



International Trade Administration Commission of South Africa

Report No. 109

Sunset review of the anti-dumping duties on paper insulated lead covered electrical cable originating in or imported from India: Final determination

The International Trade Administration Commission of South Africa herewith presents its Report No. 109: **SUNSET REVIEW OF THE ANTI-DUMPING DUTIES ON PAPER INSULATED LEAD COVERED ELECTRICAL CABLE ORIGINATING IN OR IMPORTED FROM INDIA: FINAL DETERMINATION**


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PRETORIA

07/09/2005

INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF SOUTH AFRICA

SUNSET REVIEW OF THE ANTI-DUMPING DUTIES ON PAPER INSULATED LEAD COVERED ELECTRICAL CABLE ORIGINATING IN OR IMPORTED FROM INDIA: FINAL DETERMINATION

SYNOPSIS

In accordance with the provisions in Article 11.3 of the World Trade Organisation Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade, any definitive anti-dumping duty shall be terminated on a date not later than five years from its imposition, unless the authorities determine, in a review initiated before that date on their own initiative or upon a duly substantiated request made by or on behalf of the domestic industry within a reasonable period of time prior to that date, that the expiry of the duty would likely lead to continuation or recurrence of dumping and injury.

On 19 March 2004 the International Trade Administration Commission of South Africa (Commission) notified the interested parties through Notice No. 392 in *Government Gazette* No. 26143, that unless a substantiated request is made indicating that the expiry of the duties on paper insulated lead covered electric cable originating in or imported from India would likely lead to the continuation or recurrence of dumping and injury, the anti-dumping duties on paper insulated lead covered electric cable originating in or imported from India will expire on 05 November 2004.

A detailed response to the review questionnaire was received from the Association of Electric Cable Manufacturers of South Africa on behalf of Aberdare Cables (Pty) Ltd (the Applicant) on 31 May 2004.

The investigation was initiated through Notice No.2270 in *Government Gazette* No. 26896 on 22 October 2004. The investigation was initiated after the Commission considered that there was *prima facie* proof that expiry of the duties would likely lead to the continuation or recurrence of dumping of the subject product originating in and imported from India and that there was *prima facie* proof of the likely continuation and recurrence of material injury. The Indian embassy was notified of the initiation.

Exporters and importer review questionnaires were sent to various known interested parties, including the government representative of India. The deadline for comments was 02 December 2004. No responses were received from any of the interested parties. It has since become known that after the imposition of the duties, the Indian manufacturers ceased production and therefore sales in the Indian domestic market and exports to the SACU market.

On 26 January 2005, the Commission made a preliminary determination that the expiry of the duties on the subject product originating in and imported from India would likely lead to the continuation or recurrence of dumping, and that the expiry of the duties would likely lead to the continuation or recurrence of material injury.

Essential facts letters were sent to all interested parties and the deadline for comments was 21 February 2005. Of the two exporters in India (Cable Corporation of India (CCI) and Universal Cables), only CCI responded to the essential facts letter and completed the exporter's questionnaire. However, the response was rejected by the Commission as being deficient as CCI did not sell the subject product in either its domestic market nor did it export the subject product to the SACU or any third country, during the period of the investigation.

During the course of the investigation, a local Black Economic Empowerment importer tendered for the subject product and won the tender. This company entered into a joint venture with one of the Indian manufacturers who previously exported the subject product to the SACU. Since the joint venture was entered into whilst the duties for the subject product were still in place, it can be

concluded that the joint venture was made on the understanding that the tendered prices would be able to absorb the exporter's existing relatively low anti-dumping duty. During this time, the local Black Economic Empowerment importer requested to be included in the investigation but was excluded on the basis that it had not imported the subject products during the period of the investigation and was therefore not an interested party.

On 20 April 2005, the Commission made a final determination to recommend to the Minister of Trade and Industry that the expiry of the duties on the subject product originating in and imported from India would likely lead to the continuation or recurrence of dumping and that the expiry of the duties is likely to lead to the continuation or recurrence of material injury.

Since there was non-cooperation from Universal Cables and CCI's information could not be taken into account as it neither sold the subject product in its domestic market nor did it export the subject product to the SACU or any third country, the Commission based its decision on the best information available.

The Commission, therefore, decided to recommend to the Minister of Trade and Industry that the current anti-dumping duties of 65,47 percent be applied to all exports of paper insulated lead covered electrical cable originating in or imported from India.

1. APPLICATION AND PROCEDURE

1.1 LEGAL FRAMEWORK

This investigation was 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).

In accordance with the provisions in Article 11.3 of the World Trade Organisation Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade, any definitive anti-dumping duty shall be terminated on a date not later than five years from its imposition, unless the authorities determine, in a review initiated before that date on their own initiative or upon a duly substantiated request made by or on behalf of the domestic industry within a reasonable period of time prior to that date, that the expiry of the duty would be likely to lead to continuation or recurrence of dumping and injury.

1.2 APPLICANT

The SACU application was lodged by the Association of Electric Cable Manufacturers of South Africa on behalf of Aberdare Cables (Pty) Ltd, a manufacturer of paper insulated lead covered electrical cable in the SACU.

The other SACU manufacturer, African Cables (Pty) Ltd, indicated its support of the Application.

1.3 INVESTIGATION PROCESS

On 19 March 2004 the Commission notified the interested parties through Notice No. 392 in *Government Gazette* No. 26143, that unless a substantiated request is made indicating that the expiry of the duty on paper insulated lead covered electric cable originating in or imported from India would be likely to lead to the continuation or recurrence of dumping and injury, the anti-dumping duties on paper insulated lead covered electric cable originating in or imported from India will expire on 05 November 2004.

A detailed response to the review questionnaire was received from the Association of Electric Cable Manufacturers of South Africa on behalf of Aberdare Cables (Pty) Ltd (the Applicant) on 31 May 2004

On 16 and 17 September 2004, a verification was carried out at Aberdare's plant in Port Elizabeth.

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Exporters and importers review questionnaires were sent to various known interested parties, including the government representative of the India. The deadline for comments was 02 December 2004. No responses were received from any of the interested parties. It has since become known that after the imposition of the duties, the Indian manufacturers ceased production and therefore sales in the Indian domestic market and exports to the SACU market.

On 26 January 2005, the Commission made a preliminary determination that the expiry of the duties on the subject product originating in and imported from India would likely lead to the continuation or recurrence of dumping, and that the expiry of the duties would likely lead to the continuation or recurrence of material injury.

Essential facts letters were sent to all interested parties and the deadline for comments was 21 February 2005. Of the two exporters in India (Cable Corporation (CCI) and Universal Cables), only CCI responded to the essential facts letter and completed the manufacturer's questionnaire. However, the response was rejected by the Commission as being deficient as CCI did not sell the subject product in either its domestic market nor did it export the subject product to the SACU or any third country, during the period of the investigation.

During the course of the investigation, a local Black Economic Empowerment importer tendered for the subject product and won the tender. This company entered into a joint venture with one of the Indian manufacturers who previously exported the subject product to the SACU. Since the joint venture was entered whilst the duties for the subject product for CCI were still in place, it can therefore be concluded that the joint venture was made on the understanding that the tendered prices would be able to absorb the exporter's existing anti-dumping duty. During this time, the local Black Economic Empowerment importer requested to be included in the investigation but was excluded on the basis that it had not imported the subject products during the period of the investigation and was therefore not an interested party.

On 20 April 2005, the Commission made a final determination to recommend to the Minister of Trade and Industry that the expiry of the duties on the subject product originating in and imported from India would likely lead to the continuation or recurrence of dumping and that the expiry of the duties is likely to lead to the continuation or recurrence of material injury.

1.4 INVESTIGATION PERIOD

Investigation period for dumping was from 01 January 2003 to 31 December 2003.

The injury investigation involved evaluation of data from 01 March 2001 to 28 February 2004. An estimate of what the situation would be if the duties expire, was also considered.

1.5 PARTIES CONCERNED

1.5.1 SACU Industry

The application was lodged by the Association of Electric Cable Manufacturers of South Africa on behalf of Aberdare Cables (Pty) Ltd, a manufacturer of paper insulated lead covered electrical cable in the SACU.

The other SACU manufacturer, African Cables (Pty) Ltd, indicated its support of the Application.

1.5.2 Exporters/Foreign Manufacturers

The following exporters/manufacturers were identified as interested parties:

- (a) Cable Corporation of India
- (b) Universal Cables of India

A completed exporter sunset review questionnaire was received from Cable Corporation of India after the due date of the responses/comments to the essential facts letter. However, the response was rejected by the Commission as Cable Corporation did not sell the subject product either in

its domestic market nor did it export the subject product to the SACU or any third country, during the period of investigation.

1.5.3 Importers

The following SACU importers were identified as interested parties:

- (a) Durban (Ethekewini) Municipality
- (b) City of Cape Town

No responses were received from any of the importers of the subject product.

2. PRODUCTS, TARIFF CLASSIFICATION AND DUTIES

2.1 SUBJECT PRODUCT

2.1.1 Description

The subject product is described as Paper Insulated Lead Covered Electric Cable.

2.1.2 Country of origin/export

The subject product is exported from India.

2.1.3 Application/end use

The imported subject product is used in many electrical distribution and reticulation applications.

2.1.4 Tariff classification

The subject product is classifiable as follows:

Tariff subheading	Description	Rate of customs duty		
		General	EU	SADC
8544.60	Electric Cable (Excluding ignition wiring sets and other wiring sets of a kind used in vehicles, aircrafts or ships and co axial cable) insulated with Paper and covered with Lead for a voltage exceeding 1000V	15%	15%	Free

The subject product is subject to the following anti-dumping duties:

Tariff subheading	Description	Originating in or imported from	Anti-dumping duty
8544.60	Electric Cable (excluding ignition wiring sets and other wiring sets of a kind used in vehicles, aircraft or ships and co-axial cable) insulated with paper and covered with lead, for a voltage exceeding 1 000V, manufactured by Universal Cables Limited.....	India	30.49%
8544.60	Electric Cable (excluding ignition wiring sets and other wiring sets of a kind used in vehicles, aircraft or ships and co-axial cable) insulated with paper and covered with lead, for a voltage exceeding 1 000V, manufactured by Cable Corporation of India.....	India	2.14%
8544.60	Electric Cable (excluding ignition wiring sets and other wiring sets of a kind used in vehicles, aircraft or ships and co-axial cable) insulated with paper and covered with lead, for a voltage exceeding 1000V, (excluding that manufactured by Universal Cables Limited and Cable Corporation of India).....	India	65.47%

No provisions exist in terms whereof the subject product can be imported with rebate of the duty.

2.1.5 Production process

The paper insulation is made up of layers of long-fibred paper tapes made from high-grade wood-pulp, the texture and quality of which have been carefully controlled to ensure no imperfections. These paper tapes are lapped helically around the conductors to form a complete compact and smooth covering, with the radial thickness required according to the voltage of the cable.

3. SACU INDUSTRY

3.1 INDUSTRY STANDING

Article 11.3 of the Anti-Dumping Agreement provides as follows:

“Notwithstanding the provisions of paragraphs 1 and 2, any definitive anti-dumping duty shall be terminated on a date not later than five years from its imposition (or from the date of the most recent review under paragraph 2 if that review has covered both dumping and injury, or under this paragraph), unless the authorities determine, in a review initiated before that date on their own initiative or upon a duly **substantiated request made by or on behalf of the domestic industry** within a reasonable period of time prior to that date, that the expiry of the duty would be likely to lead to continuation or recurrence of dumping and injury. The duty may remain in force pending the outcome of such a review” (emphasis added).

Article 5.4 of the Anti-Dumping Agreement 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 SACU application was lodged by the Association of Electric Cable Manufacturers of South Africa on behalf of Aberdare Cables (Pty) Ltd, a manufacturer of paper insulated lead covered electrical cable in the SACU.

The other SACU manufacturer, African Cables (Pty) Ltd, indicated its support of the Application.

The application is supported by 100 per cent of the SACU industry. The Commission found that the application was made "by or on behalf of the domestic industry".

4. DUMPING

Article 11.3 of the Anti-Dumping Agreement provides as follows:

“Notwithstanding the provisions of paragraphs 1 and 2, any definitive anti-dumping duty shall be terminated on a date not later than five years from its imposition (or from the date of the most recent review under paragraph 2 if that review has covered both dumping and injury, or under this paragraph), unless the authorities determine, in a review initiated before that date on their own initiative or upon a duly substantiated request made by or on behalf of the domestic industry within a reasonable period of time prior to that date, **that the expiry of the duty would be likely to lead to continuation or recurrence of dumping** and injury. The duty may remain in force pending the outcome of such a review.”

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)(a) that is less than the normal value, as defined in section 32(2), of those goods;”

4.2 NORMAL VALUE

Normal values are determined using section 32(2)(b)(i) of the ITA Act 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 (Act 71 of 2002) 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 relevant provisions in 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;".

Section 32(5) of the ITA Act (Act 71 of 2002) further provides as follows:

"The Commission must, despite the definition of "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 reasonable basis".

Section 32(6) of the ITA Act (Act 71 of 2002) provides as follows:

“Subsection (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 a 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 WTO 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 verifiable 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.

4.5.1 Determination of the dumping margin when no exports were made to the SACU during the period of investigation (POI).

The policy of the Commission requires that exporters should provide details of their exports to other countries when no exports were made to the SACU during the period of investigation.

Section 32(6)(a) of the ITA Act (Act 71 of 2002) provides as follows:

“If there is no export price as contemplated in the definition of dumping, then the export price may be determined on any reasonable basis.”.

The ITA Act therefore allows the Commission discretion on how to determine an export price in cases where it has to decide on the likelihood of whether dumping will recur. Exports to other countries may therefore be considered if no actual exports were made to the SACU during the POI.

4.6 METHODOLOGY IN THIS INVESTIGATION

The Commission decided to use the “best information available” to calculate the dumping margin for India, being the information supplied by the Applicant. The only response that the Commission received was the exporters review questionnaire from Cable Corporation but the Commission decided to reject this response as Cable Corporation neither manufactured nor sold the subject product during the period of investigation.

4.6.1 Normal Value

Type of economy

In determining the normal value for India, section 32 (2)(b)(i) of the ITA Act was applied as a basis.

The Applicant indicated that its endeavour to obtain prices of the subject products in India were unsuccessful. Normal values were therefore determined using the constructed cost of production plus a reasonable addition for selling and administration costs and profit.

The Applicant constructed the normal value based on the cost structure (the cost structure indicates the percentages of the raw materials, labour, other manufacturing cost and gross profit) of Cable Corporation of India and Universal Cables in India, which were obtained from their annual reports at the time of the original application in 1999 and adjusted, based on the current international raw material prices.

The Applicant stated that the Indian manufacturers no longer provide the percentage breakdown of costs on the internet, and therefore the applicant had to use the last published percentages of the Indian cost breakdown which were obtained in 1999. The Applicant further indicated that the cost structures for the materials were based on the February 2004 published SEIFSA indices.

The Applicant calculated the following normal values:

Cable Corporation of India

Raw material cost:	44,7% of sales
Direct Labour cost:	8,87% of sales
Gross Profit Margin:	13,92% of sales
Other manufacturing costs:	32,48% of sales

According to the Applicant, based on the raw material costs for the products concerned as detailed for February 2004, the raw material cost for a 95mm X 3 AL PILC PVC cable amounts to R62,61 per metre and for a 240mm X 3 AL PILC PVC cable R102,61 per metre.

From this information, the constructed normal value for this product was therefore calculated as follows in Rand per Metre:

Description	95mm x 3 AL	240mm x 3 AL
Raw Material cost (44,7% of selling price)	62.61	102.61
Direct Labour cost (8,87% of selling price)	12.42	20.36
Other manufacturing costs (13,92% of selling price)	19.49	31.95
Gross profit margin (32,48% of selling price)	45.49	74.58
Normal value	140.01	229.50

Universal Cables Limited

Raw material cost:	47,7% of sales
Direct Labour cost:	4.43% of sales
Gross Profit Margin:	15,23% of sales
Other manufacturing costs:	32,64% of sales

According to the Applicant, based on the international raw material costs for the products concerned as detailed for February 2004, the raw material cost for a 95mm X 3 AL PILC PVC cable amounts to R62,61 per metre and for a 240mm X 3 AL PILC PVC cable R102,61 per metre.

From this information, the constructed normal value for this product was therefore calculated as follows in Rand per Metre:

Description	95mm x 3 AL	240mm x 3 AL
Raw Material cost (47,7% of selling price)	62.61	102.61
Direct Labour cost (4,43% of selling price)	5.81	9.53
Other manufacturing costs (15,23% of selling price)	19.99	32.76
Gross profit margin (32,64% of selling price)	42.84	70.22
Normal value	131.25	215.12

4.6.2 Export prices

There were no exports subsequent to the imposition of the anti-dumping duties.

The export prices were determined by adjusting the export prices tendered by Indian manufacturers in the previous application in 1997 using the raw material prices of aluminium and lead based on the London metal exchange publication for the period June 1997 to February 2004.

The applicant indicated that as it does not import the cable, it therefore, does not have documentary proof of the adjustments for freight, wharfage and commission. However, the Commission found these costs to be in line with costs incurred by exporters of similar cables from India when exporting to the SACU.

The ex-factory selling price was therefore calculated as follows after taking into account, ocean freight of 5 percent, import duties of 15 percent, agent's commission of 5 percent and wharfage of 1 percent:

95mm x 3 AL cable

Figures in Rand per meter

	<u>Cable Corp</u> R84.19	<u>Universal</u> R82.87
Freight (5%)	R 3.34	R 3.28
Import Duty (15%)	R10.02	R 9.87
Commission (5%)	R 3.34	R 3.29
Wharfage (1%)	R 0.67	R 0.66
Ex-factory selling price	R66.82	R65.77

240mm x 3 AL cable

	<u>Cable Corp</u> R134.08	<u>Universal</u> R137.80
Freight (5%)	R 5.32	R 5.46
Import Duty (15%)	R 15.96	R 16.41
Commission (5%)	R 5.32	R 5.47
Wharfage (1%)	R 1.06	R 1.09
Ex-factory selling price	R106.42	R109.37

4.6.3 Margin of dumping

The Commission determined the following dumping margins on paper insulated lead covered electric cable:

95mm x 3 AL cable

	Cab Corporation	Universal
Normal value	R140.01	R131.25
Export price less adjustments	R 66.82	R 65.77
Margin of dumping	R 73.19	R 65.48
Dumping margin expressed as a percentage of export price	109.53%	99.55%

240mm x 3 AL cable

:	Cab Corporation	Universal
Normal value less adjustments	R229.50	R215.12
Export price	R106.42	R109.37
Margin of dumping	R 123.08	R 105.75
Dumping margin expressed as a percentage of export price	115.65%	96.69%

Summary

Margin of Dumping

	Cable Corporation	Universal Cable
Average for both products	112.59%	98.12%
Average for India	105.35%	

4.7 CONCLUSION - DUMPING

For purposes of its final determination, the Commission found that the expiry of the duties on the subject products originating in or imported from India would be likely to lead to the continuation or recurrence of dumping.

5 MATERIAL INJURY

Article 11.3 of the Anti-Dumping Agreement provides as follows:

“Notwithstanding the provisions of paragraphs 1 and 2, any definitive anti-dumping duty shall be terminated on a date not later than five years from its imposition (or from the date of the most recent review under paragraph 2 if that review has covered both dumping and injury, or under this paragraph), unless the authorities determine, in a review initiated before that date on their own initiative or upon a duly substantiated request made by or on behalf of the domestic industry within a reasonable period of time prior to that date, **that the expiry of the duty would be likely to lead to continuation or recurrence of dumping and injury**. The duty may remain in force pending the outcome of such a review.”

5.1 DOMESTIC INDUSTRY FOR THE PURPOSE OF DETERMINATION OF 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 material injury analysis in this submission relates to Aberdare (Pty) Ltd, (the SACU producer) which constitutes 53 percent of the total domestic production of the subject product in the SACU. The Commission found that this constitutes “a major proportion” of the total domestic production, in accordance with Article 4.1 of the WTO Anti-Dumping Agreement.

Information with regard to the injury indicators reflects the Applicant’s position for the years ensuing the imposition of the current anti-dumping duties, as well as a substantiated estimate of what the effect of the expiry of the duties will have on the Applicant.

Information on the 95 mm cable has been supplied by African Cables, as the two companies, Aberdare and African Cables have an agreement to share the tenders won and the fact that Aberdare did not manufacture and sell the 95 mm cable during the period of material injury analysis.

5.3 IMPORT VOLUMES AND EFFECT ON PRICES

5.3.1 Import volumes

With reference to Article 31(a), Article 3.2 of the WTO 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 statistics 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 following table shows the volume of the alleged dumped imports of the subject product as obtained from SARS:

Table 5.3.1

Tariff Heading 8544.60	2001 Jan-Dec		2002 Jan-Dec		2003 Jan-Dec		2004 Jan-Feb		Estimate if duty expires	
	TONS	%	TONS	%	TONS	%	TONS	%	TONS	%
Dumped imports from India	332	20,4	0	0	0	0	0	0	552	18
Other Countries	1297	79,6	1085	100	2 620	100	2502	100	2 502	82
Total imports	1629	100	1085	100	2 620	100	2502	100	3 054	100

There were no imports of the subject product from India since the imposition of the duties in 1999. The import statistics also show the imports of other cables, which are not the subject of the investigation as

various cables including the subject product, are imported under the tariff subheading 8544.60.

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 per unit selling price of the SACU product.

The Commission noted that information for the 95mm cable has been supplied by African Cables as Aberdare did not sell the product. The prices for the imported products were determined by applying the international material prices of Aluminium Rod and Lead for the period 1997 to 2004 to the original tendered prices by the Indian manufacturers in 1997.

The following table shows the extent of undercutting and an assumption of what the situation would be if the anti-dumping duties were removed.

Table 5.3.2

Description	2001 Feb		2002 Feb		2003 Feb		2004 Feb		Estimate if duties expire	
% undercutting	CCI	UNIV	CCI	UNIV	CCI	UNIV	CCI	UNIV	CCI	UNIV
95mm X 3C	100	100	95	87	137	222	141	234	68	192
240mm X 3C	100	100	92	83	123	162	111	130	56	103

CCI – Cable Corporation India

Univ – Universal India

The figures in the table above have been indexed due to confidentiality with 2001 as the base year.

The information in the table indicates that the price of the imported subject product has undercut the price of the domestic product since the imposition of the current anti-dumping duties. The applicant estimated a decrease of 25 percent in its selling price should the current anti-dumping duties be removed in line with the average price undercutting in 2004.

Price depression

Price depression occurs when the domestic industry experiences a decrease in selling prices over time.

The Commission noted that information for the 95mm cable has been supplied by African Cables as Aberdare did not sell the product.

Table 5.3.2.1

	2001 Feb	2002 Feb	2003 Feb	2004 Feb	Estimate if duties expire
Applicant's Selling Price (Rand per Metre)					
95mm X 3C	100	114	118	123	92
240mm X 3C	100	115	116	111	83

The figures in the table above have been indexed due to confidentiality with 2001 as the base year

The information in the table indicates that the price of the 95 mm cable increased by 14 index points in the year 2002 compared to 2001 and by 4 index points in the year 2003 compared to the year 2002. The price of

the 95 mm cable in the year 2004 increased by 5 index points compared to the year 2003.

The price of the 240 mm cable increased by 14 index points in the year 2002 compared to the year 2001 and by 1 index point in the year 2003 compared to the year 2002. The price of the 240 mm cable in the year 2004 decreased by 5 index points to the year 2003.

The Commission noted that if the duties were removed the SACU producer will reduce its prices in order to try and capture the market in direct competition with the Indian manufacturers.

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 Commission noted that the selling price information for the 95mm cable has been supplied by African Cables as Aberdare did not sell the product.

The following table shows the Applicant's costs of production and its average selling prices for the subject product subsequent to the imposition of the anti-dumping duties and an estimate in the event of the expiry of the duties:

Table 5.3.2.2

	2001 Feb		2002 Feb		2003 Feb		2004 Feb		Estimate if duties expire	
COP as % of SP	95mm	240mm	95mm	240mm	95mm	240mm	95mm	240mm	95mm	240mm
	100	100	103	104	96	95	96	104	139	141

The figures in the table above have been indexed due to confidentiality with 2001 as the base year

Information in the table indicates that cost of production as percentage of selling price for 95 mm cable have increased by 3 index points in the year 2002 compared to the year 2001, decreased by 7 index points in the year 2003 compared to the year 2002 and remained constant in the year 2004 compared to the year 2003.

Information in the table further indicates that cost of production as a percentage of the selling price for 240 mm cable has increased by 4 index points in the year 2002 compared to the year 2001, decreased by 9 index points in the year 2003 compared to the year 2002 and increased by 9 index points in the year 2004 compared to the year 2003.

Due to the estimated decrease in sales if the duties are removed, the Commission noted that the SACU producer will experience an increase in the cost of production as a percentage of the selling prices for both products, as the loss of volumes and the decrease in prices will result in less contribution to the already high fixed costs experienced in this type of business.

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 Commission noted that information for the 95mm cable has been supplied by African Cables as Aberdare did not sell the product.

The following table shows the sales volume for the SACU producers of the subject product subsequent to the imposition of the anti-dumping duties and an estimate for the next year in the event of the expiry of the duties:

Table 5.3.3.1

	2001 Feb		2002 Feb		2003 Feb		2004 Feb		Estimate if duties expire	
SACU sales	95mm	240mm	95mm	240mm	95mm	240mm	95mm	240mm	95mm	240mm
Tons	100	100	67	200	86	123	113	251	78	175

The figures in the table above have been indexed due to confidentiality with 2001 as the base year

Information in the table indicates that the sales of the 95 mm cable have decreased in the year 2002 by 33 index points compared to the year 2001, increased by 9 index points in the year 2003 compared to the year 2002 and increased by 27 index points in the year 2004 compared to the year 2003.

Sales of the 240 mm cable increased by 100 index points in the year 2002 compared to the year 2001, decreased by 77 index points in the year 2003 compared to the year 2002 and increased by 128 index points in the year 2004 compared to the year 2003.

The Commission found that the loss of the sales by the SACU producers if the duties are removed will erode the gains in sales, which have been made by the SACU producers since the imposition of the current duties and that the Applicant will lose its entire sales volume of the 240 mm and 95 mm to the Indian manufactures who have already won a set aside contract through an importer in the SACU to supply the subject products to the Durban municipality.

5.3.3.2 Profit

The following table shows the SACU producer's gross profit for the paper insulated lead covered cable subsequent to the imposition of the anti-dumping duties and an estimate for the next year in the event of the expiry of the duties:

Table 5.3.3.2

	2001 Feb	2002 Feb	2003 Feb	2004 Feb	Estimate if duties expire
Profit margin on selling price	100	127	158	167	47

These figures in the table relate to the entire paper cable division and not only to the 240mm and 95mm cables and have been indexed due to confidentiality with 2001 as the base year

Information in the table indicates that the profit margin on selling price has increased by 27 index points in the year 2002 compared to the year 2001, increased by 31 index points in the year 2003 compared to the year 2002 and increased by 9 index points in the year 2004 compared to the year 2003.

The Commission noted that the SACU producer will revert to the low profit margin it realised before the imposition of the current anti-dumping duties in order to compete with the dumped prices of the Indian manufacturers.

5.3.3.3 Output

The following table outlines the SACU producer's production volume for all the various sizes of the paper insulated lead covered cables subsequent to the imposition of the anti-dumping duties and an estimate for the next year in the event of the expiry of the duties:

Table 5.3.3.3

	2001 Feb	2002 Feb	2003 Feb	2004 Feb	Estimate if duties expire
Applicant's volume in tons	100	104	138	144	95

These figures in the table relate to the entire paper cable division and not only to the 240mm and 95mm cables and have also been indexed due to confidentiality with 2001 as the base year

The Applicant's output has increased year on year on since the years 2002 to 2004.

The Commission noted that the SACU producer will lose its entire output volume of its 240 mm and 95 mm made to the major municipalities to the Indian manufacturers if the duties are revoked as it noted that one the Indian manufacturers will benefit from a set aside contract that has been awarded to the local importer who will source the subject product from the Indian company.

5.3.3.4 Market share

The following table shows the market share for the subject product (for various sizes) and an estimate for the next year in the event of the expiry of the duties:

Table 5.3.3.4

Market Share	2001 Feb	2002 Feb	2003 Feb	2004 Feb	Estimate if duties expire
SACU producer	100	100	100	100	69
Rest of the SACU industry	100	100	100	100	70
Dumped imports	NIL	NIL	NIL	NIL	100

These figures in the table relate to the entire paper cable division and not only to the 240mm and 95mm cables and have been indexed due to confidentiality with 2001 as the base year.

The Commission noted that the SACU industry will lose its entire market share of the 240mm and 95 mm cables made up of its sales to the major municipalities to the Indian manufacturers if the duties are removed, due to the fact that an Indian manufacturer has already being awarded a set aside contract through a SACU importer.

5.3.3.5 Productivity

The following table shows the SACU producer's productivity situation subsequent to the imposition of the anti-dumping duties and an estimate for the next year in the event of the expiry of the duties:

Table 5.3.3.5

	2001 Feb	2002 Feb	2003 Feb	2004 Feb	Estimate if duties expire
Output per Employee	100	104	138	145	95

These figures relate to the entire paper cable division and not only to the 240mm and 95mm cables and have been indexed due to confidentiality with 2001 as the base year

The information in the table indicates that the productivity of the SACU producer increased year on year from 2002 to 2004.

The Commission found that if the duties are removed the productivity of the subject product will decrease as result of the decrease in production due to a decrease in sales.

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 SACU producer's return on total net assets and return on owner's equity for the years subsequent to the

imposition of the anti-dumping duties, and an estimate for the next year in the event of the expiry of the duties:

Table 5.3.3.6

	2001 Feb	2002 Feb	2003 Feb	2004 Feb	Estimate if duties expire
Return on owner's equity	Negative	100	217	150	125
Return on total net assets	Negative	100	172	147	123

These figures in the table relate to the entire SACU producer's results and not only to the 240mm and 95 mm cables and have been indexed due to confidentiality with 2002 as the base year. Negative figures have not been indexed

The Commission noted that the SACU producer's negative return on investment in the year 2001 was due to the sudden escalation in the cost of the raw materials due to the depreciation of the South African Rand in December 2001. The Commission further noted that the return on investment will decrease if duties were removed due to the SACU producer's decrease in profit margin on sales and a decrease in sales.

The Commission also noted that assets of the SACU producer will remain constant, as the total loss of sales would not necessitate disinvestments in capital assets.

5.3.3.7 Utilisation of production capacity

The following table provides the SACU producer's utilization of production capacity for the subject product (for various sizes) subsequent to the imposition of the anti-dumping duties and an estimate for the next year in the event of the expiry of the duties:

Table 5.3.3.7

	2001 Feb	2002 Feb	2003 Feb	2004 Feb	Estimate if duties expire
Utilisation of capacity	100	103	137	144	94

These figures in the table relate to the paper cable division and not only to the 240mm and 95 mm cables and have been indexed due to confidentiality with 2001 as the base year

Information in the table indicates that the utilisation of production capacity has increased in the years 2002, 2003, and 2004 compared to the year 2001. The Commission noted that the estimated decrease in capacity utilisation will result in a utilisation percentage which is less than the lowest utilisation percentage which was recorded in 2001.

5.3.3.8 Factors affecting domestic prices

No information was submitted in this regard.

5.3.3.9 The magnitude of the margin of dumping

In section 4 of this report, it was found that paper insulated lead covered cables were imported at dumped prices into the SACU during the investigation period at the following margin:

Average for India	105.35%
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The Commission made a final determination that the dumping margin is significant.

5.3.3.10 Actual and potential negative effects on cash flow

The Commission noted that the SACU producer's high fixed costs, will remain constant regardless of the reduction in turnover which would not

be significant enough to reduce shifts, thus the input costs would remain the same with reduced output, negatively affecting cash flow.

5.3.3.11 Inventories

The following table indicates the SACU producer's inventory level of finished goods of paper insulated lead covered cables for the 240mm size subsequent to the imposition of the anti-dumping duties and an estimate for the next year in the event of the expiry of the duties:

Table 5.3.3.11

Stockholding	2001 Feb	2002 Feb	2003 Feb	2004 Feb	Estimate if duties expire
Volume in tons	100	66	86	47	11

The figures in the table relate only to the 240mm cables and have been indexed due to confidentiality with 2001 as the base year

The Commission noted that the significant decrease in the volume of inventory in the year 2004 was as a result of the shortage of metals as a result of the problems experienced by the Applicant's supplier of the aluminum material.

Furthermore, the Commission found that the SACU producer will experience a decrease in inventories if the duties are removed as it makes the subject product to order.

5.3.3.12 Employment

The following table shows the SACU producer's employment levels subsequent to the imposition of the anti-dumping duties, and an estimate for 2004 in the event of the expiry of the duties:

Table 5.3.3.12

	2001 Feb	2002 Feb	2003 Feb	2004 Feb	Estimate if duties expire
Employment: production	100	100	100	100	100
Employment: total plant	100	95	103	102	102

The figures in the table above have been indexed due to confidentiality with 2001 as the base year.

The level of employment has decreased in the year 2002 and increased in the years 2003 and 2004 compared to the year 2001.

The Commission noted that the reduction in its sales of the SACU producer if the duties are removed will eventually result in a shift being removed.

5.3.3.13 Wages

The following table shows the SACU producer's wage levels subsequent to the imposition of the anti-dumping duties, and an estimate in the event of the expiry of the duties:

Table 5.3.3.13

	2001 Feb	2002 Feb	2003 Feb	2004 Feb	Estimate if duties expire
Gross Wages/employee (production)	100	112	121	131	131

The figures in the table above have been indexed with 2001 as the base year.

The level of wages has increased in the years 2002, 2003 and 2004 compared to the year 2001.

The Commission noted that the estimated loss in sales will not result in the immediate reduction of employees but will eventually result in a shift being removed.

5.3.3.14 Growth

The Commission noted that if the dumping duties are removed, exports to SACU will resume which will result in a decrease in locally produced volume, depressed prices, loss of jobs, turnover and profit.

5.3.3.15 Ability to raise capital or investments

The SACU producer indicated that it is able to raise capital due to a strong balance sheet. It further stated that despite the strong balance sheet, which would assist in raising capital, the directors could be reluctant to invest any more funds for the manufacture of this range if the dumping duty is allowed to expire.

5.3.3.16 Own imports

The SACU producer did not import the subject product. However, it imported the paper (one of the raw materials used in the manufacture of the subject product) as the quality of the paper required cannot be produced locally.

5.4 CONCLUSION - MATERIAL INJURY

The Commission for purposes of its final determination decided that the expiry of the duties is likely to lead to the recurrence or continuation of material injury to SACU industry.

6. SUMMARY OF FINDINGS

6.1 DUMPING

The Commission found that the expiry of the duties on the subject product originating in or imported from India would be likely to lead to the continuation or recurrence of dumping,

6.2 MATERIAL INJURY

The Commission found that the expiry of the duties would be likely to lead to the continuation or recurrence of material injury to the SACU industry.

7. RECOMMENDTION

During the initial investigation in 1999, the Commission imposed the following anti-dumping duties on paper insulated lead covered electrical cable originating in or imported from India:

Tariff subheading	Description	Originating in or imported from	Anti-dumping duty
8544.60	Electric Cable (excluding ignition wiring sets and other wiring sets of a kind used in vehicles, aircraft or ships and co-axial cable) insulated with paper and covered with lead, for a voltage exceeding 1 000V, manufactured by Universal Cables Limited.....	India	30.49%
8544.60	Electric Cable (excluding ignition wiring sets and other wiring sets of a kind used in vehicles, aircraft or ships and co-axial cable) insulated with paper and covered with lead, for a voltage exceeding 1 000V, manufactured by Cable Corporation of India.....	India	2.14%
8544.60	Electric Cable (excluding ignition wiring sets and other wiring sets of a kind used in vehicles, aircraft or ships and co-axial cable) insulated with paper and covered with lead, for a voltage exceeding 1000V, (excluding that manufactured by Universal Cables Limited and Cable Corporation of India).....	India	65.47%

The Commission made a final determination that:

- the expiry of the duties is likely to lead to the continuation or recurrence of dumping; and
- the expiry of the duties is likely to lead to the continuation or recurrence of material injury.

In making its decision, the Commission considered the following:

- The Anti-Dumping Agreement Article 9.1 which provides that the decision whether or not to impose an anti-dumping duty in cases where all the requirements for the imposition have been fulfilled, and the decision whether the amount of the anti-dumping duty to be imposed shall be the full margin of

dumping or less, are decisions to be made by the authorities of the importing member; and

- The Anti-Dumping Regulations Section 47 which provides that the Commission's final finding, in the form of a recommendation to the Minister, may result in an increase, decrease, the withdrawal or the reconfirmation of the existing anti-dumping duty.

The Commission, therefore, decided to recommend to the Minister of Trade and Industry that the existing anti-dumping duties of 65,47 percent be applied to all exports of paper insulated lead covered electrical cable originating in or imported from India.