



International Trade Administration Commission of South Africa

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## **Report No. 80**

# **Investigation into the alleged dumping of fabrics of acrylic fibres originating in or imported from the People's Republic of China: Final determination**

The International Trade Administration Commission of South Africa herewith presents its **Report No. 80: INVESTIGATION INTO THE ALLEGED DUMPING OF FABRICS OF ACRYLIC FIBRES ORIGINATING IN OR IMPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA: FINAL DETERMINATION**



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**PRETORIA**

**23/09/2004**

# **INVESTIGATION INTO THE ALLEGED DUMPING OF FABRICS OF ACRYLIC FIBRES ORIGINATING IN OR IMPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA: FINAL DETERMINATION**

## **SYNOPSIS**

The Board on Tariffs and Trade, which was replaced by the International Trade Administration Commission (the Commission), on 1 June 2003, formally initiated an investigation into the alleged dumping of fabrics of acrylic fibres originating in or imported from the People's Republic of China (the PRC) and Turkey. Notice of the initiation of the investigation was published in Notice No. 1511 in *Government Gazette* No. 24876 dated 23 May 2003. The application was lodged on behalf of the Southern African Customs Union (SACU) industry by the Textile Federation (TEXFED), which claimed that the dumped imports were causing it material injury. The application was supported by 100 per cent of the SACU industry.

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

On initiation of the investigation, known producers and exporters of the subject product in the PRC and Turkey were sent foreign manufacturers/exporters questionnaires to complete. Importers of the subject product were also sent questionnaires to complete.

The Commission decided to separate the investigation involving Turkey and the PRC in order to expedite the investigation regarding Turkey, as the only company that responded from the PRC requested the Commission to consider treating it as operating under market conditions. A separate report was finalized in respect of imports from Turkey.

The Commission considered the request by Linyi Xinguang Blanket Co. Ltd (Linyi), of the PRC, to be granted “market economy status” (MES).

The Commission found that in certain aspects of its operations, it could not be found that Linyi was operating without government interference and according to free market principles. The Commission therefore found that it could not grant MES to Linyi and consequently used Turkey as a surrogate country for the PRC to ascertain a normal value.

After considering all parties’ comments and representations, the Commission made a preliminary determination that the subject product originating in or imported from the PRC was being dumped into the SACU market, causing material injury and a threat of material injury to the SACU industry. In the case of Linyi, however, the Commission found that the exports to the SACU were not being made at dumped prices. The provisional payments were imposed pursuant to Notice No. R.765 which was published in *Government Gazette No. 26504* on 25 June 2004. The Commission’s detailed reasons for its decision were set out in Commission Report No. 50 (preliminary report).

There were no comments to the preliminary report. The Commission made a final determination, that the subject product was being dumped on the SACU market, causing material injury and threat of material injury to the SACU industry. In the case of Linyi, however, the Commission reconfirmed its preliminary determination and found that the exports to the SACU were not being made at dumped prices.

As there are other exporters who did not respond to the investigation the Commission decided to recommend to the Minister of Trade and Industry that the following definitive anti-dumping duties, in respect of such other exporters, be imposed on fabrics of acrylic fibre, classifiable under tariff subheadings: 5512.21, 5512.29, 5515.29, 5515.91, 5801.34, 5801.35, 6001.10, 6001.22 and 6001.92 in the following amounts:

Exporter	Rate of anti-dumping duty
-Linyi Xinguang Blanket Co. Ltd	Nil
- Other exporters	R11.91 /kg

The Commission also recommends that a facility be created in Schedule 4 to the Customs and Excise Act for the rebate of the anti-dumping duty on fabrics of acrylic fibres for uses other than the manufacture of blankets, in such quantities, at such times and on such conditions as ITAC may allow by specific permit.

## **1. APPLICATION AND PROCEDURE**

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### **1.1 LEGAL FRAMEWORK**

This investigation is conducted in accordance with the International Trade Administration Commission Act, 2002, (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).

The International Trade Administration Commission (the Commission) was established on 1 June 2003 in terms of the ITA Act, which replaced the Board on Tariffs and Trade Act 1986 (Act 107 of 1986) (the Board Act). As regards anti-dumping matters the Commission superseded the Board on Tariffs and Trade (the Board) in all respects. For sake of simplicity all references in this report are to the Commission. All references in this report referring to the Commission, and which relates to the period prior to 1 June 2003, should be understood to be a reference to the Board, and all references to the ITA Act, which relates to the period prior to 1 June 2003, should be understood to be a reference to the Board Act.

### **1.2 APPLICANT**

The application was lodged by the Textile Federation (the Applicant), representing the domestic manufacturers of the subject product in the SACU.

### **1.3 DATE OF ACCEPTANCE OF APPLICATION**

The application was accepted by the Commission as being properly documented in accordance with Article 5.2 of the Anti-Dumping Agreement on 7 May 2003. The trade representatives of the countries concerned were advised accordingly.

### **1.4 ALLEGATIONS BY THE APPLICANT**

The Applicant alleged that imports of the subject product, originating in or imported from the PRC and Turkey were being dumped on the SACU market, thereby causing material injury and threat of material injury to the SACU industry. As regards Turkey, the basis of the alleged dumping is that the goods were exported to the 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 product from the PRC and Turkey, the SACU industry is suffering material injury and threat of material injury in the form of:

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

- inability to show growth
- increase in inventory levels

## **1.5 INVESTIGATION PROCESS**

The Commission formally initiated an investigation into the alleged dumping pursuant to Notice No. 1511, which was published in *Government Gazette* No. 248761 on 23 May 2003.

Prior to the initiation of the investigation, the trade representatives of the countries concerned were notified of the Commission's intention to investigate, in terms of Article 5.5 of the Anti-Dumping Agreement. All known interested parties were informed and requested to respond to the questionnaires and the non-confidential summary of the application.

The information submitted by the exporter of the subject product was verified from 9 February 2004 to 14 February 2004. No importer responded by providing information that could be verified.

The Commission decided to separate the investigation involving Turkey and the PRC in order to expedite the investigation regarding Turkey, as the only company that responded from the PRC requested the Commission to consider treating it as operating under market conditions. A separate report was finalized in respect of imports from Turkey.

## **1.6 INVESTIGATION PERIOD**

The investigation period for dumping is from 1 January 2002 to 31 December 2002. The injury investigation involves evaluation of data for the period 1 January 1999 to 31 December 2002.



## **1.7 PARTIES CONCERNED**

### **1.7.1 SACU industry**

According to the Applicant, Aranda Textiles is the only surviving producer of acrylic fabric in the SACU.

Information submitted by the Applicant was based on information supplied by Aranda Textiles, which was verified prior to the acceptance of the application and the initiation of the investigation.

### **1.7.2 Exporters/Foreign Manufacturers**

The following exporter/manufacturer was identified as an interested party:

(a) Linyi Xinguang Blanket Co. Ltd, the PRC.

Full and complete information, which was subsequently verified, was submitted by:

(a) Linyi Xinguang Blanket Co. Ltd, the PRC.

### **1.7.3 Importers**

No SACU importers were identified as interested parties.

No responses to the questionnaire were received from SACU importers. Consequently no importer's information could be verified.

## 2. APPLICATION AND PROCEDURE

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### 2.1 IMPORTED PRODUCT

#### 2.1.1 Description

The subject product is described as:

Woven and knitted fabrics of acrylic fibres.

#### 2.1.2 Tariff classification

The subject product is currently classifiable as follows:

Tariff subheading	Description	Current rate of duty (%)		
		General	EU	SADC
55.12	<b>ACRYLIC FABRICS</b> Woven fabrics of synthetic staple fibres containing 85% or more by mass of synthetic staple fibres:			
5512.21	Unbleached or bleached	22	19	12
5512.29	Other:	22	19	12
55.15	Other fabrics of synthetic staple fibres:			
5515.29	Other	22	19	12
5515.91	Mixed mainly or solely with man-made filaments:	22	19	12
58.01	Woven pile fabrics and chenille fabrics:			
5801.34	Warp pile fabrics, epingle (uncut)	22	19	12
5801.35	Warp pile fabrics, cut	22	19	12
60.01	Knitted Pile Fabrics:			
6001.10	"Long" pile fabrics	22	19	12
6001.22	Of man-made fibres:	22	19	12
6001.92	Of man-made fibres:	22	19	12

### **2.1.3 Import Statistics**

Article 5.8 of the Anti-Dumping Agreement provides as follows:

"There shall be immediate termination in cases where the authorities determine that ..... the volume of dumped imports, actual or potential, is negligible. The volume of dumped imports shall normally be regarded as negligible if the volume of dumped imports from a particular country is found to account for less than 3 per cent of imports of the like product in the importing Member, unless countries which individually account for less than 3 per cent of the imports of the like product in the importing Member collectively account for more than 7 per cent of imports of the like product in the importing Member."

The import statistics, as contained in paragraph 5.3 of this report, indicated that the volume of dumped imports from the PRC accounted for 31.2% of the total imports of the like product during the period of investigation for dumping.

### **2.1.4 Country of origin/export**

The subject product originates in and is exported from the PRC.

### **2.1.5 Application/end use**

The imported subject product is used in the production of blankets.

### **2.1.6 Production process**

Spinning of yarn and knitting of fabrics.

### **2.1.7 Interchangeability and substitutability of products**

The Applicant provided an expert opinion to the effect that the fabrics of acrylic fibres identified under various tariff subheadings are substitutable and interchangeable. This opinion states, amongst other, that, "*Due to the nature of the fibre and the descriptions in the HS tariff code, acrylic fabrics*

*are classifiable under various tariff subheadings. Woven acrylic fabrics can also be imported under the tariff subheadings applicable to woven pile fabrics. Because the description only refers to 'man-made' fibres, it therefore refers to both synthetic and artificial fibres and acrylic is a synthetic fibre. Pile fabrics can be defined as fabrics with cut or uncut loops, which stand up densely on the surface of the fabric. The weaving process incorporates an extra set of yarns that will form the pile. The weaving process therefore involves three sets of yarns. Various methods: wire method, filling pile method, terry weave and tufting. Knitted fabrics can be substitutes for woven fabrics and vice versa. The fabrics, depending on the width, weight, and finish, can be used for a multitude of end products e.g. garments, blankets, household textiles, furniture, handbags, headwear, footwear".*

The Commission noted that the products classifiable under the tariff subheadings in question are substitutes of each other and are therefore grouped under one product description, namely fabrics of acrylic fibre.

## **2.2 SACU PRODUCT**

### **2.2.1 Description**

Woven fabrics of acrylic fibres.

### **2.2.2 Application/end use**

The SACU product is used in the production of blankets.

### **2.2.3 Tariff classification**

The SACU product is classifiable under the same tariff subheadings as the imported product.

#### **2.2.4 Production process**

Spinning of yarn and weaving of fabrics.

### **2.3 LIKE PRODUCTS**

#### **2.3.1 General**

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

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

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

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

"For the purposes of this Agreement, the term "domestic industry" shall be interpreted as referring to the domestic producers as a whole of the like products..."[own underlining].

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

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

### **2.3.2 Analysis**

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

1. raw material used;
2. physical appearance and characteristics;
3. tariff classification;
4. method of manufacturing; and
5. customer demand and end use.

#### **1. Raw material**

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

#### **2. Physical appearance and characteristics**

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

#### **3. Tariff classification**

The imported and the domestic products are classifiable under the same tariff subheadings.

#### **4. Method of manufacturing**

The imported and the domestic products are manufactured using a similar method.

## **5. Customer demand and end-use**

The demand and end-use of the imported and domestic products are the same for purposes of comparison.

The Commission found that the SACU products were like products to the imported products.

### **3. SACU INDUSTRY**

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#### **3.1 INDUSTRY STANDING**

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.”

Based on the information supplied by the Applicant, it was evident that the application was supported by domestic producers whose collective output constitutes more than 25 per cent of the total production of the like product produced by the domestic industry and more than 50 per cent of the total production of the like product produced by those expressing an opinion on the application.

The Commission, therefore, decided that the application was made “by or on behalf of the domestic industry” under the above provisions of the Anti-Dumping Agreement.



## 4. DUMPING

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### 4.1 DUMPING

Section 1 of the ITA Act, 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 at an export price contemplated in section 32(2)(a) that is less than the normal value, as defined in section 32(2), of those goods”

### 4.2 NORMAL VALUE

The **People’s Republic of China’s (PRC)** economy has a history of government intervention (i.e. state ownership of companies) and therefore Section 32(4) of the ITA Act applies.

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

“If the Commission, when evaluating an application concerning dumping, concludes that the 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.”

In terms of paragraph 8.14 of the ITA regulations either the information of the specific company or that of the surrogate country can be used in determining a normal value. The normal value based on the specific information of the company shall be used only if such company is found to be operating in market economy conditions, which is provided for in terms of China’s Protocol of Accession to the WTO.

Paragraph 8.14 of the ITA Regulations states that:

'In cases where the normal value needs to be determined as contemplated in section 32(4) of the Main Act, the Commission may determine the normal value of the products under consideration for the foreign producer or country in question on the basis of -

- (a) the normal value established for or in a third or surrogate country; or
- (b) the costs and profits of and for the company in question, as listed in subsection 10, and as contemplated in accordance with subsection 15".

### **4.3 EXPORT PRICE**

Export prices are determined in accordance with section 32(2)(a) of the ITA Act, 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 ."

Subsections 32(5) & (6) of the ITA Act further provides as follows:

- (5) 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 any reasonable basis.
- (6) "Subsection (5) applies to any investigation of dumping if, in respect of the goods concerned -
  - (a) it is found that there is no export price as contemplated in the definition of "dumping"; or
  - (b) It appears that in respect of the export price there is an association or a
  - (c) compensatory arrangement between the exporter concerned and the importer or the third party concerned; or
  - (d) it is found that for any other reason the export price actually paid or payable for the goods sold is unreliable;

#### **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.”

Both the Anti-Dumping Agreement and the ITA Act provide that due allowance shall be made in each case for differences in conditions and terms of sale, in taxation and for differences affecting price comparability. ITAC considers that for an adjustment to be allowed, quantifiable and verified evidence has to be submitted, and 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.

The margin of dumping is normally calculated in the currency of the country of export.

#### **4.6 METHODOLOGY IN THIS INVESTIGATION FOR THE PEOPLE'S REPUBLIC OF CHINA (PRC)**

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

The PRC is considered to be a country which has had previous government intervention, and therefore the definition of section 32(4) of the ITA Act applies. On 17 December 2004, the Commission made a policy decision regarding the granting market economy status for companies in non-market economies (individual treatment). 8.2(c) of the decision refers;

“The Commission will only make a decision on whether to grant MES after verification of all information, including MES factors and normal value, i.e. at its preliminary determination.”

##### **4.6.2 Market economy treatment**

On 17 December 2004, the Commission accepted the following criteria to determine whether market economy status (MES) should be accorded to a company in a country that has, or that has had, significant government interference in its economy (NMEs):

###### **(a) Ownership and stockholding**

1. Producers should provide a list of all major shareholders (exceeding 5% of shareholding or voting stock);
2. Producers should indicate who has the ability to appoint directors;
3. Producers should indicate how owners/shareholders are compensated for their investments/risk;

4. Producers should indicate whether the company is a Chinese company, a joint venture or a foreign-owned company;
5. Producers should indicate whether the company is listed on the stock exchange and, if affirmative, provide evidence in this regard.

**(b) Independence regarding decisions on purchases, output and sales**

1. All decisions regarding prices, costs and inputs, including *inter alia* raw material, cost and type of technology must be made without government interference;
2. Producers should indicate where, when, how and at what prices capital equipment and immovable goods were obtained;
3. Labour rates should be determined on the basis of free negotiations between the producer or the industry and the workers or the union.
4. Output, sales and investment must be made in response to market signals reflecting supply and demand;
5. The producer should indicate how the provision of infrastructural services, including power and fuel, water and transport, are supplied and the prices paid for these services;
6. The producer should indicate how capital and loans are raised and the interest rates payable.

**(c) Costs of major inputs should reflect market values**

1. The cost of all major inputs should be verified against international prices;
2. Where the producer imported major raw materials from market economy countries, the actual price paid for such raw material should be used in the calculation, if the Commission accepts the "factors of production" approach.

**(d) Accounting standards**

1. Producers must have one clear set of basic accounting records;
2. These records must be independently audited in line with international accounting practices;
3. The records must be historically based;
4. The records must be applied for all purposes.

**(e) Lack of distortions from current or previous government intervention**

1. The production costs and financial situation of the firms must not be subject to significant distortions;
2. A full explanation should be given of the process followed in cases where an entity was transformed from government-owned to privately-owned;
3. Special regard must be given to the values at which assets were obtained;
4. Special regard must be given to –
  - (a) depreciation of assets;
  - (b) other write-offs
  - (c) barter trade; and
  - (d) payment via compensation for debts

**(f) Bankruptcy laws**

1. The producer must be subject to bankruptcy and property laws;
2. Government should not provide equity or other assistance in cases of hardship;
3. Producers must supply the relevant legislation, including English transcripts.

**(g) Exchange rate conversions**

1. Exchange rate conversion should be carried out at the market rate;
2. Producers should be free as to where, when and how much of export currency are converted.

**(h) Treatment of profit**

1. Producers should have full control over the allocation of any profit generated by both domestic and export sales.

**4.6.2.1 MARKET ECONOMY STATUS FOR LINYI**

Linyi, the producer/exporter in the PRC requested that they be granted market economy status (individual treatment). A questionnaire for companies requesting individual treatment in economies that have previously had government intervention, as approved by the Commission on the 17<sup>th</sup> December 2003, was sent to them. They responded in full to the questionnaire. The information was subsequently verified.

**(a) Ownership and stockholding**

**Discussion**

A limited company was established in 1994 as a joint venture between the Chinese investor and the Hong Kong investor.

In terms of the company's articles of association the two companies forming the joint venture elect the directors. (A copy of the articles of association was provided).

It is notable that the approval to enter into a joint venture with the company from the PRC is only for enterprises with investment in Taiwan, Hong Kong, Macau and overseas Chinese.

## **Commission's Findings**

The Commission found that the trading of investment in the company was extremely restricted.

The Commission, therefore, reconfirmed its preliminary determination and found that this factor severely detracted from Linyi's claim to be a company operating in market economy conditions.

### **(b) Independence regarding decisions on purchases, output and sales**

#### **Discussion**

Short-term contracts for the purchases of acrylic yarn were entered into with different local suppliers. According to the company, yarn is procured from the supplier that gives the best terms (a specimen copy of a purchase contract for yarn was provided).

Machinery was procured from various machinery suppliers, including overseas suppliers (a specimen purchase contract of warp looming machines was provided).

37 319.8 square meters of land was acquired from the local municipality in 1994 for lease period of 19 years.

In terms of the company's articles of association the principal of labour union can attend as a non-voting delegate in meetings discussing the development, production of the company and salary, welfare, labour insurance, labour protection and rules of working problems.

The production of fabric is related to the demand for blankets. The company has progressively procured new machinery since the establishment of the company in 1994 in relation to the progressive increase in its sales of blankets.



Chinese privately owned companies supply the steam, water and electricity.

Active capital loans were raised from various banks at an average interest rate of 6.5 per cent.

### **Commission's Findings**

The Commission found that, on the information provided, the company's daily operations are conducted according to free market principles. The Commission, however, reconfirmed its preliminary determination and also found that the fact that wages were not determined by collective bargaining, detracted from Linyi's claim to be operating under market economy conditions.

#### **(c) Costs of major inputs should reflect market values**

### **Discussion**

The major raw material is yarn and it could not be compared to that of the producer from Turkey (the nominated surrogate country), whose production process commences a step earlier with the spinning of fibre to make yarn.

### **Commission's Findings**

The Commission did not make a finding on this matter.

**(d) Accounting standards**

**Discussion**

The financial position of the company as reflected in the company's financial statements is presented in accordance with Chinese "Enterprise Financial Accounting Norms" and the company statements are audited and commented on by a Chinese accredited independent auditor (the audit report for 2002 was submitted)

**Commission's Findings**

While the Commission noted that the financial statements are presented in accordance with Chinese "Enterprise Financial Accounting Norms" and are independently audited, it could not make a finding that these complied with the Generally Accepted Accounting Practices (GAAP) used in free market economies.

**(e) Lack of distortions from current or previous government intervention**

**Discussion**

The first level of enquiry is whether the enterprise was transformed from government to private. In the case of Linyi the enterprise was established as a new company in 1994. The company was therefore not transformed from a government to a private enterprise. The investigators noted, however, that while it was disclosed that a 15-year lease was entered into in 1994 with the local municipality to acquire the use of the land, no real disclosure was made with regards to the improvements to the land in the form of buildings. These improvements were obviously made prior to 1994 and were therefore not at a cost to Linyi.

### **Commission's Findings**

The Commission could not make a finding that there was a complete lack of distortions from current or previous government intervention with regards to Linyi or with regards to Linyi's suppliers of goods and services.

#### **(f) Bankruptcy laws**

##### **Discussion**

The Bankruptcy Act, to which Linyi is subject to, was submitted.

The investigators noted that the declaration of bankruptcy is at the instance of the Peoples Court and not necessarily at the instance of creditors, while at the same time, the creditors are not ranked in any way (preferred and secured or other). They further noted that the procedures for liquidation were not very precise and that the enterprise could continue operating after sequestration, which is contrary to free market principles.

##### **Commission's Findings**

As far as the bankruptcy law was concerned, the Commission could not find that Linyi was operating in market economy conditions.

#### **(g) Exchange rate conversions**

##### **Discussion**

Export transactions are invoiced in US dollars and the repatriated foreign currency is converted at the ruling rate as provided by the government.

## **Discussion**

The exchange rate of the Chinese currency against other currencies is determined by the government and not determined by international trading markets.

## **Commission's Findings**

The Commission reconfirmed its preliminary determination and found that the fixed exchange rate policy of the PRC detracted from Linyi's claim to be operating in a market economy environment.

### **(h) Treatment of profit**

## **Discussion**

Three items of a fund can be extracted from the profits after paying tax, that is, the reserve fund of enterprise development and fund of staff encouragement and welfare.

The profits are allocated to the investors in a proportion decided by the Board of directors in accordance with the Chinese law of foreign joint venture enterprises.

## **Commission's Findings**

The Commission reconfirmed its preliminary determination and found that the limitations placed on the allocation of profits were also contrary to free market principles.

## **DETERMINATION ON MARKET ECONOMY TREATMENT**

The Commission made a final determination that Linyi does not qualify for individual market economy treatment.

#### **4.6.3 NON-MARKET ECONOMY STATUS (NME) FOR LINYI**

As the Commission found that Linyi is not operating in market economy conditions and therefore does not warrant market economy status (MES), a normal value was obtained from a third country. For the purposes of the merit assessment and initiation, Turkey was nominated by the Applicant to be used as a surrogate country for the PRC. The Applicant regards Turkey as having a market-related economy and a fabric industry of significant size.

Linyi, the exporter in the PRC, did not object to the use of Turkey as a surrogate country, should it fail in its application for MES.

The Commission accepted Turkey as a surrogate country for the PRC and therefore the following analysis applies:

##### **Normal value**

The normal value was taken to be the Turkish residual normal value. This value was established during the verification of the like product at Sesli, Turkey.

##### **Export price**

The export price was the actual price verified at Linyi in the PRC. The exchange rate used was RMB1.00 = R1.27 as provided by the SARB.

All invoices of domestic sales, invoices for inland transport cost, invoices for port ancillary cost were verified. Bank statements for payments received and ledger for accounts receivables were also verified.

### **Adjustments to export prices**

The following adjustments were made on the export prices for purposes of determining the ex-factory export prices:

- *Inland transport*

The cost of transport was deducted from export selling prices.

- *Port ancillary cost*

Port ancillary costs were deducted from export selling prices.

### **Ex-factory export prices**

Taking the above adjustments into consideration, the average ex-factory export price was calculated.

### **Margin of dumping**

Using Turkey as a surrogate country for the PRC, for the purposes of the normal value and the actual verified export price from the PRC, results in a negative dumping margin of 4,49 per cent.

#### **4.7 Residual dumping margin (other exporters that have not responded fully)**

As there are other producers/exporters of the subject goods in the PRC, which did not cooperate with the Commission in this investigation, it was decided to calculate a residual dumping margin for these producers/exporters.

### **Normal value**

The normal was taken to be the Turkish residual normal value. This value was established during the verification of the like product at Sesli, Turkey.

### **Export price**

The export price was taken to be the weighted average landed cost in the SACU, as determined from the import statistics, less the exports made by Linyi.

### **Residual dumping margin**

The residual dumping margin for the PRC was calculated to be 192.41%.

## **4.8 CONCLUSION – DUMPING**

The Commission found that the subject product originating in the PRC was being dumped into the SACU market with the following margins:

	<b>Dumping Margin</b>
- Linyi Xinguang Banket Co. Ltd	(4.49)%
- Other exporters	192.41%

## **5. MATERIAL INJURY**

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### **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 of Article 3 of the Anti-Dumping Agreement to the word "injury" provides as follows:

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

### **5.2 GENERAL**

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

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

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

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

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



The following injury analysis relates to Aranda, which constitutes more than 50% of the total domestic production of the subject product. This constitutes “a major proportion” of the total domestic production, in accordance with Article 4.1 of the Anti-Dumping Agreement.

### **5.3 IMPORT VOLUMES AND EFFECT ON PRICES**

#### **5.3.1 Import volumes**

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

“With regard to the volume of the dumped imports, 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 anti-dumping investigations, 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 allegedly dumped imports of the subject product since 1999:

**Table 5.3.1**

<b>Tons</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>
Dumped imports	1 371.4	4 478.1	9 305.3	4 183
PRC	6 2.2	1 400.5	2 606.9	1 689
Turkey	739.2	3 077.6	6 698.4	2 494
Imports from other countries	917.4	1 093.2	903.6	1 226
Total imports	2 288.8	5 571.3	10 208.9	5 409
Dumped imports as % of total imports				
-Imports from the PRC	27.6	25.1	25.5	31.2

The volume of the dumped imports from the PRC increased from 632.2 tons in 1999 to 2606.9 tons in 2001. This increase was after anti-dumping duties were imposed on acrylic blankets. The volume decreased to 1 689 tons in 2002 after anti-dumping duties on certain tariff subheadings of acrylic fabric were imposed. The allegedly dumped imports from the PRC as a percentage of total imports increased from 27.6% in 1999 to 31.2% in 2002. The Commission reconfirmed its preliminary determination and found that the dumped imports from the PRC had increased significantly over the investigation period despite the imposition of anti-dumping duties.

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

With reference to Article 3.1(a) of the Anti-Dumping Agreement, 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."

The selling price of the SACU product is based on the cost of production of the acrylic fabric plus a reasonable addition for selling, general and administration costs and profit.

### **Price undercutting**

Price undercutting is normally regarded as 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 most appropriate level at which to compare prices is at the ex-factory level of the SACU product and the landed cost of the imported product. There is, however, no ex-factory price for acrylic fabric in the SACU as the product is used for further processing into blankets. An ex-factory price was therefore constructed for acrylic fabric using actual costs and a proportion of profit.

The price undercutting was calculated by comparing the SACU product's constructed ex-factory selling price with the weighted average fob price of the imported product.

The Commission found that the price of the imported product undercut the SACU producer's selling price significantly.

### Price depression

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

Table 5.3.2 (a)

	1999	2000	2001	2002
Price per kg	100	102	108	121

This table was indexed due to confidentiality using 1999 as the base year

The average unit price showed an increasing trend amounting to 21 index points from 1999 to 2002. The Commission did not find price depression.

### 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 Aranda's average cost of production and the average selling price for the subject product:

**Table 5.3.2 (b)**

<b>Rand/kg</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>
Cost of production	100	102	108	121
% variance from base year	-	2	8	21
Selling price	100	102	108	121
% variance from base year	-	2	8	21
COP as % of SP	100	100	100	100

This table was indexed due to confidentiality using 1999 as the base year

The information in the table above shows that the SACU producer was able to recover its increase in production cost in its selling prices between 1999 and 2002. The Applicant stated that this was due to anti-dumping duties that were imposed. The Applicant stated that it should be noted that the SACU producer does not sell fabrics, but uses it in the manufacture of blankets.

The Applicant noted that several SACU blanket manufacturers were liquidated as a result of dumped imports. The surviving SACU producer's situation improved after the anti-dumping duties on acrylic fabrics were imposed in 2002.

### **5.3.3 Consequent impact of the dumped imports on the industry**

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

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

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

The following table shows Aranda's producer's sales volume of the subject product:

**Table 5.3.3.1**

	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>
Volume (tons)	100	94	95	117

This table was indexed due to confidentiality using 1999 as the base year

The SACU producer used the fabrics they produced in the manufacture of blankets, and did not sell it on the market. Therefore, the volume of fabric used in the manufacture of blankets was calculated, based on the volume of blankets actually sold. The information in table above shows that sales remained fairly stable between the years 1999 and 2001 and increased by 22 index points between 2001 and 2002.

With regards to the increase in sales experienced by the surviving SACU producer in 2002, the Commission noted that several SACU blanket manufacturers had been liquidated as a result of the dumping of acrylic blankets. While the total acrylic blanket market in the SACU had decreased from approximately 14 million units to approximately 9 million units of blankets between 1999 and 2002, the surviving SACU producer has gained sales, due mainly to the gap left with the closure of other SACU manufacturers, the most notable being Waverley, Acrytex and Shasi (Botswana). When considering the overall impact on the SACU industry, the Commission reconfirmed its preliminary determination and found that sales had decreased significantly.

#### 5.3.3.2 Profit

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

Table 5.3.3.2

R'000	1999	2000	2001	2002
Profit	100	49	43	132
Profit margin on turnover (%)	100	52	41	100

This table was indexed due to confidentiality using 1999 as the base year

Profits decreased by 57 index points between 1999 and 2001, while the profit margin decreased by 59 index points during the same period.

As a result of the increase in sales experienced by the surviving SACU producer in 2002, the Applicant noted that this producer managed to increase its profit together with its profit margin in 2002, due mainly to the gaps left as a result of the closure of Waverley and other producers in the SACU in 2001. The Commission found that the overall profitability of the SACU industry declined to the extent that most SACU producers went out of business.

### 5.3.3.3 Output

The following table outlines the SACU producer's production volume of the subject product:

Table 5.3.3.3

Volume (tons)	1999	2000	2001	2002
Aranda	100	97	83	114

This table was indexed due to confidentiality using 1999 as the base year

The information in the table shows that the output of the SACU producer decreased by 17 index points in 2001 compared to 1999 and increased by 31 index points in 2002 compared to 2001.

The Applicant stated that the decrease in volumes was due to the decrease in the production of blankets of which the subject product is a major input. The decrease in the production of blankets was the result of the dumping of blankets into the SACU market.

The subsequent increase in production volumes came about because of the closure of other SACU blanket manufacturers, most notably Waverley, a portion of whose market share the surviving SACU producer was able to capture. The Commission reconfirmed its preliminary determination and found that total production in the SACU had decreased significantly when previous production of Waverley, Acrytex and Shasi is considered.

### 5.3.3.4 Market share

The market share of the dumped imports from the PRC increased by 167 index points in 2002 compared with 1999, whereas the market share of the domestic product decreased by 37 index points during the same period.



Further to the above market share analysis, the Commission found that when anti-dumping duties on blankets were introduced in June 1999, retrospectively to December 1998, there was a drop in the imports of blankets, with a corresponding increase in the imports of acrylic fabric, particularly from the PRC and Turkey. Anti-dumping duties were imposed on certain acrylic fabrics during February 2002, which resulted in a decline in imports in 2002 compared to 2001. The increase in market share by the surviving SACU producer was as a result of the closure of several producers within the SACU region.

The Commission noted that Waverley (2 500 000 blankets) closed down in 2001 as a result of the dumping, as did Acrytex (2 000 000 blankets) and Shasi (Botswana) (1 000 000 blankets).

#### **5.3.3.5 Productivity**

Using the production and employment figures sourced from the surviving SACU producer, productivity in respect of the subject product is as follows:

**Table 5.3.3.5**

	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>
Kg/employee	100	98	99	128

This table was indexed due to confidentiality using 1999 as the base year

The SACU producer's productivity per employee showed a small decrease in 2000 compared to 1999 but thereafter increased by 29 index points in 2002. The Commission noted that Waverley, Acrytex and Shasi closed down during the investigation period indicating a decline in the overall productivity of the SACU industry.

### 5.3.3.6 Return on investment

The following table provides the SACU producer's return on investment:

Table 5.3.3.6

	1999	2000	2001	2002
Return on total net assets	100	45	53	52

This table was indexed due to confidentiality using 1999 as the base year

Return on total net assets decreased between 1999 and 2002.

The Applicant stated that there had been a decrease in the SACU producer's profitability to the extent that profits were insufficient for upgrading its plant. The Commission noted that other blanket manufacturers had closed down, indicating that the industry was in a poor state.

### 5.3.3.7 Utilization of production capacity

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

Table 5.3.3.7

Tons	1999	2000	2001	2002
Capacity	100	100	100	100
Production	100	97	83	114
Utilization %	100	97	83	113

This table was indexed due to confidentiality using 1999 as the base year

The information in the table indicates that capacity utilization decreased significantly by 17 index points between 1999 and 2001. In 2002, there was a sharp increase in capacity utilization of 30 index points, which was made possible by the remedial action that was taken.

The Commission noted that the full capacity at Waverley, Acrytex and Shasi had been closed down and that the overall production capacity and utilization rate of the SACU industry had declined significantly.

#### **5.3.3.8 Factors affecting domestic prices**

There are no other known factors which could have affected the domestic prices negatively.

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

In Chapter 4 of this report, it was indicated that the subject product was imported at dumped prices into the SACU during the investigation period at the following margins:

**Table 5.3.3.9**

	<b>Margin of dumping</b>
Linyi	(4.49)%
Other exporters	192.41%

The Commission reconfirmed its preliminary determination and found that Linyi was not dumping but that other exporters in the PRC were dumping at a margin of 192.41%, which is considered to be significant.

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

The Applicant stated that the SACU producer's decrease in positive cash flow is such that they will no longer be able to invest in the necessary technology to remain in business. The Commission also noted that the total industry cash flow had decreased significantly owing to the closure of Waverley, Acrytex and Shasi.

#### 5.3.3.11 Inventories

The SACU producer provided its inventory levels since 1999, for its acrylic fabrics. These figures are listed in the table below:

Table 5.3.3.11

Tons	1999	2000	2001	2002
Inventory volume	100	142	97	153

This table was indexed due to confidentiality using 1999 as the base year

The table shows that the inventory levels increased in 2000, then decreased in 2001 and then increased again in 2002.

The SACU producer stated that inventories would be higher during autumn and less during winter, spring and summer. It also stated that it monitored its inventories closely to minimize the effects on cash flow and it was for this reason that inventory levels had remained at acceptable levels.

#### 5.3.3.12 Employment

The following table shows the SACU producer's employment level:

Table 5.3.3.12

	1999	2000	2001	2002
Employees	100	98	83	89

This table was indexed due to confidentiality using 1999 as the base year

Employment levels decreased by 17 index points in 2001, compared to 1999. In 2002 employment levels increased by 6 index points compared to 2001 but were still lower than the 1999 employment levels.

The Applicant also alleged that the closure of Waverley, Acrytex and Shasi, due to dumping, resulted in approximately 2 500 job losses.

#### **5.3.3.13 Wages**

The following table provides the SACU producer's gross wages per employee:

**Table 5.3.3.13**

	1999	2000	2001	2002
Wages/employee	100	108	107	116

This table was indexed due to confidentiality using 1999 as the base year

The information in the table indicated that wages per employee decreased between 2000 and 2001 and then increased in 2002. The wages increased by 8 index points between 2000 and 2002, which is significantly lower than the current CPI. The Commission also noted that total wages paid in the industry decreased significantly following the retrenchment of approximately 2 500 workers at Waverley, Acrytex and Shasi.

#### **5.3.3.14 Growth**

The Applicant stated that the market had declined from an estimated 14 million units of blankets in 1994 to only approximately 8 million in 2001. Several SACU producers closed their doors during this period. The Commission noted that the absolute volume of dumped imports increased in a declining market.

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

The Applicant stated that there had been a decrease in the industry's profitability to the extent that profits were insufficient for upgrading plant. This had made it increasingly difficult to raise capital or investments.

#### **5.4 CONCLUSION - MATERIAL INJURY**

After considering all relevant factors, the Commission reconfirmed its preliminary determination and found that the SACU industry was suffering material injury, particularly as regards:

- price undercutting
- decline in output
- decline in sales
- decline in market share
- decline in utilisation of production capacity
- decline in return on investments
- negative effect on cash flow
- decline in employment
- decline in total wages
- inability to show growth
- inability to raise capital or investments

## **6. THREAT OF MATERIAL INJURY**

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Article 3.7 of the Anti-Dumping Agreement provides the following:

“A determination of threat of material injury shall be based on facts and not merely on allegation, conjecture or remote possibility. The change in circumstances which would create a situation in which the dumping would cause injury must be clearly foreseen and imminent. In making a determination regarding the existence of threat of material injury, the authorities should consider, *inter alia*, such factors as:

- (i) a significant rate of increase of dumped imports into the domestic market indicating the likelihood of substantially increased importation;
- (ii) sufficient freely disposable, or imminent substantial increase in, capacity of the exporter indicating the likelihood of substantially increased dumped exports to the importing Member's market, taking into account the availability of other export markets to absorb any additional exports;
- (iii) whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports; and
- (iv) inventories of the product being investigated.”.

### **6.1 CAPACITY**

The Applicant stated that the capacity of the PRC was such that they could comfortably supply the total SACU market.

### **6.2 INCREASE OF ALLEGEDLY DUMPED IMPORTS**

The Applicant stated that in 1998 the Commission imposed provisional payments against dumped blankets from several countries, including the PRC. The provisional payments were confirmed with definitive anti-dumping duties in 1999.

Imports subsequently switched from acrylic blankets to acrylic fabrics and imports further increased at absolutely unrealistically low prices. The Commission found that these low prices and the high volume already in the market make it highly likely that there will be further demand for the imported dumped products.

### **6.3 EFFECT ON PRICES**

The subject imports are substantially undercutting the price of the SACU products despite not having a depressing or suppressing effect on the domestic prices.

### **6.4 INVENTORIES OF EXPORTED PRODUCT**

The Applicant did not provide information on this issue.

### **6.5 ECONOMY OF EXPORTING COUNTRIES**

The Applicant stated that the PRC was in desperate need of foreign exchange and will export at virtually any price.

### **6.6 OTHER RELEVANT INFORMATION**

The Applicant did not provide any other relevant information on this issue.

### **6.7 CONCLUSION ON THREAT OF MATERIAL INJURY**

The Commission reconfirmed its preliminary determination and found that the SACU industry is facing a threat of material injury in that there is price undercutting and spare capacity in the country of export. The Commission found these factors to be indicative of a likelihood of increased dumped exports into the SACU market.



## **7. CAUSAL LINK**

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### **7.1 GENERAL**

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

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

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

### **7.2 VOLUME OF IMPORTS AND MARKET SHARE**

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

Paragraph 5.3.3.4 of this report discusses the market share for the subject product. Although the imports decreased from 2001 to 2002, the level of imports in 2002 was still substantially higher than in 1999, with a consequent increase in market share of the dumped imports in 2002 compared to 1999. In the corresponding period the domestically produced product's market share declined.

The Commission found that the withdrawal of the anti-circumvention duties were likely to result in a further increase in dumped imports, as well as a corresponding increase in market share of the dumped imports, at the expense of the market share of the SACU product.

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

It has already been shown in chapter 5 of this report that there was no price suppression or price depression experienced by the SACU industry. However, price undercutting has been demonstrated, which has led to increased demand for the dumped product. The Commission found that this indicated that the SACU industry's material injury was causally linked to the dumped imports.

### **7.4 CONSEQUENT IMPACT OF DUMPED IMPORTS**

The Commission reconfirmed its preliminary determination and found the following material injury indicators that were indicative of material injury to be causally linked to the dumping:

- price undercutting
- decline in output
- decline in sales
- decline in market share
- decline in utilisation of production capacity
- decline in return on investments
- negative effect on cash flow
- decline in employment
- decline in total wages
- inability to show growth
- inability to raise capital and investment

## 7.5 FACTORS OTHER THAN THE DUMPING CAUSING INJURY

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

"The authorities shall also examine any known factors other than the dumped imports which at the same time are injuring the domestic industry, and the injuries caused by these other factors must not be attributed to the dumped imports. Factors which may be relevant in this respect include, *inter alia*, the volume and prices of imports not sold at dumping prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and productivity of the domestic industry".

### 7.5.1 The volume and price of imports not sold at dumping prices

The following table shows the volume and price of imports from other countries:

Table 7.5 .1

	2000 Volume (tons)	Unit Price R/kg	2001 Volume (tons)	Unit Price R/kg	2002 Volume (tons)	Unit Price R/kg
Imports from other countries	1 093	70.90	904	94.74	1 226	38.72

The average price of imports from other countries not under investigation was calculated to be R70.90/kg in 2000, R94.74/kg in 2001 and R38.72/kg in 2002. The import statistics provided by SARS were used to calculate the average prices. These prices are substantially higher than the average prices of the dumped imports.

### **7.5.2 Competition between domestic producers**

The Applicant stated that after the closure of Waverley and other producers, there remained only one SACU producer. The remaining producer was unable to increase its sales by the same margin of sales previously effected by other SACU producers. The Commission therefore found that competition between domestic producers did not detract from the causal link.

### **7.5.3 Developments in technology**

The Applicant stated that there had been no developments in technology since the SACU producer last updated its manufacturing process. No other information was submitted for the Commission's consideration.

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

The Applicant stated that the market had declined from an estimated 14 million units of blankets in 1994 to an estimated 8 million in 2001. The Commission, however, noted that both the absolute volume and the market share of the dumped imports increased in the declining market.

### **7.5.5 Export performance**

The Commission found that exports of blankets, of which the major input is acrylic fabric, had increased significantly between 1998 and 2000 (by 78%), but decreased by 70% in 2001 and 2002. No acrylic fabric was exported as total production was used in the manufacture of blankets.

### **7.5.6 Competition between foreign and domestic producers**

No information was placed before the Commission to show that competition from foreign producers, other than those in Turkey and the PRC, has an affect on the performance of the SACU industry.

### **7.5.7 Productivity of the domestic industry**

The Commission found that although the productivity of labour at Aranda has increased, the productivity of the SACU industry's capital has decreased following the demise of other producers.

## **7.6 CONCLUSION ON CAUSAL LINK**

After considering all relevant factors and comments, the Commission found that there was a causal link between the dumped products and the material injury and threat of material injury experienced by the SACU industry.

## **8. SUMMARY OF FINDINGS**

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### **8.1 DUMPING**

The Commission found that the subject product originating in or imported from the PRC was dumped into the SACU market with the following margins:

	<b>Dumping Margin</b>
- Linyi Xinguang Banket Co. Ltd	(4.49)%
- Other exporters	192.41%

### **8.2 Material injury and threat of material injury**

The Commission found that the SACU industry suffered material injury and a threat of material injury in the form of price undercutting, decrease in sales, loss of market share, decline in output, decline in utilization of production capacity, decrease in return on investment, negative effect on cash flow, decline in employment, decline in total wages, spare production capacity and an inability to show growth and raise capital and investment.

### **8.3 Causal link**

The Commission found that there was a causal link between the dumping and the material injury and threat of material injury experienced by the SACU industry. The Commission found that there were no factors that detracted from the causal link.

## **9. FINAL ANTI-DUMPING DUTIES**

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### **9.1 GENERAL**

Article 9.1 of the Anti-Dumping Agreement provides as follows:

"The decision whether or not to impose an anti-dumping duty in cases where all requirements for the imposition have been fulfilled, and the decision whether the amount of 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. It is desirable that the imposition be permissive in the territory of all Members, and that the duty be less than the margin if such lesser duty would be adequate to remove the injury to the domestic industry."

### **9.2 Calculation of duty**

In accordance with Article 9.1 of the Anti-Dumping Agreement, the anti-dumping duty should be less than the dumping margin if such lesser duty would be adequate to remove the injury to the domestic industry. The anti-dumping duty should therefore not be more than the amount of the price disadvantage experienced by the SACU industry. If this is lower than the dumping margin it can be considered to be the amount of duty required to prevent further injury to the SACU industry.

### **9.3 Price disadvantage**

The price disadvantage is the extent to which the price of the imported product (landed cost) is lower than the unsuppressed and undepressed ex-factory selling price of the SACU product.

For the purposes of this investigation, the Commission did not consider price disadvantage for applying the lesser duty rule as no dumping was found in the case of Linyi, the only exporter that co-operated in the investigation.

#### 9.4 Amount of duty:

The amount of duty was determined to be the following after converting the dumping margins to specific duties:

Exporter	Rate of anti-dumping duty
- Linyi Xinguang Banket Co. Ltd	Nil
- Other exporters	R11.91/kg



## 10. RECOMMENDATION

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The Commission made a final determination that:

1. The subject product originating in or imported from the PRC is being dumped into the SACU market;
2. The SACU industry is suffering material injury and threat of material injury;
3. There is a causal link between the dumping and material injury and threat of material injury.

The Commission therefore recommends to the Minister of Trade and Industry that definitive anti-dumping duties be imposed on fabrics of acrylic fibre originating in or imported from the PRC, classifiable under tariff subheadings 5512.21, 5512.29, 5515.29, 5515.91, 5801.34, 5801.35, 6001.10, 6001.22 and 6001.92 in the following amounts:

Exporter	Rate of anti-dumping duty
- Linyi Xinguang Banket Co. Ltd	Nil
- Other exporters	R11.91/kg

and that these anti-dumping duties be imposed retroactive to the date of the provisional payments, that is 25 June 2004.

4. The Commission also recommends that a facility be created in Schedule 4 to the Customs and Excise Act for the rebate of the anti-dumping duty on acrylic fabrics for uses other than the manufacture of blankets in such quantities, at such times and on such conditions as ITAC may allow by specific permit.