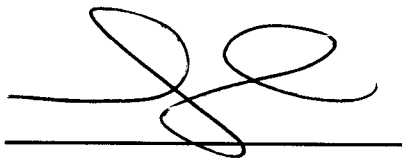


## **Report No. 147**

# **Investigation into the alleged dumping of refined sunflower oil originating in or imported from the Argentine Republic and the Federative Republic of Brazil: Preliminary determination**

## **INTERNATIONAL TRADE ADMINISTRATION COMMISSION**

The International Trade Administration Commission of South Africa herewith presents its **Report No.: 147: INVESTIGATION INTO THE ALLEGED DUMPING OF REFINED SUNFLOWER OIL ORIGINATING IN OR IMPORTED FROM THE ARGENTINE REPUBLIC AND THE FEDERATIVE REPUBLIC OF BRAZIL: PRELIMINARY DETERMINATION**

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**MR ITUMELENG MASEGE**

**ACTING CHIEF COMMISSIONER**

**PRETORIA**

06 / 12 / 2005

# **INTERNATIONAL TRADE ADMINISTRATION COMMISSION**

## **INVESTIGATION INTO THE ALLEGED DUMPING OF REFINED SUNFLOWER OIL ORIGINATING IN OR IMPORTED FROM THE ARGENTINE REPUBLIC AND THE FEDERATIVE REPUBLIC OF BRAZIL: PRELIMINARY DETERMINATION**

### **SYNOPSIS**

On 10 June 2004, the International Trade Administration Commission of South Africa (the Commission) formally initiated an investigation into the alleged dumping of refined sunflower oil originating in or imported from the Argentine Republic and the Federative Republic of Brazil. Notice of the initiation of the investigation was published in Notice No. 889 of *Government Gazette* No. 27641 dated 10 June 2004.

A completed Applicant's questionnaire was submitted by the South African Oil Processors Association, on behalf of its members which include Epko Oil Seed Crushing (Pty) Ltd and Nola Foods (Pty) Ltd, who are manufacturers of the subject product in the SACU who submitted injury information.

The investigation was initiated after the Commission considered that there was sufficient evidence to show that the subject product was being imported at dumped prices, causing material injury to the SACU industry.

On initiation of the investigation, the known producer and exporter of the subject product in Argentina and Brazil were sent a foreign manufacturers/exporters questionnaire to complete. Importers of the subject product were also sent questionnaires to complete.

On 4 August 2005, the SACU industry requested that the description of subject product in the investigation should be amended to read: "refined sunflower oil, packed and bottled in 210 litres drums and below".

The South African Revenue Service (SARS) was requested to comment on the

description of the subject product and it was suggested that the description of the subject product be amended to read: "Sunflower seed oil (*Helianthus annuus*) and fractions thereof, not chemically modified, in containers holding 210 litres or less (excluding crude oil and safflower oil (*Carthamus tinctorius*) or fractions thereof)".

After considering all the parties' comments, the Commission made a preliminary determination that:

- (i) the description of the subject product be amended to read as "Sunflower seed oil (*Helianthus annuus*) and fractions thereof, not chemically modified, in containers holding 210 litres or less (excluding crude oil and safflower oil (*Carthamus tinctorius*) or fractions thereof)";
- (ii) as there were no imports of the subject product from Brazil during the period of investigation, the investigation into the alleged dumping of refined sunflower oil originating in or imported from Brazil be terminated;
- (iii) the subject product originating in or imported from Argentina (excluding that manufactured by Molinos Rio de la Plata and Aceteira General Deheza) was exported to SACU at dumped prices. The margin of dumping for Nidera S.A. was calculated to be 4 per cent and the residual dumping margin was calculated to be 37.95 per cent;
- (iv) the SACU industry was suffering material injury;
- (v) the following factors detracted from the causal link between the dumping and the material injury:
  - the effect of substitution between other vegetable oils being imported in bulk and bottled, such as soya oil, and sold in competition with sunflower oil as indicated by the SACU industry;
  - the effect of revising the description of the subject product to include only the packed oil and therefore the effect on the SACU market of bulk sunflower oil that is being bottled in SACU and sold in competition

with the SACU produced product;

- the fact that SACU industry is a net importer of sunflower oil which is traditionally sold in the coastal regions;
- the fact that the SACU industry itself imports bulk oil when there is a shortage of sunflower seed;
- exporters in Argentina benefit from larger economies of scale and utilized technology and plant that is more than 10 years newer compared to the SACU producers;
- the effect of the 2003/2004 sunflower crop failure on capacity utilization and therefore profits;
- the fact that all the Argentinian producers that responded made their own plastic bottles and were therefore more cost-effective.

The Commission, therefore, made a preliminary determination that the investigation into the alleged dumping of refined sunflower oil originating in or imported from the Argentine Republic and the Federative Republic of Brazil be terminated.

## **1. APPLICATION AND PROCEDURE**

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### **1.1 APPLICANT**

The application was lodged by the South African Oil Processors Association, on behalf of its members which include Epko Oil Seed Crushing (Pty) Ltd and Nola Foods (Pty) Ltd, who are manufacturers of the subject product in the SACU and submitted injury information.

### **1.2 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 1 June 2005. The trade representatives of the countries concerned were advised accordingly.

### **1.3 ALLEGATIONS BY THE APPLICANT**

The Applicant alleged that imports of the subject products, originating in or imported from the Argentine Republic and the Federative Republic of Brazil 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 are being exported to SACU at prices less than the normal value in the country of origin.

The Applicant alleged that as a result of the dumping of the subject product from the Argentine Republic and the Federative Republic of Brazil, the SACU industry was suffering material injury in the form of:

- price undercutting
- price suppression
- price depression
- decline in sales

- decline in profits
- decline in output
- decline in productivity
- decline in market share from 2002 to 2004
- negative return on investment
- decrease in capacity utilization
- decrease in employment
- decline in growth

#### **1.4 INVESTIGATION PROCESS**

The application was submitted on 14 February 2005. The information submitted by the Applicant was verified on 25 February and 1 March 2005. A verification report was sent to the Applicant on 8 March 2005. The applicant was requested to update its injury information to December 2004. The final non-confidential version of the application was submitted on 24 May 2005. The merit of the case was considered by the Commission on 1 June 2005.

On 4 August 2005, the Applicant requested that the description of the subject product in the investigation should be amended to read: "refined sunflower oil, packed and bottled in 210 litres drums and below.

The investigation was initiated on refined sunflower oil originating in or imported from the Argentine Republic and the Federative Republic of Brazil.

The South African Revenue Service (SARS) was requested to comment on the description of the subject product and it was suggested that the description of the subject product be amended to read: " Sunflower seed oil (*Helianthus annuus*) and fractions thereof, not chemically modified, in containers holding 210 litres or less (excluding crude oil and safflower oil (*Carthamus tinctorius*) or fractions thereof)".

## **1.5 INVESTIGATION PERIOD**

This submission contains information with regard to dumping for the period 1 January 2004 to 31 December 2004, and information with regard to injury for the period 1 January 2002 to 31 December 2004.

## **1.6 PARTIES CONCERNED**

### **1.6.1 SACU industry**

The SACU industry is represented by the South African Oil Processors Association (SAOPA), on behalf of its members which include Epko Oil Seed Crushing (Pty) Ltd and Nola Foods (Pty) Ltd who are manufacturers of the subject product in the SACU.

### **1.6.2 Exporters/Foreign Manufacturers**

The following exporters/manufacturers were identified as interested parties:

#### **Argentina**

- Aceitera General Deheza, .
- Molinos de la Plata S .A.
- Nidera S .A.
- Buyatti S.A.I.C.A.
- J.J. Hinrichsen S.A.
- La Plata Cereal S.A.
- Tanoni Hnos S.A.

Only Aceitera General Deheza (AGD), Molinos de la Plata S. A. (Molinos) and Nidera S. A. (Nidera) submitted full responses to the Commission's questionnaire. The information submitted was verified during the last week of September and the first week of October 2005.



Exporters in Brazil did not respond to the Commission's questionnaire but instead the Government of Brazil indicated that they did not export the subject product during the period of investigation.

### **1.6.3 Importers**

The following SACU importers were identified as interested parties:

- Bayview Commodities (Pty) Ltd
- Cape Oil & Magarine (Pty) Ltd
- D H Brothers Industries (Pty) Ltd
- Elangeni Oil & Soaps (Pty) Ltd
- Mass Stores (Pty) Ltd
- Monteagle Consumer Group Ltd
- National Cape Suppliers CC
- National Ship chandlers Natal 1989 (Pty) Ltd
- Pick & Pay Retailers
- Savanna Commodities (Pty) Ltd
- Sealake Investments (Pty) Ltd
- Shoprite Checkers (Pty) Ltd
- Springgold Investments (Pty) Ltd
- Sun Oil Refineries (Pty) Ltd
- Sunola Oil Mills (Pty) Ltd
- W S Lloyd Ltd

Only Shoprite Checkers (Pty) Ltd, Pick & Pay Retailers and Sunoil Refineries (Pty) Ltd submitted full responses to the Commission's questionnaires. Information submitted by Shoprite Checkers was verified in August 2005 and information submitted by Pick & Pay Retailers was verified during September 2005.

Information submitted by Sunoil Refineries was not verified since the import documentation provided indicates that the products imported were soya bean oil

and one consignment of refined sunflower oil in bulk, which are not the subject products.

## **2. PRODUCTS, TARIFF CLASSIFICATION AND DUTIES**

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### **2.1 IMPORTED PRODUCT**

#### **2.1.1 Description**

In the initiation notice the product was described as refined sunflower oil originating in or imported from the Argentine Republic and the Federative Republic of Brazil.

On 4 August 2005, the SACU industry requested that the description of subject product in the investigation should be amended to read: "refined sunflower oil, packed and bottled in 210 litres drums and below.

The South African Revenue Service (SARS) was requested to comment on the description of the subject product and it was suggested that the description of the subject product be amended to read: " Sunflower seed oil (*Helianthus annuus*) and fractions thereof, not chemically modified, in containers holding 210 litres or less (excluding crude oil and safflower oil (*Carthamus tinctorius*) or fractions thereof)".

From an analysis of the import bills of entry it was established that there was only one consignment of bulk sunflower oil imported from Brazil by Sunoil Refineries.

#### **2.1.2 Country of origin/import**

The subject product is imported from the Argentine Republic and the Federative Republic of Brazil.

#### **2.1.3 Raw material**

The raw material used for manufacturing for manufacturing the subject product is sunflower seed.

#### 2.1.4 Import Statistics

The import statistics, as contained in paragraph 5.1 of this report, indicated that the volume of the alleged dumped imports from the Argentine Republic accounted for 71.75 per cent of the total imports of the like product during the period of investigation.

From an analysis of the import bills of entry it was established that there was only one consignment of bulk sunflower oil imported from Brazil by Sunoil Refineries.

#### 2.1.5 Technical characteristics

The technical characteristics of the subject product includes the following:

**Table 2.1.5**

<i>Acid Value</i>	<i>0.6 MG KOH/g Oil</i>
<i>Peroxide Density</i>	<i>1.0 meq of peroxide oxygen/kg of oil</i>
<i>Saponification Value</i>	<i>188 – 194</i>
<i>Iodine Value</i>	<i>90 – 143 (WJIS Method)</i>
<i>Insoluble matter in petrol ether</i>	<i>0.05%</i>
<i>Free fatty acid</i>	<i>0.1% max as oleic</i>
<i>Moisture</i>	<i>0.1% max</i>

#### 2.1.6 Application/end use

Sunflower oil is used almost exclusively as a foodstuff. It is retailed to the consumer for home consumption, or supplied as an additive in the industrial food process, primarily as an ingredient in ready-made salad dressing and mayonnaise.

The restaurant and fast-food sectors (especially the providers of deep fried foods) are bulk users of sunflower oil.

## 2.1.7 Tariff classification

The subject product is classifiable under the following sub-heading:

**Table 2.1.7**

TARIFF SUBHEADING	DESCRIPTION	UNIT OF MEASUREMENT	GENERAL	EU	SADC
1512	Sunflower-seed or sunflower cotton- seed oil and fractions thereof, whether or not refined, but not chemically modified				
1512.1	Sunflower seed or safflower and fractions thereof				
	Crude oil				
	<b>Other</b>				
1512.11 (9)	Cotton seed oil and its fractions	kg	10%	free	free
<b>1512.19 (9)</b>		<b>kg</b>	<b>10%</b>	<b>10%</b>	<b>free</b>
1512.2	Crude oil whether or not gossypol has been removed				
1512.21(3)	Other	kg	10%	free	free
1512.29 (4)		kg	10%	3.3%	free

## 2.1.8 Other applicable duties or rebates

No other duties are applicable in this regard and there are no rebate provisions.

## 2.1.9 Production process

Sunflower seeds contain approximately 38% oil content, that is extracted via the process of milling. The milled seeds are then further processed, and then sent for cleaning, decortication (removal of the husk) conditioning (heat and moisture treatment) and crushing.

The main product is crude oil with by-products of meal and husk. The mill still retains high oil content and as such is sent to a solvent extraction plant where the oil is removed.

The refining process starts with the removal of dry gums soluble in crude oil (degumming); the removal of free fatty acids from the crude oil (neutralisation); the removal of waxes causing clouding of oil at low temperatures (de-waxing); and finally the removal of undesirable odours, flavours and free fatty acids from the oil (deodorisation).

The processed oil is then either sold in bulk, or decanted into 5 litre, 2 litre, 1 litre or 750ml bottles for distribution in the SACU market.

## **2.2 SACU PRODUCT**

**2.2.1** The subject product is described as packed refined sunflower oil and cooking obtained from the plant *Helianthus annuus* L, commonly known as sunflower oil and cooking oil. Please refer to paragraph 2.1.1 in this regard.

### **2.2.2 Main raw material**

The raw material used is sunflower seed.

### **2.2.3 Application/end use**

Sunflower oil is used almost exclusively as a foodstuff. It is retailed to the consumer for home consumption, or supplied as an additive in the industrial food process, primarily as an ingredient in ready-made salad dressing and mayonnaise.

The restaurant and fast-food sectors (especially the providers of deep fried foods) are bulk users of sunflower oil.

#### **2.2.4 Tariff classification**

The SACU product is classifiable under tariff subheading 1512.29.

#### **2.2.5 Production process**

Sunflower seeds contain approximately 38% oil content, that is extracted via the process of milling. The milled seeds are then further processed, and then sent for cleaning, decortication (removal of the husk) conditioning (heat and moisture treatment) and crushing.

The main product is crude oil with by-products of meal and husk. The meal still retains a high oil content and as such is sent to a solvent extraction plant where the oil is removed.

The refining process starts with the removal of dry gums soluble in crude oil (degumming); the removal of free fatty acids from the crude oil (neutralisation); the removal of waxes causing clouding of oil at low temperatures (de-waxing); and finally the removal of undesirable odours, flavours and free fatty acids from the oil (deodorisation).

The processed oil is then either sold in bulk, or decanted into 5 litre, 2 litre, 1 litre or 750ml bottles for distribution in the SACU market.

### **2.3 Like product**

#### **General**

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

#### **(a) Raw material**

The raw material used for manufacturing the subject product is

sunflower seed.

**(b) Physical appearance and characteristics**

The imported products and the SACU products have the same physical appearance and characteristics.

**(c) Tariff classification**

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

**(d) Method of manufacturing**

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

**(e) 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.

**(f) Any other factor proved to the satisfaction of the Commission to be relevant**

No information was provided in this regard.

**SUMMARY**

After considering all the above factors, the Commission was satisfied that the SACU product and the imported product are "like products", for purposes of comparison in this investigation, in terms of Article 2.6 of the Anti-dumping Agreement.



The Commission made a preliminary that the description of the subject product be amended to read as "Sunflower seed oil (*Helianthus annuus*) and fractions thereof, not chemically modified, in containers holding 210 litres or less (excluding crude oil and safflower oil (*Carthamus tinctorius*) or fractions thereof)".

### **3. SACU INDUSTRY**

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The Commission decided that the application can be regarded as being made “by or on behalf of the domestic industry” under the provisions of the Anti-Dumping Agreement.

## **4. DUMPING**

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### **4.1 METHODOLOGY IN THIS INVESTIGATION FOR THE ARGENTINE REPUBLIC**

#### **4.1.1 Normal Value**

##### **Type of economy**

The Argentine Republic is considered to be a country with a free market economy and therefore the definition of section 32(2)(b) of the ITA Act applies.

Invoiced domestic sales to wholesalers and large chain stores were used as the basis for calculating the normal value.

The following adjustments were made to the normal value to calculate the ex-factory price:

##### **Nidera S. A.**

##### **(a) Cost of payments terms**

An adjustment for cost of payment was made and this was calculated on transaction by transaction basis. The interest rate applied was based on the cost of finance by the banks to the company.

##### **(b) Delivery charges**

An adjustment for delivery charges was made.

(c) **Packaging cost**

An adjustment for packaging cost was made. This is in respect of the additional cost of the domestic product over the exported product.

(d) **Taxes**

An adjustment for taxes payable when goods are sold from one province into the other at varying rates was made. A further tax relating to bank transactions was made and the two taxes together were calculated on a transaction by transaction basis.

(e) **Discounts and rebates**

An adjustment for discounts and rebates was made.

**Molinos Rio de la Plata**

(a) **Cost of payment terms**

An adjustment for cost of payment was made and this was calculated on transaction by transaction basis. The interest rate applied was based on the cost of finance by the banks to the company.

(b) **Delivery charges**

An adjustment for delivery charges was made. The value was calculated on a transaction by transaction basis. The interest rate applied was based on a cost of finance by banks to the company.

(c) **Packaging costs**

An adjustment for packaging cost was made. Differences in packaging for the domestic and export market were verified. This difference was deducted from the export price.

(d) **Taxes**

An adjustment for provincial tax that is payable when goods are sold from one province into the other at varying rates was calculated. A tax applicable to domestic bank transactions was also calculated.

A further tax payable to local authorities called a safety and health tax based on turnover was also considered.

(e) **Commercial actions (discounts and rebates)**

An adjustment for discounts and rebates (commercial actions) granted to customers was made.

(f) **Commercial expenses**

An adjustment in respect of sales and marketing expenses (commercial expenses) was made.

(g) **Brand adjustment**

An adjustment in respect of branded products was made.

## **Aceteira General Deheza (AGD)**

### **(a) Cost of payment terms**

An adjustment for cost of payment was made and this was calculated on a transaction by transaction basis. The interest rate applied was based on the cost of finance by the banks to the company.

### **(b) Delivery charges**

An adjustment for delivery charges was made.

### **(c) Packaging cost**

An adjustment for differences in packaging for the domestic and exported market was made. The difference was therefore, deducted from the export price.

### **(d) Taxes**

An adjustment for provincial tax and domestic bank transactions was made.

### **(e) Discounts and rebates**

An adjustment for discounts and rebates granted to customers was made.

## **4.1.2 Export prices**

### **Nidera S. A.**

Sales to SACU was on a cost and freight (CFR) basis with payment terms at

sight. The weighted average CFR invoice price before adjustments was calculated.

The following adjustments to the CFR invoice price were made to calculate the ex-factory export price:

(a) **FOB charges**

An adjustment for Fob charges was made.

(b) **Ocean freight**

An adjustment for ocean freight was made and this was verified on a transaction by basis transaction basis.

(c) **Agents Commission**

An adjustment for agent's commission was made and it was verified on a transaction by transaction basis.

(d) **Export duties**

An adjustment for export duties was made.

**Molinos Rio de la Plata**

Sales to SACU was on a cost and freight (CFR) basis with payment terms at sight. The weighted average CFR invoice price before adjustments was calculated.

The following adjustments to the CFR invoice price were made to calculate the ex-factory export price:

(a) **Cost of payment terms**

An adjustment for cost of payments was made and this was calculated on transaction by transaction basis.

(b) **FOB charges**

An adjustment for Fob charges was made.

(c) **Ocean freight**

An adjustment for ocean freight was made.

(d) **Export duties**

An adjustment for export duties was made.

(e) **Packaging**

An adjustment for packaging cost was made. Differences in packaging for the domestic and export market were demonstrated and this was deducted from the export price.

**Aceteira General Deheza (AGD)**

Sales to SACU was made on a cost and freight (CFR) basis with payment terms at sight.

The following adjustments to the CFR invoice price were made to calculate the ex-factory export price:

(a) **Discounts and rebates**

An adjustment for discounts and rebates was made.



(b) **Delivery charges (Ocean freight)**

An adjustment for ocean freight was made.

(c) **Packaging**

An adjustment for packaging cost was made. Differences in packaging for the domestic and export market were demonstrated and the difference was deducted from the export price.

(d) **Other adjustments (Export duties)**

An adjustment for export duties payable on export transactions was made.

As there are other exporters in Argentina who did not co-operate in the investigation, a residual margin of dumping was calculated by applying the highest normal value and the lowest export price of exporters who responded.

The following dumping margins were calculated:

<b>Exporter</b>	<b>Margin of dumping</b>
Nidera S.A	4%
MoLinos	(16.18%)
AGD	(3.68%)
Other exporters	37.95%

#### **4.1.3 CONCLUSION - DUMPING**

The Commission made a preliminary determination that the subject product originating in or imported from Argentina (excluding that manufactured by Molinos Rio de la Plata and Aceteira General Deheza) was exported to SACU at dumped prices.

## **5. MATERIAL INJURY**

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### **5.1 Import volumes**

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 for the subject product as obtained from SARS:

\*Please note that imports of bulk unpacked oil has been excluded.

**Table 5.1**

<b>VOLUME OF ALLEGED DUMPED IMPORTS (TONS)</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>
Argentina	1 069	7 493	17 288
Other imports	2 763	580	1 979
Total imports	3 832	8 073	19 267

From an analyses of the import bills of entry it was established that there was only one consignment of bulk sunflower oil imported from Brazil by Sunoil Refineries.

### **5.3.2 Effect on Domestic Prices**

#### **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 Applicant's ex-factory price compared to the landed cost from the Argentine Republic was calculated to be 6.02%.

No price undercutting could be calculated for Brazil since there were no imports of the subject product during the period of investigation.

### Price depression

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

The table below shows the domestic industry's domestic selling prices:

**Table 5.3.2 (a)**

Depression (P/U)	2002	2003	2004
Nola	100	89	89
Epko	100	129	114
Average selling prices	100	109	102

The table has been indexed due to confidentiality using 2002 as the base year

The above table shows that on average prices decreased over the period 2002 to 2004.

### 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 SACU costs of production as a percentage of selling prices for the subject product for the period 2002 to 2004:

**Table 5.3.2 (b)**

Cost as % of selling price:			
Nola	100	118	118
Epko	100	110	119

This table has been indexed due to confidentiality using 2002 as the base year.

The above table shows that the SACU industry was not able to recover its

cost in the selling prices.

### **5.3.3 Consequent Impact of The Dumped Imports on The Industry**

#### **5.3.3.1 Actual and potential decline in sales**

The following table shows the SACU industry's sales volume for the subject product under investigation:

**Table 5.3.3.1**

<b>Sales volumes (tons)</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>
Nola	100	129	121
Epko	100	111	79
Average	100	120	100

This table has been indexed due to confidentiality using 2002 as the base year.

The above table shows that SACU industry's sales volumes increased from 2002 to 2003 but declined in 2004 to the same level as 2002.

#### **5.3.3.2 Profit**

The following table shows the SACU industry's profit situation from the period 2002 to 2004:

**Table 5.3.3.2**

<b>Net profit margin</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>
Nola	100	38	39
Epko	100	65	32
Average	100	52	36

The table has been indexed due to confidentiality using 2002 as the base year.

The table above shows that the Applicant's net profit margin decreased over the period 2002 to 2004.

### 5.3.3.3 Output

The following table shows output for the subject product under investigation:

**Table 5.3.3.3**

<b>Output (tons)</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>
Nola	100	130	134
Epko	100	111	79
Total	100	121	107

**This table has been indexed due to confidentiality using 2002 as the base year.**

The above table illustrates that the Applicant's output increased from 2002 to 2003 but declined from 2003 to 2004.

As Nola also produces sunflower oil for in-house use, i.e. the production of salad dressings and mayonnaise, production volume, sales volume and inventories may not reconcile as it ordinarily should, were Nola to on-sell all produced product.

### 5.3.3.4 Market share

The following table shows the market share for the subject product:

**Table 5.3.3.4**

<b>MARKET SHARE</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>
Dumped imports			
-Argentina	100	700	1 617
-Other imports	100	21	72
Total imports	100	210	503
Domestic sales:			
-Nola	100	129	121
-Epko	100	111	79
Other SACU producers	100	98	95
Total SACU producers	100	106	97
Total market	100	108	104
share of the market by the SACU industry:			
-Nola	100	119	116
-Epko	100	103	76
-Other SACU producers	100	90	91
Total domestic sales	100	98	93
share held by dumped imports			
-Argentina			
-Other imports	100	640	1 540
	100	15	69

**This table has been indexed due to confidentiality using 2002 as the base year.**

The table indicates that the alleged dumped imports gained market share at the expense of the domestic industry.

#### 5.3.3.5 Productivity

The SACU industry provided the following information in support of its productivity position:

**Table 5.3.3.5**

<b>Productivity (tons per employee)</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>
Nola	100	131	133
Epko	100	84	42
<b>Average</b>	100	108	88

This table has been indexed due to confidentiality using 2002 as the base year.

The above table shows that the SACU industry's productivity decreased from 2002 to 2004.

#### 5.3.3.6 Return on investment

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

The following table shows the return on investment for 2002 to 2004:

**Table 5.3.3.6**

	<b>2002</b>	<b>2003</b>	<b>2004</b>
<b>Net profit:</b>			
Nola	100	44	47
Epko	100	45	(51)
<b>Net assets:</b>			
Nola	100	137	109
Epko	100	180	120
<b>Return on net assets:</b>			
Nola	100	318	421
Epko	100	151	(331)
<b>Average</b>	100	234	46

This table has been indexed due to confidentiality using 2002 as the base year.

The table above shows that Nola's return on investment increased while that of Epko decreased.

#### 5.3.3.7 Utilisation of production capacity

The following table provides the SACU industry's capacity utilization for the subject product:

**Table 5.3.3.7**

Capacity utilization (Tons)	2002	2003	2004
Nola	100	122	109
Epko	100	84	70
Average	100	103	90

This table has been indexed due to confidentiality using 2002 as the base year.

The table above shows that the SACU industry's capacity utilization increased from 2002 to 2003 but declined in 2004.

#### 5.3.3.8 Factors affecting domestic prices

There are no other known factors that could affect the domestic prices negatively.

#### 5.3.3.9 The magnitude of the margin of dumping

The following margins of dumping were calculated:

**Table 5.3.3.9**

Exporter	Margin of dumping
Nidera S.A	4%
MoLinos	(16.18%)
AGD	(3.68%)
Other exporters	37.95%

#### 5.3.3.10 Actual and potential negative effects on cash flow

The Applicant stated that due to the diminution in pricing and static volume

turn-over, cash flow statements for the two companies indicate a reduced net cash flow.

It also stated that the cash flow relating to the sale of sunflower oil is not separated out in the management accounts. It indicated further that any information provided in this regard by the applicant would thus be misleading and obfuscatory.

#### 5.3.3.11 Inventories

The following table provides the Applicant's inventories for the subject product for the years 2002 to 2004:

**Table 5.3.3.11**

	2002	2003	2004
Refined sunflower oil in tones	100	98	266

**This table has been indexed due to confidentiality using 2002 as the base year.**

The above table shows that stocks of refined sunflower oil declined from 2002 to 2003 but increased from 2003 to 2004.

#### 5.3.3.12 Employment

The following table provides the SACU industry's employment figures for the subject product:

**Table 5.3.3.12**

Employment (Production)	2002	2003	2004
Nola	100	99	100
Epko	100	100	125
Average	100	99	113

**This table has been indexed due to confidentiality using 2002 as the base year.**

The above table shows that SACU industry's employment level slightly decreased from 2002 to 2003 but increased from 2003 to 2004.



The Applicant stated that as regards Nola, the crushing, extraction and refining are continuous processes and therefore it is not possible for fewer shifts to be worked. It also stated that it would also not be practicable to slow down production rates in the event of the negative effect on volumes due to the dumped imports, as it will not be possible to recover fixed overhead costs.

#### **5.3.3.13 Wages**

The following table provides Nola's wages for the years 2002 to 2004:

**Table 5.3.3.13**

<b>Wages (R)</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>
Wages per employee	100	120	129

**This table has been indexed due to confidentiality using 2002 as the base year.**

The above table shows that wages increased from 2002 to 2003 and further increased from 2003 to 2004.

Nola stated that the evidenced increases in wages must be seen in light of growth of the Nola group as a whole. It also stated that this growth is not reflected in the Sunflower Oil Division and as a responsible employer, it could not penalize those employees working in such division.

Epko stated that it was unable to supply such information since many of its industrial processes are outsourced and that the entity providing the service regards this information as proprietary.

#### **5.3.3.14 Growth**

The following table shows growth position from 2002 to 2004:

**Table 5.3.3.14**

<b>Growth</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>
Size of the SACU market	100	108	104
Sales volume	100	120	100

**This table has been indexed due to confidentiality using 2002 as the base year.**

The above table shows that the size of the SACU market increased in 2003 and decreased in 2004.

The SACU industry stated that all growth in the SACU market is absorbed by the dumped imports. The Applicant also stated that its members are accordingly prejudiced and injured.

#### **5.3.3.15 Ability to raise capital or investments**

The following table provides the SACU industry's capital and investment position for the years 2002 to 2004:

**Table 5.3.3.15**

<b>Ability to raise capital investment</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>
Total capital investment	100	101	223
Capital investment during the year	100	2 158	5 673

**This table has been indexed due to confidentiality using 2002 as the base year.**

The above table shows that the Applicant's capital investment increased over the period 2002 to 2004.

The Applicant stated that as regards Nola, should trends detailed above, namely, the figures revealing declining profitability on increased volume, increased inventory, and the like continue, ability on the part of the applicant to raise additional capital as detailed above would significantly be impaired.

It stated further that without the vote of confidence, and indeed the assent, of the majority of shareholders, it remains extremely unlikely that any corporate lending institution would provide alternative finance.

#### **5.4 SUMMARY - MATERIAL INJURY**

The Commission made a preliminary determination that the SACU industry was suffering material injury.

## **6. CAUSAL LINK**

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### **6.1 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 products.

The market share table in paragraph 5.3.3.4 of this report shows the imports and the market share for the subject product since 2002 to 2004. The table indicates that the percentage share of the market held by the domestic producers decreased over the period 2002 to 2004. The information with regard to the market share shows that the percentage share of the market held by dumped imports from the Argentine Republic increased from 2002 to 2003. It also shows that it increased further in 2004.

The market share of imports from other countries decreased from 2002 to 2003 but increased in 2004.

### **6.2 EFFECT OF DUMPED IMPORTS ON PRICES**

It has been indicated in section 5 of this report that Nola experienced price undercutting but not in the case of Epko or on average. Price depression and price suppression were also demonstrated.

### **6.3 CONSEQUENT IMPACT OF DUMPED IMPORTS**

Factors detracting from the causal link between dumping and material injury were demonstrated.

## **6.4 FACTORS OTHER THAN DUMPING CAUSING INJURY**

### **6.4.1 The volume and price of imports not sold at dumped prices**

The table in paragraph 5.3.3.4 indicates that the volume of imports from other countries is less than one per cent of the total market.

### **6.4.2 Developments in technology**

In making its decision the Commission considered the following:

- exporters in Argentina benefit from larger economies of scale and utilized technology and plant that is more than 10 years newer compared to SACU producers;
- the fact that all the Argentinian producers that responded made their own plastic bottles and were therefore more cost-effective.

### **6.4.3 Contraction in demand or changes in the patterns of consumption**

It can be noted from table 5.3.3.14 that the market shrunk from 2003 to 2004, which can possibly be subscribed to substitutability with other vegetable oils.

### **6.4.4 Export performance**

The Applicant indicated that neither Nola nor Epko export its products.

### **6.4.5 Productivity of the domestic industry**

Table 5.3.3.5 indicates that the productivity of Nola improved while that of Epko decreased. On average the productivity decreased.

#### **6.4.6 Substitutability**

The subject product sold domestically and that imported are substitutes as indicated in section 2.3 (f).

#### **6.4.7 SUMMARY ON CAUSAL LINK**

Taking the above into consideration, the Commission considered that the following factors detracted from the causal link between the dumping and the material injury:

- the effect of substitution between other vegetable oils being imported in bulk and bottled such as soya oil and sold in competition with sunflower oil as indicated by the SACU industry;
- the effect of revising the description of the subject product to include only the packed oil and therefore the effect on the SACU market of bulk sunflower oil that is being bottled in SACU and sold in competition with the SACU produced product;
- the fact that SACU is a net importer of sunflower oil which is traditionally sold in the coastal regions;
- the fact that the SACU industry itself imports bulk oil when there is a shortage of sunflower seed;
- The fact that the plants in Argentina enjoy larger economies of scale and utilized technology and plant that is more than 10 years newer than that of the SACU producers;
- the effect of the 2003/2004 sunflower crop failure on capacity utilization and therefore profits;

- the fact that all the Argentinian producers that responded made their own plastic bottles and were therefore more cost-effective.

## 7. SUMMARY OF FINDINGS

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### 7.1 Subject product

The Commission made a preliminary determination that the description of the subject product be amended to read as "Sunflower seed oil (*Helianthus annuus*) and fractions thereof, not chemically modified, in containers holding 210 litres or less (excluding crude oil and safflower oil (*Carthamus tinctorius*) or fractions thereof)";

### 7.2 Dumping

The Commission made a preliminary determination that:

- as there were no imports of the subject product from Brazil during the period of investigation, the investigation into the alleged dumping of refined sunflower oil originating in or imported from Brazil be terminated.
- the subject product originating in or imported from Argentina (excluding that manufactured by Molinos Rio de la Plata and Aceteira General Deheza) was exported to SACU at dumped prices.

The following margins of dumping were calculated

Table 7.2

Argentina	Dumping margin
Nidera	4%
Molinos	(16.18%)
AGD	(3.68%)
All other exporters	37.95%

### 7.3 Material injury

The Commission found that the SACU industry suffered material injury in the form of decline in output, price undercutting, price depression, price suppression, decline in sales, decline in market share, decline in capacity



utilization, negative effect on cash flow, negative effect on employment and increase in inventory levels

#### **7.4 Causal Link**

The Commission found that there were factors detracting from causal link between the alleged dumping and the material injury experienced by the SACU industry.

## 8. DETERMINATION

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8.1 The Commission made a preliminary determination that:

- (i) the description of the subject product be amended to read as "Sunflower seed oil (*Helianthus annuus*) and fractions thereof, not chemically modified, in containers holding 210 litres or less (excluding crude oil and safflower oil (*Carthamus tinctorius*) or fractions thereof);
- (ii) as there were no imports of the subject product from Brazil during the period of investigation, the investigation into the alleged dumping of refined sunflower oil originating in or imported from Brazil be terminated;
- (iii) the subject product originating in or imported from Argentina (excluding that manufactured by Molinos Rio de la Plata and Aceteira General Deheza) was exported to SACU at dumped prices. The margin of dumping for Nidera S.A. was calculated to be 4 per cent and the residual dumping margin was calculated to be 37.95 per cent;
- (iv) the SACU industry was suffering material injury;
- (v) the following factors detracted from the causal link between the dumping and the material injury;
  - the effect of substitution between other vegetable oils being imported in bulk and bottled such as soya oil and sold in competition with sunflower oil;
  - the effect of revising the description of the subject product to include only the packed oil and therefore the effect on the SACU market of bulk sunflower oil that is being bottled in SACU and sold in competition with the SACU produced product;

- the fact that SACU is a net importer of sunflower oil which is traditionally sold in the coastal regions;
- the fact that the SACU industry itself imports bulk oil when there is a shortage of sunflower seed;
- exporters in Argentina enjoy larger economies of scale and utilized technology and plant that is more than 10 years newer than that of the SACU producers;
- the effect of the 2003/2004 sunflower crop failure on capacity utilization and therefore, profits;
- the fact that all the Argentinian producers that responded made their own plastic bottles and were therefore more cost-effective.

The Commission, therefore, made a preliminary determination that the investigation into the alleged dumping of refined sunflower oil originating in or imported from the Argentine Republic and the Federative Republic of Brazil 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.