, normally at the ex-factory level, and in respect of sales made at as nearly as possible the same time. Due allowance shall be made in each case, on its merits, for differences which affect price comparability, including differences in conditions and terms of sale, taxation, levels of trade, quantities, physical characteristics, and any other differences which are also demonstrated to affect price comparability. In the cases referred to in paragraph 3, allowances for costs, including duties and taxes, incurred between importation and resale, and for profits accruing, should also be made. If in these cases price comparability has been affected, the authorities shall establish the normal value at a level of trade equivalent to the level of trade of the constructed export price, or shall make due allowance as warranted under this paragraph. The authorities shall indicate to the parties in question what information is necessary to ensure a fair comparison and shall not impose an unreasonable burden of proof on those parties.”.

Section 11(1) of the ITA Act (Act 71 of 2002), provides as follows:

“Adjustments shall be made in each case, on its merit, for differences which affect price comparability at the time of setting prices, including, but not limited to –

- (a) conditions and terms of trade;
- (b) taxation;
- (c) levels of trade;
- (d) physical characteristics; and
- (e) quantities.”.

Both the Anti-Dumping Agreement and the ITA Act provide that due allowance shall be made in each case for differences in conditions and terms of sale, in taxation and for differences affecting price comparability. The Commission considers that for an adjustment to be allowed, quantifiable and verified evidence has to be submitted, and it must further be demonstrated that these differences actually affected price comparability at the time of setting the prices.

4.5 COMPARISON OF EXPORT PRICE WITH NORMAL VALUE

The margin of dumping is calculated by subtracting the export price from the normal value of the product (after all adjustments have been made). The margin is then expressed as a percentage of the export price. If the margin is less than two percent, it is regarded as *de minimis* in terms of the Anti-Dumping Agreement and no anti-dumping duty will be imposed.

4.6 METHODOLOGY IN THIS INVESTIGATION FOR INDONESIA

Indonesia is considered to be a country with a free market economy and therefore section 32(2)(b)(i) of the ITA Act (Act 71/2002) was used as a basis.

Two producers and/or exporters in Indonesia responded in full before the closing date for responses, and these were:

- PT Mulia Glass (Mulia) in Jakarta, and
- PT Tensindo (Tensindo) in Semarang.

A third producer in Indonesia, PT Abdi Rakyat Bakti (ARB) in Medan, did not respond in time and the Commission's therefore did not consider its information for the purposes of its the preliminary finding.

ARB has, however, provided the required information and the Commission will consider whether ARB's information can be considered for the purpose of its final determination.

4.6.1 PT Muliaglass, Jakarta

4.6.1.1 Normal values

Like products to those exported to the SACU area during the period of investigation were sold in the domestic market in Indonesia and the normal value was therefore determined using section 32(2)(b)(i) of the ITA Act as a basis.

Sales to distributors were used to determine the normal values. The weighted average domestic selling price for each of the various models (thicknesses) was calculated by dividing the total sales values by the total sales volumes for each model.

Weighted average domestic selling prices were calculated for 3mm, 4mm, 5mm and 6mm thicknesses.

Adjustments to the normal values

The following adjustments to the normal value, which were verified, were claimed by the exporter, these adjustments were allowed by the Commission as it was satisfied that there were differences in costs between domestic and export sales, which was demonstrated to have affected price comparability at the time of setting the prices.

Credit adjustment

An adjustment was made for the cost of payment terms. The Commission calculated this adjustment based on the standard payment terms and the interest rate applicable for short-term borrowings.

Delivery expense

An adjustment was made for transport and delivery expenses to sales invoiced on a delivered basis.

Packaging

An adjustment for was made for packing. The domestic packaging costs per square meter were verified and deducted from the invoiced selling price.

Adjustments were also claimed in respect of sales commission to its holding company and year-end commission to domestic buyers but were not allowed by the Commission as it considered that the commission to the holding company could be construed as being a commission paid to the company itself. It further considered that as the quantum of the year-end commission was unknown at the time of the export sale it could not have affected price comparability at the time of setting the price.

Ex-factory Prices

After taking the above adjustments into consideration the ex-factory domestic selling prices were calculated per thickness.

4.6.1.2 Export price

Like products to those sold in the domestic market in Indonesia were exported to the SACU area during the period of investigation. The export price was therefore determined using section 32(2)(a) of the ITA Act (Act 71 of 2002) as a basis.

Sales to distributors in SACU were used to determine the export values. The weighted average f.o.b export sales values for the various thicknesses were calculated by dividing the total sales values by the total sales volumes for each thickness.

Adjustments to the export price

The Commission made the following verified adjustments to the f.o.b export prices for purposes of calculating the ex-factory export prices:

Credit adjustments

An adjustment was made for the cost of payment terms. The Commission calculated this adjustment based on the standard payment terms and the interest rate applicable for short-term borrowings.

Export packaging

The export packaging costs were verified and deducted from the export price.

Clearing charges

An adjustment was made for clearing costs included in the invoiced price.

Ex-factory Prices

After taking the above adjustments into consideration the ex-factory export prices were calculated per thickness.

4.6.1.3 Dumping margin

The margin of dumping was determined by comparing the ex-factory normal value for each thickness with the corresponding ex-factory export prices. The resulting dumping margin was then expressed as a percentage of the export price.

The following table shows the calculated dumping margins for Muliaglass for each thickness:

Table 4.6.1.3

Mulia dumping margins	
Size	%
3 mm	4.35%
4 mm	-6.62%
5 mm	-6.73%
6 mm	7.71%

4.6.2 PT Tensindo, Semarang

4.6.2.1 Normal Value

Like products to those exported to the SACU area during the period of investigation were sold in the domestic market in Indonesia in the ordinary course of trade. The normal value was therefore determined using section 32(2)(b)(i) of the Act (Act 71 of 2002) as a basis.

Only 3mm clear float glass was exported by Tensindo to the SACU for 8 months during the period of investigation.

Sales to dealers were used to determine the normal values being at the same

level of trade as the SACU exports. The weighted average domestic sales values for the subject product was established on the basis of the total sales values divided by the like total sales volumes.

Adjustment to the normal value

The following adjustments to the normal value, which were verified, were claimed by the exporter, these adjustments were allowed by the Commission as it was satisfied that the exporter showed that there was difference in costs, which was demonstrated to have affected price comparability at the time of setting the prices.

Credit Terms

An adjustment was made for the cost of payment terms. The Commission calculated this adjustment based on the standard payment terms and the interest rate applicable for short-term borrowings.

Delivery expenses

An adjustment was made for the transport and delivery expenses to the sales invoiced on a delivered basis.

Ex-factory Prices

After taking the above adjustments into consideration the ex-factory normal value was calculated

4.6.2.2 Export price

Like products to those sold in the domestic market in Indonesia were exported to the SACU area during the period of investigation. The export price was therefore determined in accordance section 32(2)(a) of the ITA Act (Act 71 of 2002).

Sales to dealers in SACU were used to determine the export values.

Tensindo also had export sales of trader boxes, which contained smaller sized glass panes.

Adjustments to the export price

The Commission made the following adjustments to the export prices, as verified by the investigators, for purposes of calculating the ex-factory export prices:

Credit terms adjustments

An adjustment was made for the cost of payment terms. The Commission calculated this adjustment based on the standard payment terms and the interest rate applicable for export finance.

Internal freight

An adjustment was made for the transport charges from Tensindo factory to the port.

Physical characteristics

An adjustment was made for differences in physical characteristics. This related to a portion of exports which were of window-pane size glass referred

to as "Trader Boxes" which is different to the usual large sizes exported.

4.6.2.3 Dumping margin

The margin of dumping was determined by comparing the ex-factory normal value with the ex-factory export prices. The resulting dumping margin was then expressed as a percentage of the export price. The margin of dumping for Tensindo was, therefore, calculated to be 8.28 per cent.

Comments by PT Tensindo

Tensindo commented that the Anti-Dumping Agreement on Implementation of Article VI of GATT, 1994 states that in Article 2.4 " *a fair comparison shall be made between the export price and the normal value. This comparison shall be made at the same level of trade, normally at the ex factory level, and in respect of sales made at as nearly possible the same time*" .

Tensindo argued that the calculation mentioned in the verification letter is based on the above article as the exchange rate of the Indonesian Rupees fluctuates against the US Dollar. It further argued that the effect of the fluctuation is reflected in the difference of the calculation as submitted by Tensindo and the calculation of the Commission.

Tensindo also argued that they wish to point out that the Commission must make the ex-factory comparison between the eight (8) months of which Tensindo exported the subject product to the SACU market and the normal value for the eight (8) months sales in Indonesia. They argue that this is in line with the abovementioned Article 2.4 of the Anti-Dumping Agreement.

Tensindo commented that they wish to point out that the adjustment made for 11 days for the letter of credit must not be made to the export price as the costing is done on the basis of immediate payment.

Tensindo commented that the straight division of normal value and export price in order to determine a dumping margin does not represent a weighted calculation. Tensindo argued that in order to weight the exchange rate fluctuations, at least a monthly calculation needs to be done in each case.

They argued that this would provide the Commission with a weighted average normal value and export price, which will reflect the true position.

Tensindo furthermore argued that it believes the Commission is making an extra adjustment for inland freight on the export price when it adjusts the ex-factory value that already includes a freight adjustment.

Tensindo argued that it reserves the right to comment further on the dumping calculations once the Commission's preliminary determination is made.

The Commission found that the method it applied was consistent with Article 2.4, as the comparison of the domestic sales and export sales was made on sales made at as nearly the same time i.e. export sales for eight months were compared to domestic sales of the same period.

4.7 Residual dumping margin

Since there are other manufacturers of the subject product in Indonesia, the residual dumping margin was calculated. The Commission normally calculates the residual dumping margin by comparing the highest normal value before adjustments of the cooperating exporters to the lowest export price after adjustments of the cooperating exporters. However, in this case as Tensindo only exported the 3mm product, the Commission decided to calculate the residual dumping margin by comparing the weighted average normal value (all thicknesses) of Muliaglass before adjustments to its weighted average export price (all thicknesses) after adjustment. Based on the information a residual dumping margin of 27.4 per cent was calculated.

4.8 SUMMARY – DUMPING

For purposes of its preliminary determination, the Commission considered all the comments from interested parties and found that the subject product originating in Indonesia was being dumped into the SACU market with the following margins:

Table 4.8

Exporter	Dumping margin
Mulia Glass:	
3mm	4.35%
4mm	-6.62%
5mm	-6.73%
6mm	7.71%
PT Tensindo: (3mm)	8.28%
Other exporters (all thicknesses)	27.4%

5. MATERIAL INJURY

5.1 DOMESTIC INDUSTRY FOR PURPOSES OF DETERMINING MATERIAL INJURY

Article 3 of the Anti-Dumping Agreement is entitled "Determination of injury". Footnote 9 to the word "injury" provides as follows:

"Under this agreement the term "injury" shall, unless otherwise specified, be taken to mean material injury to a domestic industry, threat of material injury to a domestic industry or material retardation of the establishment of such an industry and shall be interpreted in accordance with the provisions of this Article."

5.2 GENERAL

Article 3.1 of the Anti-Dumping Agreement provides as follows:

"A determination of injury for purposes of Article VI of GATT 1994 shall be based on positive evidence and involve an objective examination of both.

- (a) the volume of the dumped imports and the effects of the dumped imports on the prices in the domestic market for the like products, and
- (b) the consequent impact of these imports on domestic producers of such products".

Article 4.1 of the Anti-Dumping Agreement further provides as follows:

"For purposes of this Agreement, the term "domestic industry" shall be interpreted as referring to the domestic industry as a whole of the like products or to those of them whose collective output of the products constitutes a major proportion of the total domestic production of those products,..."

The following injury analysis relates to PFG, the Applicant, constituting 100% of the total SACU production of the subject product.

5.3 IMPORT VOLUMES AND EFFECT ON PRICES

General

The Applicant advised that its production during 2003 was severely disrupted as a result of carbon feedstock problems. Increases in energy (gas) costs and soda ash costs from Botswana were also experienced. This impacted on profitability and the applicant advised that 2003 should not be seen as a normal year. Botswana Soda Ash prices are based on international prices and according to the Indexmundi website, prices of soda ash increased, from 2002 to 2003 from a range of \$100 per ton to \$125 per ton, to a level in excess of US\$150 per ton.

The Applicant further stated that the material injury that it suffers is of a price-nature, not of a volume-related nature, as plants (float-lines) of this kind must operate for 24 hours a day for 365 days in a year. It stated that it could, therefore, only shut down its float line for major refit or rebuild purposes, which it is contemplating to do in two years time.

5.3.1 Import volumes

With reference to Article 3.1.(a), Article 3.2 of the Anti-Dumping Agreement provides as follows:

“With regard to the volume of the dumped import, the investigating authorities shall consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in the importing Member.”.

In any dumping investigation, the Commission normally uses audited import statistic from SARS to determine the volume of the subject product entering the SACU from the countries under investigation and other countries. It considers these statistics to be the most reliable.

The information in the import statistics showed that the alleged dumped imports from Indonesia increased from 2002 to 2004.

Comments by Tensindo

Tensindo commented that what is evident from the injury indicators listed by the Commission is that they are mostly price related. It argued that the reason being that the Applicant was unable to claim any volume based injury over the investigation period as they were able to significantly increase both output and sales. Tensindo stated that the investigation period stated by the Commission in its notice and also used by the Applicant in his injury analysis is certainly not correct and that this serious flaw clearly played a big part in the initiation of the investigation.

Tensindo further commented that in its notice of initiation the Commission indicates the investigation period, for the purpose of determining material injury, to be from 1 January 2001 to 31 December 2004. It indicated that by doing so the Commission is examining the injurious impact of the alleged dumped imports over this stated period. However, in 2003 the Commission made a definitive finding that imports from Indonesia were not being dumped. It indicated that although this decision was based on historical data (November 2000 to December 2001) the impact is that any imports from Indonesia prior to the Commission's decision were not being dumped, and therefore cannot be taken into consideration in the injury analysis. It indicated that as a result, only imports of glass from Indonesia subsequent to the Commission's decision (after 2003) can be investigated. Tensindo indicated that therefore, the basis year for establishing material injury in the application

and the indicated investigation period for establishing material injury in the notice of initiation can therefore only commence after the date of the Commission's final finding on the matter. It indicated that the reason is obvious and that there can be no causal relationship between any alleged material injury being suffered by the Applicant and the imports from Indonesia prior to 2003, as these imports were not dumped. It indicated that the only relevant imports occurred subsequent to the Commission's previous decision.

Tensindo indicated that both the Application and the Commission's notice is seriously flawed, the reason being that the Commission considered information that is irrelevant in its decision to initiate the investigation.

Tensindo further indicated that had the Applicant used 2003 as base year for the assessment of material injury the Commission would not have and could not have initiated the current investigation. It stated that for this reason the investigation should be terminated with immediate effect and that this is a certain ground for a judicial review of the whole investigation process and needs to be rectified as both the importers and exporters have a right to be treated fairly without prejudice.

Tensindo stated that as indicated above almost all of the material injury indicators regarded by the Commission as relevant in the notice are price related and thus the Commission's finding of material injury is based upon the Applicant's claim that the obtained prices for the product concerned in the market are not realistic (depressed/suppressed) owing to the impact of price undercutting by the alleged dumped imports on the price of the Applicant's product.

Tensindo stated that the Applicant, in his submission indicates that he manufactures clear float glass and that this product is then sold to the general trade (wholesalers) for re-sell and processors who use the product for further processing. Tensindo indicated that as there is no link between

these sectors they are considered to be two total separate market segments.

However, it is submitted that they are operating at the same level of trade and as a result should command similar prices. Tensindo indicated that both segments are buying the product ex-works from the manufacturing facility and that in paragraph E2.4 of the submission the Applicant indicates that only sales to the general trade are the subject of this investigation. Therefore, Tensindo indicated that all injury indicators submitted by the Applicant only refers this to segment and also, all imports from Indonesia are destined for the general trade market and do not have an impact on the processing market.

Tensindo stated that the above information clearly indicates that the Applicant's selling prices to processors are "normal" prices not subject to the unfair pricing pressures the general trade market is subjected to. However, in paragraph E1.2 the Applicant indicates that his selling prices to both market segments are basically identical and Tensindo therefore submits, based on the Applicant's own admission that the price of the product concerned on the general trade market is "normal" and that imports from Indonesia had no impact whatsoever on the Applicant's selling prices.

The Commission found that Tensindo's argument revolves around the fact it considered a like application¹ 2 years ago in 2003, which in essence found no dumping. Their argument is that the basis of their previous application

2. ITAC Report No. 20 dated 4 September 2003 – Final determination - made the following final determination as summarized in the synopsis: The investigation on float and drawn glass originating in or imported from Indonesia was initiated on a threat of material injury only. As the Commission did not make an affirmative finding of a threat of material injury, the Commission made a preliminary determination to recommend to the Minister of Trade and industry that the investigation be terminated. The final determination and recommendation therefore was: 1. No dumping was found in respect of the exporters who cooperated in the investigation. 2. Dumping was found in respect of other exporters in Indonesia. 3. Sufficient evidence was not found to support the allegation of a threat of material injury to the SACU industry. It should be noted that the final determination did not again evaluate whether material injury was suffered, but only refers to whether each of the material injury factors was indicative of a threat of material injury. Report No.4193 (Prelim Report – 13 January 2003) found in paragraph 5.2 that the Commission found insufficient evidence to indicate that the Applicant (SA industry) had suffered material injury. It should also be noted that the prelim injury information was evaluated in respect of the years 1998, 1999 and 2000. The final determination (see Report No. 20 above, also reflected actual financial details (indexed) up to 2000 and only forecasts for 2001 and 2002.

overruns the present application and they contend that the information considered in the previous application cannot be used in the present application. The Commission found that its policy allows Applicants to re-submit applications after expiration of at least 12 months, which then allows the reconsideration of historical tendency evidence (import stats, etc) which were submitted in the previous matter.

The Commission also noted that the previous investigation was initiated on the basis of a threat of material injury, and not on a material injury finding. Therefore, Tensindo's arguments on the applicability or relevance of the historical reconsideration of evidence after 2000, (2001 and 2002 were forecasts) should be regarded as being of no consequence, and should therefore be rejected. The Commission found that in any event it only uses historical financial information for purposes of determining a long-term trend (over the period of investigation) with regard to the respective injury factors, which forms the basis of an injury perspective. The last financial year's information is therefore used as a comparison against the performance of the previous year's financial details to establish whether any "erosion" has taken place. This then forms the basis of any injury evaluation.

The Commission found that the financial details from 2001 to 2004 were evaluated in the current investigation.

5.3.2 Effect on Domestic Prices

With reference to Article 3.1(a), Article 3.2 of the Anti-Dumping Agreement further provides as follows:

"With regard to the effect of the dumped imports on the prices, the investigating authorities shall consider whether there has been a significant price undercutting by the dumped imports as compared with the price of a like product of the importing Member, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. No one or several of these factors can necessarily give decisive guidance."

Price undercutting

Price undercutting is the extent to which the landed cost of the imported product is lower than the ex-factory selling price per unit price of the SACU product.

The landed price of imports was calculated on the basis of adding a percentage to the FOB values to make provision for ocean freight customs duties and clearing costs and transport, based on verified information provided by the importers.

When comparing the average ex-factory selling price of the Applicant (all thicknesses) with the average landed costs of the imported subject product (all thicknesses) from Muliaglass, the Commission found that the price of the imported product from Muliaglass was undercutting the Applicant's selling price by 26.5 per cent and from Tensindo by 23.6 per cent.

Comments by the Applicant

The Applicant stated that it was clear that should anti-dumping duties not be imposed, further severe price undercutting would occur.

The Applicant stated that the information clearly indicates that dumped Indonesian clear float glass has aggressively entered the SACU market. It stated that dumped Indonesian imports undercut its prices by substantial margins every year, despite the fact that it decreased its prices significantly. The progressive lowering of its prices, to counter disruptive dumped import prices, lessens the real magnitude of the effective price undercutting. The effective price undercutting (i.e. the real price disadvantage) needs to be calculated not on its actual depressed and suppressed selling prices, but on the unsuppressed/undepressed prices.

Price Depression

Price depression occurs when the domestic industry experiences a decrease in its selling prices over time. The table below shows the SACU industry's domestic selling prices:

Table 5.3.2(a)

Price depression	2001	2002	2003	2004
PFG ex-factory price per ton	100	123	107	100

This table was indexed due to confidentiality using 2001 as the base year.

The information in the table clearly illustrates that the Applicant had to significantly decrease its prices in 2003 and again in 2004, indicating that it is experiencing price depression.

The Applicant stated that in earlier rounds of dumping it ran up inventories and then had to slow down production to reduce the inventory, which had very deleterious effects on the business. Based on its experience of material injury during the previous rounds of dumping, it has opted to strive to maintain production and sales volume and market share by cutting prices to meet the dumped levels as the least harmful option.

It stated that the ongoing disruption of the market over the past 8-10 years has brought it hardship. A corollary of the long-term market disruption through dumping is that price depression and suppression have become entrenched in the market, and there have been for all intents and purposes no fully "normal" years since 1996. While 2002 is used as the base year, as 2002 could be regarded as the first year since 1996 that approaches "normality", this year (2002) also has significant elements of price depression and

suppression.

The Applicant stated that it is under constant pressure from customers to match import price parity of the dumped imports.

Price suppression

Price suppression is the extent to which increases in the cost of production of the product concerned, cannot be recovered in selling prices. To determine price suppression, a comparison is made of the percentage increase in cost with the percentage increase in selling price (if any), and whether or not the selling prices have increased by at least the same margin at which the cost of production increased.

The following table shows the costs of production and ex-factory selling prices for the Applicant for the subject products:

Table 5.3.2

Price suppression	2001	2002	2003	2004
PFG ex-factory price per ton	100	123	107	100
PFG unit cost (production)	100	119	126	107
Cost as % of price	100	97	118	107

This table was indexed due to confidentiality using 2001 as the base year.

The information in the table clearly illustrates that the Applicant's prices are significantly suppressed, especially when compared to the situation in 2002.

The Applicant stated that the year 2002 was the only year that approximates a normal year, though even in that year prices were already depressed and suppressed owing, *inter alia*, to the lingering effects of an earlier round of dumping and disruptive imports. It stated that its prices have decreased, and costs have increased.

5.3.3 Consequent Impact of The Dumped Imports on The Industry

With reference to Article 3.1(b), Article 3.4 of the Anti-Dumping Agreement provides the following:

"The examination of the impact of the dumped imports on the domestic industry concerned shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments, or utilization of capacity; factors affecting domestic prices; the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital or investments. This list is not exhaustive, nor can one or several of these factors necessarily give decisive guidance."

5.3.3.1 Actual and potential decline in sales

The following tables show the applicant's sales volumes and values of the subject product for three years:

Table 5.3.3.1

Sales in tons				
	2001	2002	2003	2004
PFG sales volume	100	60	43	113

This table was indexed due to confidentiality using 2001 as the base year.

The information in the table above shows that the Applicant increased its sales volumes from 2002 to 2004.

5.3.3.2 Profit

The following table shows the Applicant's profit before interest and tax:

Table 5.3.3.2

Profit before interest and tax	2001	2002	2003	2004
PFG net profit margin (%)	100	107	17	59
PFG net profit per ton	100	130	17	59

This table was indexed due to confidentiality using 2001 as the base year.

The Applicant stated that its profitability decreased significantly since 2002. It stated that the gross profit margins decreased by more than 10 per cent while the net profit margin decreased by more than 45 per cent. This resulted in a decrease in overall gross profit and net profit, despite an increase in the volume of sales.

The Commission found that the Applicant's building glass profit declined. However, it is not clear what caused the decline, considering that competition was also felt with regard to other imports and also the fact that the total SACU market shrunk during the period 2002 to 2004.

5.3.3.3 Output

The following table outlines the Applicant's domestic production volume (sales volumes used):

Table 5.3.3.3

Output	2001	2002	2003	2004
PFG total production volume of float glass for general trade (tons)	100	73	58	95
PFG total production volume of all float glass (tons)	100	88	72	103

This table was indexed due to confidentiality using 2001 as the base year.

The Applicant's output of float glass for general trade decreased by 5 index points, while the output for all float glass increased.

The Applicant stated that although its figures indicate that it has increased production, it should be noted that it increased production for sales in the general trade market, and that its production for further processing, which is done on the same equipment, has decreased. It further stated that total production for the general trade market has decreased by more than 5 per cent between 2001 and 2004, while the total general trade market grew by more than 20 per cent during the same period. In view of the integrated nature of float glass production, the ratio of output for the various classes of glass (e.g. general, automotive, mirror, toughening and laminating) cannot economically be varied beyond a certain point.

The Applicant further indicated that the experience of dumping has taught it that it is highly uneconomical to increase inventories excessively in view of the high overall cost thereof and its effects on overall viability of the facility and the per unit cost increases on all output. Furthermore, it indicated that price decreases where dumping prevails are not avoidable in the longer term given the need to retain market share. The Applicant further indicated that

consequently, where dumping erodes or threatens to erode market share in a particular market segment, the only real initial option available is to reduce prices proactively to the dumped level to retain market share and maintain optimum output.

The Commission found that the Applicant's total output (all output including the general trade) increased during the period 2003 to 2004. The building glass, which sources its glass from the same production line as float glass, also increased output during the same period.

5.3.3.4 Market share

The information on market share shows that the total market share of the Applicant decreased over the investigation period.

The Applicant stated that the dumped imports have gained market share both by volume and by value, while it lost market share both by volume and by value. It stated that it is also important to note that although the dumped imports hold a volume market share of more than 20%, these imports represent less than 13% of the market by value, indicating how low the prices of the dumped imports are compared to other prices in the market.

The dumped imports' market share has doubled (an increase of almost 150%) over the investigation period, displacing other importers unable to reduce their prices to the dumped levels. The tables clearly indicate that the dumped imports have gained market share, while it attained its market share by volume.

The Commission found that the SACU market share decreased during the period 2002 to 2004. Over this period the Applicant's building glass division increased its market share. The dumped imports on the other hand also increased their market share - apparently gaining market share from the

other imports, not from the Applicant's market share.

5.3.3.5 Productivity

Using the production and employment figures sourced from the Applicant, its productivity in respect of the subject product was as follows:

Table 5.3.3.5

<u>Productivity</u>	2001	2002	2003	2004
Total production volume (tons)	100	73	58	95
Number of employees (manufacturing only)	100	117	108	109
Tons per employee per annum	100	62	54	89

This table was indexed due to confidentiality using 2001 as the base year.

The information in the above table shows that the Applicant's productivity declined over the period.

The Applicant indicated that although there has been a major improvement following its decision to no longer import the subject product, productivity per employee is still lower than it was in 2001. Likewise, the production value to capital employed ratio was lower in 2004 than in 2001 and 2002.

5.3.3.6 Return on investment

Return on investment is normally regarded by the Commission as being the profit before interest and tax as a percentage of the net value of assets.

The following table provides the Applicant's return on net assets:

Table 5.3.3.6

Return on investment	2001	2002	2003	2004
Net profit (product concerned) R'000	100	135	17	70
Return on net assets (subject product)	100	156	24	115

This table was indexed due to confidentiality using 2001 as the base year.

The information in the table above indicates that the Applicant's return on net assets increased from 100 index points in 2001 to 156 index points in 2002. The Applicant's ROI decreased significantly in 2003 by 132 index points, but increased in 2004 to 115 index points.

The Applicant stated that total net PBIT for the subject product has decreased significantly between 2002 and 2004, and that the RONA for the product is lower than that for the company. It stated that the return is not enough, as the required return before interest and tax on replacement value total assets to meet minimum shareholder requirements and to generate funds for periodic investment in plant renewal and upgrading is 10%. It stated that the previous rounds of dumping and the current dumping from Indonesia has resulted in returns being well below the requirement of shareholders, even during the year that rendered the highest return, i.e. 2002.

The Applicant stated that the return on net assets at book value is meaningless, as this does not indicate what returns are required to enable the required regular maintenance or upgrading or replacement, nor the return

shareholders require on initial investments. The Applicant referred the Commission to the Circuit Breaker investigation, where the Board on Tariffs and Traded accepted information pertaining to one of the producers and used replacement value to determine the required return on investment. The Applicant concluded by stating that return on net assets, however, confirms the injury, as RONA has decreased by more than 25 per cent despite the fact that the value of net assets decreased by more than 30 per cent.

5.3.3.7 Utilisation of production capacity

The following table provides the Applicant's capacity and production for the subject product:

Table 5.3.3.7

Utilization of production capacity	2001	2002	2003	2004
PFG capacity (tons)	100	96	81	108
PFG actual production	100	88	72	103
PFG production for GT market	100	73	58	95
PFG capacity utilisation %	100	92	89	96

This table was indexed due to confidentiality using 2001 as the base year.

The Applicant stated that both clear and tinted float glass are produced on the same line. Tint is produced in cycles ranging from 5 to 7 months depending on the demand. In 2003 three tint runs were carried out due to the demand cycle. Tint is used for automotive glass manufacture. In years where its needs to do an additional tint run, additional clear float glass is imported to make up the shortfall. It stated that the days of lost time in 2003 was to do some necessary refurbishment on the float line to extend its campaign life to 2008.

The Commission noted that the Applicant's production utilization remained at a fairly high output level throughout the period of investigation.

5.3.3.8 The magnitude of the margin of dumping

In Section 4 of this report, it was found that the subject product was imported at dumped prices into the SACU during the investigation period.

The following dumping margins were calculated:

Table 5.3.3.8

Company	Dumping Margin
PT Muliaglass	
3mm	4.35%
4mm	-6.62%
5mm	-6.73%
6mm	7.71%
PT Tensindo	
3mm	8.28%
All other exporters	47.4%

5.3.3.9 Actual and potential negative effects on cash flow

The table below shows the Applicants calculation of the cash flow over the comparative period.

Table 5.3.3.9

Cash flow (R'million)	2001	2002	2003	2004
Cash flow: incoming	100	127	103	118
Cash flow: outgoing	100	125	131	133
Net cash flow	100	135	17	70

This table was indexed due to confidentiality using 2001 as the base year.

The Applicant stated that its total incoming cash flow has decreased by approximately 10 per cent when comparing 2004 with 2002. During the same period, its outgoing cash flow increased by more than 5 per cent, indicating a decrease of more than 50 per cent in net cash flow between 2002 and 2004. This is evident from the significant price depression and relatively small increase in sales volumes.

5.3.3.10 Inventories

The Applicant provided the following inventory levels. These figures are listed in the table below:

Table 5.3.3.10

Inventories	2001	2002	2003	2004
Volume (tons)	100	116	105	62
Value (R000s)	100	139	131	64

This table was indexed due to confidentiality using 2001 as the base year.

The Applicant stated that continued increased dumping by Indonesia could eventually force it to cut back production and increase inventories. Such an eventuality is being actively resisted, as it will have even greater negative

effect than the current strategy of maintaining output and market share at lower prices to meet the dumped competition. It should again be pointed out that production during 2003 was disrupted as a result of carbon input problems. This matter was, however, resolved.

5.3.3.11 Employment

The following table shows the Applicant's employment level for the years stated:

Table 5.3.3.11

Employment	2001	2002	2003	2004
Direct labour units: clear float production	100	118	107	109
Direct labour units: Other production	100	95	111	111
Total labour units: production	100	104	110	103

This table was indexed due to confidentiality using 2001 as the base year.

The Applicant stated that furnace activity determines the output levels and labour is essentially fixed and does little to affect output. So long as market structures are not destroyed by dumping, the employment in float production will remain virtually unchanged. Despite this, however, employment has decreased since 2002, both as regards production staff and administrative staff. The reduction in employment is directly ascribable to the continued market disruption through dumping.

5.3.3.12 Wages

The information in the table shows the Applicant's total and average wages for the comparative period:

Table 5.3.3.12

Comparative wage expenses of the Applicant	2001	2002	2003	2004
Average wages per employee - per year:				
Wages/employee/annum	100	125	127	142
Total wages/ production employee/annum	100	109	129	131

This table was indexed due to confidentiality using 2001 as the base year.

The Applicant stated that as a result of its poor performance in view of the increased dumping, no wage increase was effected in 2004. This followed negotiations with the labour union in this regard. The labour union (CEPPWAWU) agreed that it was not in a position to increase wages and that unless anti-dumping measures are imposed as a matter of urgency, there will again be no wage increase in 2005.

5.3.3.13 Growth

The table below shows the Applicant's growth analysis for the comparative period:

Table 5.3.3.13

SACU market share in value	2001	2002	2003	2004
Size of the SACU market R000s	100	131	118	126
Growth as a % of 2001 base	100	131	118	126
Imports of the alleged dumped imports	100	92	127	171
Growth as a % of 2001 base	100	92	127	171

This table was indexed due to confidentiality using 2001 as the base year.

The Applicant stated that it is evident that the overall SACU market for general trade clear float glass grew significantly by 26% during the investigation period. On the other hand, imports of the alleged dumped imports grew by 71%, from 2001 to 2004.

5.3.3.14 Ability to raise capital or investments

The Applicant stated that it is extremely difficult to allocate capital invested to clear float glass only as the capital invested is allocated on a turnover basis. More important is the investment that was not made during this period, and in particular the further deferral of investment to double plant capacity, owing to low returns and the uncertainty injurious dumping caused in the market.

PREVIOUS INJURY

The Applicant stated that dumping from China, India, Israel, Singapore and Thailand over the past 10 years has injured it. Once dumping from one supplier stopped, dumping resumed from another country. Accordingly, the last "normal" year, without significant interference from dumping was 1996. In the current injury investigation period, 2002 can be seen as the year closest to what would constitute a normal year. However, the profitability and return on investment in 2002 was still too low to warrant substantial new investment in

the industry.

5.4 SUMMARY - MATERIAL INJURY

After considering all relevant factors and taking all comments into account, the Commission made a preliminary determination that the Applicant and therefore the SACU industry was suffering material injury.

6. CAUSAL LINK

6.1 GENERAL

In order for the Commission to impose provisional payments, it must be satisfied that there is sufficient evidence to indicate that the material injury experienced by the SACU industry is as a result of the dumping of the subject products.

Article 3.5 of the Anti-Dumping Agreement provides the following:

"It must be demonstrated that the dumped imports are, through the effects of dumping, causing injury within the meaning of this Agreement. The demonstration of a causal relationship between the dumped imports and the injury to the domestic industry shall be based on an examination of all relevant evidence before the authorities."

6.2 VOLUME OF IMPORTS AND MARKET SHARE

An indication of causality is the extent of the increase of volume and the extent to which the market share of the domestic industry has decreased since the commencement of injury, with a corresponding increase in the market share of the allegedly dumped product.

The market share information shows that the allegedly dumped imports' market share increased by 4.5 per cent in 2004 from 2001 while the market share of the applicant remained more-or-less constant in that period and the market share of imports not dumped decreased by 5%.

The information with regard to the volume of imports shows that imports from Indonesia increased by 87% in 2004 from 2002.

6.3 EFFECT OF DUMPED IMPORTS ON PRICES

It has already been shown in section 5 of this report that there was price undercutting and price suppression. The SACU industry was unable to increase its prices in line with the increase in costs. The imported products from Muliaglass and Tensindo are undercutting the Applicant's prices by 26.5 percent and 23.6 percent respectively.

The Applicant stated that dumped Indonesian clear float glass has aggressively entered the SACU market. Dumped Indonesian imports undercut its prices by substantial margins every year, despite the fact that it decreased its prices significantly. The progressive lowering of its prices, to counter disruptive dumped import prices, lessens the real magnitude of the effective price undercutting.

The Applicant stated that the effective price undercutting (i.e. the real price disadvantage) need to be calculated not on its actual depressed and suppressed selling prices, but on the unsuppressed/undepressed prices. The Applicant concluded by stating that the effective price undercutting has risen to an expected 48% for 2004.

6.4 CONSEQUENT IMPACT OF DUMPED IMPORTS

The SACU industry's sales volume increased over the investigation period with a corresponding increase in output. The utilization of capacity of the SACU industry also increased. The inventories decreased significantly from 2001 to 2004.

6.5 FACTORS OTHER THAN THE DUMPING CAUSING INJURY

Article 3.5 of the Anti-Dumping Agreement provides the following:

"The authorities shall also examine any known factors other than the dumped imports which at the same time are injuring the domestic industry, and the injuries caused by these other factors must not be attributed to the dumped imports. Factors which may be relevant

in this respect include, *inter alia*, the volume and prices of imports not sold at dumping prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and productivity of the domestic industry".

6.5.1 The volume and price of imports not sold at dumping prices

The information on the volume and price of imports from other countries showed that other imports have been increasing in 2002 and 2003 compared to 2001 and decreased to the level of 2001 in 2004.

The Applicant stated that the prices of other imports decreased to some extent to meet the dumped price, and these prices are now also undercutting its prices, although not to the same extent as the undercutting by the dumped imports.

6.5.2 Competition between domestic producers

The Applicant is the only producer of float and drawn glass in the SACU.

6.5.3 Developments in technology

Indonesia uses similar technology to that used in the SACU area.

6.5.4 Contraction in demand or changes in the patterns of consumption

No changes in the patterns of demand were noted by the Applicant.

6.5.5 Export performance

The table below shows the Applicant's export performance over the comparative period:

Table 6.5.5

Export performance	2001	2002	2003	2004
Sales into Africa	100	81	112	57
Output	100	73	58	95
Export sales as % of output	100	114	194	61

This table was indexed due to confidentiality using 2001 as the base year.

The Applicant stated that its ability to export is restricted by its capacity constraints. It stated that at present exports are limited to a few SADC countries.

6.5.6 Competition between foreign and domestic producers

The Applicant stated that competition between foreign and domestic producers are reflected in the dumping margin, which is the margin by which the normal value exceeds the export price, after allowance has been made for any differences affecting price comparability, separately per product. The following table shows the dumping margins that were calculated:

Table 6.5.6

Company	Dumping Margin
PT Muliaglass	
3mm	4.35%
4mm	-6.62%
5mm	-6.73%
6mm	7.71%
PT Tensindo	
3mm	8.28%
All other exporters	27.4%

6.5.7 Trade restrictive practices

No information was provided by the Applicant in this regard.

6.5.8 Productivity of the domestic industry

The Applicant advised that its productivity increased from 324 tons output per employee in 2002 to 461 tons output in 2004.

6.5.9 Other factors considered by the Commission

The following factors other than dumping were considered by the Commission:

- The Commission found that the SACU market decreased during the period 2002 to 2004. Over this period the Applicant's building glass division increased its market share from 56 per cent in 2002 to 70 percent in 2004 as opposed to the market share of other imports that decreased from 37 percent in 2002 to 15 percent in 2004. The dumped imports on the other hand increased in market share by 8 per cent in 2004 from 2002. The Commission concluded that the dumped import gained market share from the other imports, and not from the Applicant's.
- The Commission further noted that production from the float glass line is either further beneficiated into downstream products or sold as building glass. The Applicant's total output increased 19% in 2004 from 2003, while the portion sold as building glass increased by 4 per cent.
- The Applicant also stated that float glass -lines must operate for 24 hours a day for 365 days in a year in order to be viable because of high energy losses caused by shut - down and start - ups. It stated that the material injury that it suffers is therefore of a price-nature, not a volume-related nature.
- The Commission, therefore, noted that the pricing factors (price undercutting, price depression and price suppression) do show that the Building Glass Division suffered price effects, which the Applicant alleged were causally linked to the dumped imports.
- The Commission also noted that the Applicant's building glass profit declined by 11 per cent in 2004 from 2002. The Commission further noted that competition was also felt with regard to other imports and the fact that the total SACU market shrunk by 19% in 2004 compared to 2003 also had to impact on profitability.

- The Commission found that the Applicant's production utilization remained at a fairly high output level throughout the period of investigation.
- The Commission noted that the year 2003 was also characterised by production problems that saw output decline. Although the Applicant advised that the 2003 problems were of a temporary nature and did not have any effect on 2004, it was not clear that the decrease of the average selling price in 2004 was as a result of the 2003 production problems or not.

6.6 CONCLUSION ON CAUSAL LINK

After considering all relevant factors and comments, the Commission found that factors, other than dumping, sufficiently detracted from the causal link.

7. SUMMARY OF FINDINGS

7.1 Dumping

There is sufficient evidence that the subject product originating in or imported from Indonesia were imported at dumped prices into the SACU market. The following dumping margins were calculated:

Table 7.1

Company	Dumping Margin
PT Muliaglass	
3mm	4.35%
4mm	-6.62%
5mm	-6.73%
6mm	7.71%
PT Tensindo	
3mm)	8.28%
All other exporters	47.4%

7.2 Material injury

The Commission made a preliminary determination that the Applicant suffered material injury.

7.3 Causal link

The Commission found that material injury suffered by the Applicant could not be causally linked to the dumped imports. In coming to this conclusion, the Commission considered the factors other than dumping above, that it found could be causing material injury and decided that these sufficiently detracted from the causal link.

8. DETERMINATION

The Commission made a preliminary determination that:

- the subject products originating in or imported from Indonesia are being dumped on the SACU market; and that
- the SACU industry is suffering material injury .

The Commission, however, made a preliminary determination that factors, other than dumping, sufficiently detracted from the causal link between the dumping and the material injury.

The Commission therefore made a preliminary determination to recommend to the Minister of Trade and Industry that the investigation on drawn and float glass originating in or imported from Indonesia be terminated.

Interested parties will be invited to submit comments and make representations on the preliminary determination within the specified time periods, which the Commission will consider prior to making its final determination and recommendation to the Minister of Trade and Industry.