



International Trade Administration Commission of South Africa

Report No. 68

Investigation into the alleged dumping of fabrics of acrylic fibres originating in or imported from Turkey: Final determination

The International Trade Administration Commission herewith presents its **Report No. 68: INVESTIGATION INTO THE ALLEGED DUMPING OF FABRICS OF ACRYLIC FIBRES ORIGINATING IN OR IMPORTED FROM TURKEY: FINAL DETERMINATION**



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CHIEF COMMISSIONER

PRETORIA

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INVESTIGATION INTO THE ALLEGED DUMPING OF FABRICS OF ACRYLIC FIBRES ORIGINATING IN OR IMPORTED FROM TURKEY: FINAL DETERMINATION

SYNOPSIS

On 23 May 2003, the International Trade Administration Commission (the Commission) formally initiated an investigation into the alleged dumping of fabrics of acrylic fibres originating in or imported from the People's Republic of China and Turkey. Notice of the initiation of the investigation was published in Notice No. 24876 of *Government Gazette* No.1511 dated 23 May 2003. The application was lodged on behalf of the Southern African Customs Union (SACU) industry by the Textile Federation (TEXTFED), which claimed that the dumped imports were causing it material injury and threat of material injury. The application was supported by more than 50 per cent of the SACU industry.

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 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 People's Republic of China (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 China in order to expedite the investigations.

The Commission made a preliminary determination that the subject products originating in or imported from Turkey were being dumped on the SACU market

causing material injury and threat of material injury to the SACU industry. The Commission, therefore, requested the Commissioner for South African Revenue Service (SARS) to impose provisional payments on imports of the subject product originating in or imported from Turkey, to prevent further injury to the SACU industry during the finalisation of the investigation. The provisional payments were imposed pursuant to Notice No. R.173 which was published in *Government Gazette No. 26005* on 13 February 2004. The Commission's detailed reasons for its decision were set out in Commission Report No. 30 (preliminary report).

After considering all parties' comments and representations in respect of 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.

The Commission therefore decided to recommend to the Minister of Trade and Industry that the following definitive anti-dumping duties 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
-Sesli Tekstil Sanayi ve Ticaret A.S.	R11.78 per kilogram
-Other exporters in Turkey	R15.50 per kilogram

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 other than the manufacture of blankets in such quantities for uses at such times and on such conditions as ITAC may allow by specific permit.

1. APPLICATION AND PROCEDURE

1.1 LEGAL FRAMEWORK

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

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 the sake of simplicity all references in this report are to the Commission. All references in this report referring to the Commission, and which relate to the period up to or prior to 1 June 2003, should be understood to be a reference to the Board, and all references to the ITA Act, which relate 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 or threat of material injury to the SACU industry. The basis of the alleged dumping was 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 was suffering material injury and or 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. 24876, which was published in *Government Gazette* No. 1511 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 during 19 August 2003 to 21 August 2003, and the information received from the importer of the subject product was verified on 2 September 2003.

The Commission made a preliminary determination that the subject product originating in Turkey was being imported at dumped prices, causing material injury and threat of material injury to the SACU industry. The Commission, therefore, decided to request to the Commissioner for South African Revenue Service to impose provisional payments, which were published in Notice No. R.173 of *Government Gazette* No. 26005 on 13 February 2004.

Interested parties were given an opportunity to respond to the preliminary report and were given an opportunity to comment on each other's non-confidential responses.

In their response to the preliminary report, PriceWaterhouse Coopers (PWC), acting on behalf of Sesli (SA), the importer in SACU, claimed that the Commission did not inform Sesli or the Turkish Government of the intention to split the investigation or provide them with a timely opportunity to respond. They claim that the Commission's actions contravened

Regulation 32.2 of the Anti-Dumping Regulations of South Africa ("AD Regulations"). Section 32.2 of the AD Regulations states that "In order to expedite proceedings, the Commission may split investigations between cooperating and non-cooperating exporters."

PWC further state that they believed that the Commission violated the "Anti-dumping Agreement" in that it did not "provide timely opportunities for all interested parties to see all information that is relevant to the presentation of their case."

The Commission found that neither the Anti-dumping Agreement nor the South African Anti-dumping Regulations prohibit the splitting of investigations between countries for the purposes of expediting the process. Section 32.2 of the AD Regulations only focus on the splitting of the investigation between cooperating and non-cooperating exporters and does not address the circumstances relating to the splitting of the investigation between countries. The Commission was, therefore, within its rights to split the two investigations in order to expedite the investigation regarding Turkey.

1.6 INVESTIGATION PERIOD

The investigation period for dumping was from 1 January 2002 to 31 December 2002. The injury investigation involved 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 (Aranda) is the only surviving producer of acrylic fabric.

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 exporters/manufacturers were identified as interested parties:

(a) Akpa, Turkey.

(b) Sesli, Turkey.

(c) Ender Mensucat Tekstil Sanayi, Turkey.

(d) Dulgeroglu Mensucat Sanayi, Turkey.

Full and complete information, which was subsequently verified, was submitted by Sesli, Turkey.

Incomplete information, which was not verified, was received from:

(a) Ender Mensucat Tekstil Sanayi, Turkey (Ender).

(b) Dulgeroglu Mensucat Sanayi, Turkey (Dulgeroglu).

In its response to the preliminary report, the Turkish government questioned whether any further explanation was provided to Ender and Dulgeroglu regarding their information which was not verified and whether these companies were given another chance to complete their information. They further questioned whether the partial facts available were used in making the determinations.

The Commission found that Ender and Dulgeroglu were given an extension to complete the questionnaire and were also sent a deficiency letter to which they did not respond. The Commission decided that in the light of the extension and the deficiency letter, both companies were provided with ample opportunity to submit the required information and decided to disregard the information submitted by these companies.

1.7.3 Importers

The following SACU importer, which fully cooperated, was identified as an interested party:

(a) Sesli Textile (Pty) Ltd, South Africa (Sesli (SA)).

2. PRODUCTS, TARIFF CLASSIFICATION AND DUTIES

2.1 IMPORTED PRODUCTS

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	ACRYLIC FABRICS			
	Woven fabrics of synthetic staple fibres			
	cont 85% or more by mass of synth 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:	22	19	12
5801.34	Warp pile fabrics, epingle (uncut)			
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 Turkey accounts for 46.1 per cent 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 Turkey.

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 weaving 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”.

PWC in its response to the preliminary report, claimed that the “expert opinion” provided by the Applicant with regard to the “substitutability and interchangeability” of the products under investigation, was not placed on the public file and thereby denied the importer the opportunity to respond.

The Commission found that the expert opinion was placed in the public file and therefore concluded that there was no basis for the allegation that the expert opinion was not available in the public file. Furthermore, the Commission found that the expert opinion provided by the applicant formed part of the preliminary report and that the respondent therefore had an opportunity to comment on it.

The Commission reconfirmed its preliminary determination and 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 for 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 Turkey.

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 product 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 domestic products are classifiable under the same tariff subheadings.

4. Method of manufacturing

The imported and 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.

In its response to the preliminary report, PWC claimed that the allegation by the Commission under "Method of Manufacturing" was not consistent with the information submitted by the Applicant, as Aranda Textiles does not produce knitted fabric

The Turkish government stated that the product under investigation is currently not available for sale in the SACU market. It stated further that comparing the imported product with the domestically produced but not commercially sold product, was neither fair nor wise. It said that the product is used in the manufacture of blankets and given that the product is not available for sale in the domestic market, blanket producers are left with no choice but to import or to purchase the imported product. It pointed out that Sesli (SA) had previously contacted Aranda to place orders for the product concerned but was rejected on the grounds of being a competitor. It said that these points should be taken into account in making a decision on whether the two products constitute like products or not. It also questioned whether customer demand and end-use are similar for domestic and imported materials on the basis that the SACU market's customer profile and wealth distribution are not homogenous and therefore differences in quality should be taken into account.

The Commission confirmed its preliminary finding and found that Aranda weaved its fabric. It found that the two methods, i.e. knitting and weaving although similar are not identical.

Furthermore, the Commission found that the imported product is ultimately targeted at the same market as the domestic product in its finished form of a blanket.

The Commission, therefore, confirmed its preliminary finding and found that the SACU product and the imported products are “like products”, for purposes of comparison in this investigation, in terms of Article 2.6 of the Anti-Dumping Agreement.

3. SACU INDUSTRY

3.1 INDUSTRY STANDING

Article 5.4 of the Anti-Dumping Agreement 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.

In their response to the preliminary report, PWC claimed that Acrytex (one of the SACU producers that have since ceased production) does not form part of the SACU industry as it had closed down in 1998 as a result of the dumped blanket imports, according to Board Report No. 3979. They further stated that the Commission seemed to be confusing the dumping of acrylic blankets that caused the material injury to the SACU manufacturers of blankets leading to the closure of Waverley, Acrytex and Shasi, with the alleged dumping of fabrics of acrylic fibres.

PWC, in its written submission following its oral presentation to the Commission, stated that the manufacturing process followed by Sesli (SA) could not be regarded as a cut, make and trim operation.

PWC further argued that Sesli (SA) produces the subject product in SACU as it adds 35% value to the imported fabric through brushing, polishing and shearing before the fabric is cut and made into a blanket. In this regard PWC argued that Article 46 of the South African Customs & Excise Act No 91 of 1964 states as follows:

“Goods shall not be regarded as having been produced or manufactured in any particularly territory unless –

- (a) at least twenty-five per cent (or such other percentage as may be determined under subsection (2), (3) or (4)) of the production costs of those goods, determined in accordance with the rules, is represented by material produced and labour performed in that territory.”

In its response to the preliminary report, the Turkish Government disputed the Commission’s finding that Aranda was the sole producer representing 100% of the domestic industry in SACU. In section B2 of the application it was stated that Aranda was one of the two blanket manufacturers in SACU and that it represented around 85% of the domestic industry.

The Turkish Government stated further that in the investigation into the alleged circumvention of the anti-dumping duty on acrylic blankets, the SACU industry was said to have consisted of the following producers: Waverley Blankets, Aranda, Germini (the previous owner of Shasi Textiles), Eres, Blanket & Linen Wholesalers, Miracle Textiles, R & H Agencies, Overworld Import Export, Lion King, Okan Import Export and Cha-Chu International. The Turkish Government stated that the current investigation covered more products and wanted to know what change in circumstances within the past three months led the authorities to not consider the other manufacturers within the SACU industry.

It stated that it did not understand why Sesli (SA), which has substantial investments in South Africa, was classified as an importer and not as a domestic producer.

The Commission found that Sesli (SA) imports fabric of acrylic fibres, and further processes it into a blanket. The Commission, therefore, found that the polishing and shearing of the fabric by Sesli (SA) does not significantly alter its form until being cut and finished into a blanket.

The Commission also noted that Waverley Blankets, Germini (the previous owner of Shasi Textiles), Eres, Blanket & Linen Wholesalers, Miracle Textiles, R & H Agencies, Overworld Import Export, Lion King, Okan Import & Export and Cha-Chu International, do not form part of the SACU industry as they had ceased production of the subject product before the initiation of the current investigation.

In conclusion, the Commission found that Aranda's production of the subject product represents around 85% of the total SACU production and thus Aranda was a major producer of the subject product and not the sole producer.

The Commission reiterated its preliminary determination and found that the application was made "by or on behalf of the domestic industry" under the above provisions of the Anti-Dumping Agreement.

4. DUMPING

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

Normal values are determined in accordance with section 32(2)(b) of the ITA Act. This section provides as follows:

“normal value” means

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

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

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

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) there is no export price as contemplated in the definition of "dumping";
- (b) there appears to be an association or compensatory arrangement in respect of the export price between the exporter or foreign manufacturer concerned and the importer or the third party concerned; or
- (c) the export price actually paid or payable is unreliable for any other reason.

4.4 ADJUSTMENTS

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

"A fair comparison shall be made between the export price and the normal value. This comparison shall be made at the same level of trade, normally at the ex-factory level, and in respect of sales made at as nearly as possible the same time. Due allowance shall be made in each case, on its merits, for differences

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

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 other differences affecting price comparability. The Commission considers that for an adjustment to be allowed, quantifiable and verifiable 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 FOB 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 calculated in the currency of the country of export.

4.6 METHODOLOGY IN THIS INVESTIGATION FOR TURKEY

4.6.1 Normal Value

Type of economy

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

4.6.2 Sesli Turkey

4.6.2.1 Calculation of normal value

The exporter advised that it does not sell the subject products on the domestic market in Turkey and consequently provided the Commission with a cost build-up of the products concerned. The methodology applied was that the cost provided by the exporter was used as a basis for the cost build-up. It was, however, found that the exporter had not shown any selling expenses in this cost build-up and an adjusted selling expenses figure was added to the cost build-up. The selling expenses figure was based on an average of selling expenses that the exporter had realized on sales of blankets in the domestic market in Turkey. The cost build-up was, however, provided on the basis of costs per square meters and it was necessary to convert this to costs per kilograms.

Notes on the constructed cost methodology applied:

- (a) The total production cost was provided by the exporter.
- (b) The exporter also provided the administration cost.
- (c) The exporter did not provide any comparable fabric selling costs and a selling cost was then allocated pro rata on the basis of the exporter's selling costs in its blanket department.
- (d) A finance charge cost was added based on the current bank finance charge rate.

- (e) The profit was added based on the profit margin declared by the exporter for its sales to SACU.

In response to the Commission's preliminary report, PWC disputed the methodology used in the calculation of the normal value and stated that the Commission, by using the selling expenses of the exporter for blankets, distorted the picture, as the expense differs significantly between end products and raw materials.

In its response to the Commission's above stated preliminary report, the Turkish Government also reiterated the comment made by PWC and questioned how an adjusted selling expenses figure could be calculated for a product, which was never sold commercially in the market.

The Turkish Government requested the calculations on how the SACU product's cost of production plus selling and administrative costs plus profits was determined for a product not on sale in the market of the exporting country. They also stated that as it was mentioned in the preliminary report that the selling costs for blankets were used to construct the selling price of acrylic fabrics, they needed to know from the Commission if any adjustments had been made to the selling expenses incurred for blankets.

It requested that they be provided with the conversion factor used to convert square meters to kilograms, which was used in the cost build-up.

It also noticed that a finance charge cost was added to the product for the calculation of the normal value and as a result would like to know the rationale of this practice.

The Commission noted that Article 2.2 of the WTO Anti-Dumping Agreement provides that when there are no sales of the like product in the ordinary course of trade in the domestic market of the exporting country, the margin of dumping may be determined by comparing the export price

with the normal value determined on the basis of the cost of production in the country of origin plus a reasonable amount for administrative, selling and general costs and for profits.

In its response to the Commission's questionnaire, the exporter, Sesli (Turkey), provided a cost build-up of the fabrics in question, but did not include a selling cost. The Commission, in its preliminary determination, therefore, decided to use a selling expense that was proportional to that which their financial records showed were incurred on their blanket sales in the domestic market. The fabric under investigation was in any event manufactured specifically for the sole purpose of being finished as acrylic blankets at Sesli (SA). The Commission considered that these selling expenses were a reasonable representation of what it considered the situation would have been had Sesli (Turkey) sold like fabric in its domestic market.

Furthermore, the Commission found that the detailed calculations of the normal value contained confidential information that may not be disclosed to any other party.

In response to the concern of the conversion factor raised by the Turkish Government, the Commission found that the conversion factor was provided by Sesli (Turkey) which was determined after a number of the fabric rolls were weighed by Sesli (Turkey). The fabric rolls were weighed under supervision of the production director of Sesli Tekstil, who was also a professor in textile technology at the local satellite campus of a Turkish University.

The Commission found that the finance costs are regarded as inherent to the expense structure of any manufacturing company and consequently need to be included in the cost build-ups of any relevant products under consideration. The Commission noted that this was in any event, agreed to by Sesli (Turkey) as the bank finance rate or interest rate was provided by the financial management at Sesli (Turkey).

4.6.3 Adjustments to normal values

The Commission made an adjustment for credit term cost as this cost was included in the cost build-up.

4.6.4 Export prices

4.6.4.1 Definition of Export price

In its response to the Commission's preliminary report, the Turkish Government quoted Article 2.3 of the Anti-Dumping Agreement which states that "in cases where there is no export price or where it appears to the authorities concerned that the export price is unreliable because of association or a compensatory arrangement between the exporter and the importer or a third party, ...". It stated that the fact the owners of the two companies were relatives did not solely justify the consideration of the two companies as associated or having a compensatory arrangement. It suggested that the authorities should first consider the sales of Sesli (Turkey) to other importers in South Africa and compare them with sales to Sesli (SA). It stated that only if the authorities determine significant differences between the prices to other importers and the prices to Sesli (SA) could the practice of constructed export price be justified.

It wanted to know why the export price was not constructed on the basis of cost of production as the same practice was applied in the determination of the normal value.

The Commission found that the bulk of the export sales by the exporter were made to Sesli (SA). Sesli (SA) is the only importer that responded fully to the Commission's questionnaire and was subsequently verified and therefore, the export price was constructed in terms of subsections 32(5) and (6) of the ITA Act. The owners of Sesli (Turkey) and Sesli (SA) are related by blood as they are cousins and as such the two companies can be deemed to be associated.

During the verification of the importer, the Commission found that the importer under-declared the customs value of the imported fabric and therefore the only reasonable basis on which the export price could be based was on the declared customs value of the imported fabric by the importer less the movement costs, which resulted in a low export price.

The Commission, therefore, confirmed its preliminary determination and found that the definition of export price contained in subsections 32 (5) and (6) of the ITA Act applies, as the owners/shareholders of the exporter in Turkey and owners/shareholders of the importer in South Africa are related by way of being family.

Accordingly, the Commission determined the export price on the basis of information obtained at the importer, less costs incurred between exportation and importation, to arrive at the FOB price in Izmir, Turkey. Izmir is the port of shipment in Turkey.

4.6.5 Adjustments to export price

The Commission made the following adjustments to the export price in order to calculate the FOB export price:

4.6.5.1 Commission

The exporter paid commission to its marketing company.

4.6.5.2 Credit terms

According to the financial records found at the importer, the exporter allows the importer to pay on extended credit terms.

4.6.6 Margin of dumping

Sesli (Turkey)

The dumping margin is the difference between the normal value and the export price after allowance has been made for any differences affecting price comparability.

In its response to the preliminary report, the Turkish government alleged that the expression of the dumping margin as a percentage of the FOB export price instead of the CIF export price, was the orthodox way of calculating the dumping margin and requested confirmation that the duty would be collected at the customs based on the FOB value of the invoice even if the importation was realised on CIF basis. It stated further that the dumping margin calculated is excessive even when compared to the anti-circumvention duty imposed on acrylic fabrics in February 2002, which it said seemed to be enough to remedy the alleged injury on the domestic industry by increasing the sales, output and profit of the domestic industry. It questioned why the authorities had not calculated separate dumping margins for the two other Turkish producer/exporters, Ender Mensucat and Dulgeroglu Mensucat.

The Commission found that as the information provided by Ender Mensucat and Dulgeroglu Mensucat was deficient, it decided not to consider it for the purpose of the preliminary determination or the final determination.

The dumping margin was calculated by subtracting the export price from the normal value for the subject product, and the difference was expressed as a percentage of the FOB export price. The margin of dumping in respect of the subject product was found to be 455%.

4.7 Residual dumping margin

Since there are other manufacturers of the subject product in Turkey, the Commission decided to calculate a residual margin of dumping.

In its response to the preliminary report, the Turkish Government stated that the Commission had violated Article 2.4 of the Anti-Dumping Agreement, in that it neglected the fair comparison provision by calculating the residual dumping margin by subtracting the adjusted weighted average export price from the unadjusted normal value. It pointed out that even the Applicant had calculated the dumping margin to be half the amount that the authorities had found.

The Commission determined the residual dumping margin for all other exporters that did not respond and/or cooperate in terms of Article 6.8 of the Anti-dumping Agreement. The residual dumping margin was determined based on facts available.

In order not to give parties the benefit of partially cooperating or not cooperating with the investigation, the Commission determines the highest margin of dumping for such parties.

The residual dumping margin was, therefore, calculated by subtracting the weighted average export price after adjustments from the weighted average normal value before adjustments. The difference was expressed as a percentage of the FOB export price. The residual dumping margin was calculated to be 597%.

4.8 CONCLUSION - DUMPING

The Commission found that the subject product originating in Turkey was being dumped onto the SACU market by the following margins:

	Margin of dumping
Sesli Tekstil Sanayi ve Ticaret A.S	455%
Other exporters	597%

5. MATERIAL INJURY

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 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

Tons	1999	2000	2001	2002
Dumped imports	1371.4	4478.1	9305.3	4183
The PRC	632.2	1400.5	2606.9	1689
Turkey	739.2	3077.6	6698.4	2494
Imports from other countries	917.4	1093.2	903.6	1226
Total imports	2288.8	5571.3	10208.9	5409
Dumped imports as % of total imports				
-Imports from Turkey	32.3	55.3	65.6	46.1

The volume of the dumped imports from Turkey increased from 739.2 tons in 1999 to 6698.4 tons in 2001. This increase was after anti-dumping duties were imposed on acrylic blankets. The volume decreased to 2494 tons in 2002 after anti-dumping duties on certain tariff subheadings of acrylic fabric were imposed. The dumped imports from Turkey as a percentage of total imports increased from 32.3% in 1999 to 65.6% in 2001 and then decreased to 46.1% in 2002.

In its response to the preliminary report the Turkish Government stated that the import statistics revealed that although imports from Turkey had increased between 1999 and 2001, the figure showed a sharp decrease in 2002 compared to 2000 and 2001. It did not agree with the Commission's characterization of this trend in volume as evidence of a significant increase in imports in the investigation period. In its view, the increase in imports from other countries in 2002, which coincided with the drop in imports from Turkey, was more significant.

The Commission noted that although the volume of imports from other countries increased in 2002 compared to 2001, these volumes were still lower than the volume of imports from Turkey in 2002. The volume of imports from Turkey increased more than fourfold from 1999 to 2000, after anti-dumping duties were imposed on acrylic blankets. It then more than doubled from 2000 to 2001. There was a decrease in 2002 after remedial measures were imposed. Dumped imports were, however, still significantly higher in 2002 compared to the volume of imports in 1999.

The Commission confirmed its preliminary determination, and found that the dumped imports from Turkey 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 acrylic fabric plus a reasonable addition for selling, general and administration costs and profit. There was, however, no ex-factory price for acrylic fabric in the SACU as the product was used for further processing into blankets.

Price undercutting

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

The landed cost of the imported product included the FOB declared customs value by Sesli (SA), plus freight, insurance, duties and other clearing charges.

In its response to the preliminary report, the Turkish Government indicated that the Commission contradicted itself in the calculation methods of price effects of the allegedly dumped imports. It stated that it was evident that the product concerned was not offered in the domestic market of the SACU and that there was therefore no selling price. It added that the domestic products and the imported products did not compete with each

other but complemented each other in the market by appealing to different segments of the market. It questioned the existence of price effects where two products did not compete directly in the market and one was not even offered for sale.

Furthermore, the Turkish Government stated that it was evident that the selling price of the domestic product was set so high that even though the domestic producer freely increased its prices, it seemed that the imported products would still be undercutting its prices.

The Commission found that both the domestic producer and the importer sold the final product, that is blankets, to the same clients and therefore shared the same market. The Commission also noted that the Anti-Dumping Agreement is not prescriptive as to how a price of the domestic product should be determined in the absence of such product being sold in the open market.

The Commission confirmed its preliminary decision and 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 costs of production and its average selling prices for the subject product:

Table 5.3.2(b)

Rand/kg	1999	2000	2001	2002
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 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.

PWC, in its response to the preliminary report, stated that the Commission made an inconsistent determination when it first found that there was no

ex-factory price for acrylic fabric in the SACU as the product was used for further processing into blankets and then found that the price of the imported product undercut the SACU producer's selling price significantly. They stated that no indication was given as to whether a selling price was determined or how it was determined.

There was no contradiction. The Commission merely explained the fact that the SACU producer's setup was a continuous process from the spinning of yarn, the weaving of fabric to the manufacture of the final product, which is a blanket. The selling price of the domestic product was therefore constructed.

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 sales volume of the subject product:

Table 5.3.3.1

	1999	2000	2001	2002
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 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 the 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 regard to the increase in sales experienced by the surviving SACU producer in 2002, the Applicant 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 had gained sales, due mainly to the gap left with the closure of other SACU manufacturers, the most notable being Waverley, Acrytex and Shasi (Botswana).

In its response to the preliminary report, PWC noted that Aranda Textile's sales had increased since 1999 to 2002 notwithstanding the decline of the blanket market from 14 million units to 9 million units. PWC further stated that it was clear that Aranda Textiles, which is seeking relief by applying for anti-dumping measures, was not experiencing a decline in sales and was subsequently not suffering injury. Aranda Textiles was instead flourishing as a result of the closure of the plants by the previous players in the market.

Furthermore, PWC stated that the finding of the Commission with regard to actual and potential decline in sales was clouded by the Commission's reference to the companies that closed down without basing its conclusion on positive evidence with regard to their sales information of acrylic fabric.

In its response to the preliminary report, the Turkish government noted that the sales of the complainant domestic company have increased from 2001 to 2002 and said that it was evident that the domestic producer captured market share of other producers that had closed down their facilities. It commented that the Applicant and the Commission argue that the other companies were closed down due to dumping and question how Aranda could survive if the effects of the dumping were so dramatic. It said that despite the decrease in market volume, the domestic producer increased its sales without decreasing prices, while at the same time, the export volumes of the Turkish exporters decreased during the same period. It said that it had serious concerns as to how the Commission could come to the conclusion that the sales of the domestic industry decreased significantly.

The Commission found that the domestic producer has suffered an actual decline in sales in 2000 and 2001 compared to 1999. In 2000 and 2001, the domestic producer's sales should have been 29% higher, if the domestic producer had absorbed all the sales lost by Waverley during 2000 and 2001. The domestic producer's sales were supposed to have increased to a total of nearly 60% higher than actually realised in 2002, if it absorbed the remaining sales after the demise of Waverley. Aranda's survival cannot, by itself, be seen as the absence of injury to the SACU industry.

The Commission confirmed its preliminary determination and found that when considering the overall impact on the SACU industry, 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.

PWC in its response to the preliminary report noted that Aranda's profits increased substantially over the period of investigation and stated that the findings of the Commission with regard to "Profit" are clouded by the references to the companies that closed down without basing its findings on "positive evidence" with regard to the profit information relating to acrylic fabric.

In its response to the preliminary report, the Turkish government noted that while Aranda increased its profit significantly, the Commission still considered the domestic industry to be suffering a loss. It said that such massive increases in profit margin clearly prove that Aranda enjoys monopoly in the market.

The Commission found that Aranda merely recovered its profit margin in 2002 compared to 1999 and therefore the profit margin did not increase significantly as alleged by the Turkish Government.

The Commission, therefore, confirmed its preliminary determination and 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 domestic production volume of the subject product:

Table 5.3.3.3

Volume (tones)	1999	2000	2001	2002
	100	97	83	114

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

The information 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 production of blankets of which the subject product was a major input. The decrease in the actual production of acrylic blankets was the result of the dumping of blankets into the SACU market.

The Applicant stated further that 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.

In its response to the preliminary report PWC stated that with regards to output, the Commission acknowledged that the decline in production of

acrylic fabric is causally linked to the declining production of acrylic blankets and not the imports of acrylic fabric as such. PWC further stated that the closure of the other blanket manufacturing plants was as a result of the dumping of acrylic blankets and as a result anti-dumping duties were imposed on acrylic blankets. PWC indicated that the Commission did not base its findings on "positive evidence" with regard to the output of acrylic fabric.

In its response to the preliminary report, the Turkish government claimed that it was evident and also confirmed by the Commission, that Aranda's production volume increased by 31 index points. It therefore could not understand the argument that production volume decreased due to the decrease in the production of blankets and stressed that the dumping of blankets was not relevant in this case. It requested confirmation that there was no decrease in production in Table 5.3.3.3 for the year 2002.

The Commission found that while it can be confirmed that there was no decrease in production of the subject product, which is an input in the manufacture of blankets, by Aranda for the year 2002, there was a steady decrease from 1999 to 2001. For the total SACU industry there was a constant decrease in production of the subject product which was produced and used as an input in the manufacture of blankets, from 1999 up to and including 2002.

The Commission confirmed its preliminary determination and found that total production in the SACU had decreased significantly when previous production of Waverley, Acrytex and Shasi was considered.

5.3.3.4 Market share

Analysis of the market share information showed that the market share of the dumped imports from Turkey increased by 234 index points in 2002 compared with 1999, whereas the market share of the domestic product decreased by 37 index points during the same period.

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).

In its response to the preliminary report, PWC alleged that Aranda Textiles gained market share at the cost of the other companies that closed down as a result of the dumping of acrylic blankets. It further stated that as Sesli (SA) only invested in South Africa in February 2001 and did not at that stage import acrylic fabric, but only acrylic blankets, it could not have caused Waverley and other companies to close down.

PWC also stated that Acrytex does not form part of the SACU industry as it had closed down in 1998 as a result of the dumped blanket imports according to the Board's Report No. 3979. It further stated that the Commission seemed to be confusing the dumping of acrylic blankets that caused the material injury to the SACU manufacturers of blankets and that led to the closure of Waverley, Acrytex and Shasi, with the dumping of acrylic fabrics.

In its response to the preliminary report, the Turkish government said that the domestic producer managed to capture the market share of other SACU blanket manufacturers and thus, the domestic producer, Aranda, seems to have maintained its competitiveness and therefore have not lost that portion of the market to Turkish exporters. It further stated that the blanket producers, Waverley, Acrytex and Shasi, are alleged to have closed down their facilities in 2001, two years after the imposition of the anti-dumping duty on imports of blankets, while the anti-dumping investigation against imports of acrylic fabrics was initiated on 23 May 2003, two years after the closure of other producers. It argued that their closure therefore cannot be attributed to imports of acrylic fabrics and cannot be shown as one of the injury factors since that took place even before the period for the dumping investigation. It said that if the closure of the companies resulted in the shrinkage of the market, it could comment

that maybe the SACU was not in need of those blankets of 5.5 million units, because it is obvious that the missing amount was not replaced and the imported products did not capture the market.

The Commission noted that Acrytex also manufactured acrylic fabric, which is an input in the manufacturing of blankets, and therefore the closure of Acrytex is relevant to the analysis of injury suffered by the SACU industry.

The Commission found that the Turkish companies exported fabric directly from Turkey to importers in South Africa from 1999 onwards. The Commission also noted that the significant importation of acrylic fabric started from 1999 after the imposition of the anti-dumping duties on blankets in 1999.

The Commission further found that the total market showed a constant increase from 1999 to 2001 and then decreased in 2002. The market share of the dumped imports showed a rapid increase from 1999 to 2001. There was a decrease in market share of the dumped imports in 2002, relative to 2001 but not to 1999 and 2000, after remedial action was taken. Between 1999 and 2002, the market share of the domestic sales declined.

The Commission confirmed its preliminary determination and 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.

5.3.3.5 Productivity

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

Table 5.3.3.5

	1999	2000	2001	2002
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.

PWC, in its response to the preliminary report, stated that the stable productivity levels in 2000 and 2001, which only increased in 2002, could not be regarded as being indicative of injury.

It further stated that the finding by the Commission was clouded by reference to the companies that closed down without basing the findings on "positive evidence" with regard to productivity information relating to acrylic fabric.

The Commission noted that the productivity of Waverley, Acrytex and Sashi, which produced the subject product as an input to the finished blanket, was reduced to zero when these companies closed down and retrenched employees during 1999. It therefore confirmed its preliminary determination and found that the overall productivity of the SACU industry declined during the period of investigation.

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 nett 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.

In its response to the preliminary report, PWC stated that it was not surprising that Aranda's return on investment declined as it invested in a new factory. It quoted from Aranda's website where it says it was stated that "Aranda, due to the incredible reception it has had to its products, has now started a new factory". It further states that the findings of the Commission is clouded by reference to the companies that closed down without basing its findings on "positive evidence" with regard to their return on investment information regarding acrylic fabric.

Regarding the claim that Aranda has opened up a new factory, Aranda responded by indicating that no new factory has been opened up, as spare capacity exists.

The Commission found that the demise of the other SACU producers, which were also manufacturers of the subject product, which was used as an input into a finished blanket, resulted in the SACU industry experiencing a decline in return on investment.

5.3.3.7 Utilisation of production capacity

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

Table 5.3.3.7

Tonnes	1999	2000	2001	2002
Capacity	100	100	100	100
Production	100	97	83	114
Utilisation %	100	97	83	114

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

The information in the table indicated 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.

PWC, in its response to the preliminary report, stated that as the capacity utilization of Aranda increased over the period of investigation, this injury indicator couldn't be indicative of injury. It further stated that the findings of the Commission are clouded by reference to the companies that closed down without basing its findings on "positive evidence" with regards to acrylic fabric.

The Commission noted that the application was brought on behalf of the SACU industry, which also included the other SACU producers of the subject product that ceased production during the period of investigation for injury analysis.

In this regard the Commission confirmed its preliminary determination and found 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 were 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 submission, 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

	Margin of dumping
Sesli Tekstil Sanayi ve Ticaret A.S.	455%
Others	597%

The Commission considered these margins 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 was such that it would no longer be able to invest in the necessary technology to remain in business. Additionally, more money was tied up in debtors, which meant that even though turnover had increased from 2000 to 2001 cash flow actually decreased. The same situation was evident between 2001 and 2002.

In its response to the preliminary report, PWC stated that the alleged decrease in cash flow was caused by the bad debt incurred by the SACU producer and not the import of acrylic fabric.

It further stated that the Commission's finding was clouded by reference to the companies that closed down and not on "positive evidence" with regard to cash flow information relating to acrylic fabric.

The Commission confirmed its preliminary determination 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 level since 1999, for its acrylic fabrics. These figures are listed in the table below:

Table 5.3.3.11

Tonnes	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 Aranda'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.

In its response to the preliminary report, PWC confirmed that this injury factor showed a declining trend, which it claimed could be causally linked to the dumped imports of acrylic blankets and not acrylic fabric.

PWC further stated that the Commission's finding was clouded by reference to the companies that closed down.

In its response to the preliminary report, the Turkish Government requested that the Commission elaborates on how it could compare the loss of employment by the domestic industry with the possible loss of employment by the blanket producers kept out of the scope of the domestic industry definition. It wanted to know if the Commission had considered that any duty on imports of fabrics would adversely affect these producers in terms of production and employment, and the overall South African economy.

The Commission reiterated its finding in this regard and noted that the application was brought on behalf of the SACU industry, which includes the other SACU producers that have since ceased production during the period of investigation for the injury analysis.

The Commission found that Aranda's employment levels decreased between 1999 and 2002. According to the Applicant the loss in employment by the other SACU producers as a result of their demise in 2001 is estimated as being in the region of 2 500 employees

5.3.3.13 Wages

The following table provides Aranda'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 only 8 index points between 2000 and 2002, which was significantly lower than the prevailing CPI and PPI.

PWC, in its response to the preliminary report, confirmed that this injury factor showed a declining trend, which it alleged could be causally linked to the dumped imports of acrylic blankets and not acrylic fabric.

PWC further stated that the Commission's finding was clouded by reference to the companies that closed down.

In its response to the preliminary report, the Turkish Government stated that the wage increases being lower than the CPI was shown to result from the employment loss due to the closure of other SACU producers. It stated that the closure of other SACU producers had no relation to imports of acrylic fabrics. The Commission, however, noted that the figures contained in the table related to wages per employee, rather than total wages.

The Commission confirmed its preliminary determination and found that the demise of the other SACU producers resulted in the loss of wages due to the retrenchment of employees.

5.3.3.14 Growth

The Applicant stated that the market had declined from an estimated 14 million units of blankets in 1994 to approximately 9 million in 2001.

In its response to the preliminary report, PWC stated that the fact that Sesli (SA) had invested in SACU was indicative that the SACU market for acrylic fabric was growing, especially as there was no supplier to the market of acrylic fabric.

The Commission noted that the fact that Sesli (SA) has invested in the SACU market is not indicative of the fact that the SACU market was growing at the time of the investment. The total market declined by 5 million units in 2002 compared to 1999.

The Commission confirmed its preliminary determination and 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 the current return on net assets (RONA) was so unsatisfactory that there was absolutely no possibility of attracting any investment, particularly after considering that three of the four largest producers had closed down over the previous two years.

PWC, in its response to the Commission's preliminary report, stated that Sesli (SA) invested in the SACU market and that it was in the process of buying new premises and installing looms for the manufacturing of acrylic fabrics and blankets.

PWC is of the opinion that the Commission's finding with regard to this factor was clouded by reference to the companies that closed down without basing its findings on "positive evidence".

In the Turkish Government's view, the decline in the market could have been influential in the inability to raise capital or attract investments. It stated that the inability to attract foreign investment could not totally be attributed to imports originating in Turkey. It further stated that it was unfair that Turkish companies such as Sesli (SA) that have been encouraged to invest in South Africa were now blamed for the worsening situation of the SACU industry.

The Commission noted that although there has been an overall decline in the size of the total market during the period of analysis, the SACU producer's share of the market was lower in 2002 compared to 1999 and that of the imports from Turkey was higher in 2002 compared to 1999. This decline in share of the market by the SACU producer as well as the resultant decline in its RONA, coupled with the demise of other SACU producers, has had a negative impact in the ability of the SACU producer to attract capital or investment.

5.4 SUMMARY - MATERIAL INJURY

After considering all relevant factors, the Commission made a final determination 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 utilization 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

6.1 THREAT OF MATERIAL INJURY

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:

- a significant rate of increase of dumped imports into the domestic market indicating the likelihood of substantially increased importation;
- 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;
- 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
- inventories of the product being investigated."

6.2 CAPACITY

The cooperating exporter in Turkey indicated substantial spare capacity. The Applicant also indicated that according to the ITMF's country report, there had been at least a 6.5% increase in Turkey's textile manufacturing industry in 2000 and it was expected that this growth would continue in 2001 and 2002.

In its response to the preliminary report, the Turkish Government stated that the 6.5% increase in Turkey's textile manufacturing industry in 2000 that was mentioned in the preliminary report, related to the overall textile industry in Turkey for the year 2000 and not to blanket manufacturing

specifically. It stated that this fact could not be considered as a threat of material injury. It also stated that to evaluate the threat, if any, of material injury, the authorities should examine the future prospects of blanket manufacturing in Turkey and the share of blanket manufacturing in the overall textile industry in Turkey.

The Commission noted that the overall capacity of the blanket manufacturers in Turkey could not be accurately ascertained. However, Sesli (Turkey), the only exporter that responded fully the Commission's questionnaire, indicated that it had substantial spare capacity.

6.3 INCREASE OF ALLEGEDLY DUMPED IMPORTS

The Applicant stated that in 1998 the Commission imposed provisional payments against dumped blankets from several countries, including Turkey. The provisional payments were confirmed with definitive anti-dumping duties in 1999. Imports immediately switched from acrylic blankets to acrylic fabrics and imports further increased at unrealistically low prices

The Turkish Government stated that the Commission, in its preliminary report, stated that they expected an increase in demand for imported dumped products and that the Commission had stated in previous sections that there had been a decline in the market. It claimed that these two statements made by the Commission were contradictory.

It explained that the demand for blankets, as necessity goods, was not expected to increase substantially along with a decrease in prices. It reiterated that people would purchase only as many blankets as they needed and not more than that, just because of decreasing prices.

The Commission noted that there was no evidence given regarding the buying behaviour in the SACU market.

The Commission, therefore, confirmed the preliminary determination and found that the low prices and the high volume already in the market make it highly likely that there would be further demand for the imported dumped products.

6.4 EFFECT ON PRICES

In its response to the preliminary report, the Turkish Government stated that the price-undercutting issue should be evaluated within the context of price differentiation in the market. It stated that the Turkish exporters claimed that the products produced in the SACU were of a higher quality compared to imported ones. It stated that considering these factors, blankets manufactured from cheaper and lower quality imported products might appeal to the poorer parts of the society and that more expensive and higher quality domestically produced products might be appealing to the well-off parts of the society. It stated that it could therefore not be said that the two types of products were involved in direct competition in the market, due to quality differences as well as price differences.

The verification of both the domestic producer as well as that of the exporter and importer by the Commission did not reveal any notable quality differences in the subject product as well as the finished product.

The Commission, therefore, confirmed the preliminary determination and found that the subject imports are substantially undercutting the price of the SACU products despite not having a depressing or suppressing effect on the domestic prices.

6.5 INVENTORIES OF EXPORTED PRODUCT

PWC, in its response to the preliminary report, stated that the Commission based its finding on the value of the inventories and not the volume, which remained constant while the value more than doubled, making the product more expensive and less attractive to import.

PWC, in its response to the preliminary report, stated that this factor was not indicative of a threat of injury.

The Commission noted that the increase in the value of inventories was higher than just an inflationary increase indicating an increase in both the value and volume of inventories of the exporter concerned.

The Commission confirmed its preliminary determination that, based on the exporter's information, the value of inventories more than doubled between 2001 and 2002.

6.6 ECONOMY OF EXPORTING COUNTRIES

The Applicant stated that Turkey was in desperate need of foreign exchange and will export at virtually any price. The Turkish Lira had devalued significantly over the past five years.

PWC stated that the statement by the Commission in its preliminary report, that the Applicant stated that Turkey was in desperate need of foreign exchange and will export at virtually any price, was not based on positive evidence but was a mere allegation as there was no indication given as to the issues of fact considered by the Commission in its finding.

In substantiation to this, it stated that since 2002, the Turkish economy had improved substantially and the Turkish economy was no longer in a vulnerable situation as had been alleged by the Applicant.

In its response to the preliminary report, the Turkish government made substantially the same comments as those made by PWC, above.

The Commission noted the comments made by the interested parties.

6.7 OTHER RELEVANT INFORMATION

The Applicant stated that Turkish companies have set up “cut make and trim” (CMT) operations in South Africa where the dumped fabrics are finished into blankets. This indicated that they planned on staying and expanding into this market.

In its response to the preliminary report, PWC stated it was in agreement that there existed cut-make-and-trim operations in South Africa, and indicated, however, that Sesli (SA)’s investment in the SACU, formed part of the SACU industry.

In its response to the preliminary report, the Turkish government stated that the Turkish producers were encouraged to invest in South Africa in order to create employment. The intention of the Turkish investors was not to capture the market for themselves. It said that it should be kept in mind that the Turkish producers of blankets in South Africa contribute to the South African economy by creating additional value and employment and hence adding to the national income of the country.

Regarding the subject product, the Commission noted that Sesli (SA) imported the subject product in order to process it further into a finished blanket and therefore Sesli (SA) correctly formed part of the importers being the subject of the investigation, despite having made the investment which is for the further processing of the subject product into a finished blanket.

6.8 CONCLUSION ON THREAT OF MATERIAL INJURY

The Commission found that the SACU industry was facing a threat of material injury in that there was price undercutting, an increase in inventories of the subject product 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

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.

The market share table in 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.

In its response to the preliminary report, PWC stated that Aranda would have grown its market share in acrylic fabrics even further, after the closure of other blanket manufacturers, if it actually sold acrylic fabric on

the domestic market. It claimed that Sesli (SA) had unsuccessfully approached Aranda to source the product. It said that the alleged injury is self-inflicted by Aranda's refusal to sell the product to potential buyers on the domestic market resulting in the manufacturers of blankets having to import their raw materials.

The Commission noted that Aranda does not produce acrylic fabric for sale in the open market, but rather for use as an input in the manufacture of blankets. The aim of Aranda is therefore not to increase its market share of acrylic fabric, but to increase or maintain its market share of the blanket market.

The Commission, therefore, confirmed its preliminary determination and found that the withdrawal of the existing anti-dumping circumvention duty was likely to result in a further increase in dumped imports as well as a corresponding increase in market share of 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 lead to increased demand for the dumped product. The Commission found that this indicated that the SACU industry's material injury was causally linked to dumped imports.

7.4 CONSEQUENT IMPACT OF DUMPED IMPORTS

The Commission found the following material injury indicators that were indicative of material injury to be causally linked to dumping:

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

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:

	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

This table was indexed due to confidentiality using 2000 as the base year

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.

In its response to the preliminary report, PWC said that the import price from other countries declined substantially from 2000 to 2002 and that the Commission did not evaluate this factor as it remained silent on the substantial decrease in the prices of the other imported products. It also requested that it be provided with the dumped import prices as these were removed from the table.

The Commission noted that even when the prices of imports from other countries declined from 2000 to 2002, the prices of the other imports were still substantially higher than that of the dumped imports.

7.5.2 Competition between domestic producers

The Applicant stated that after the closure of Waverly 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 affected by other SACU producers. The Commission therefore found that competition between domestic producers did not detract from 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 their 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 only approximately 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 its 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, had an effect on the performance of the SACU industry.

7.5.7 Productivity of the domestic industry

PWC, in its response to the preliminary report, stated that the Anti-Dumping Regulations 16.5 stated that the Commission “shall consider all relevant factors other than dumping that may have contributed to the SACU industry’s injury”.

PWC stated that its client had submitted evidence that the SACU producer was involved in trade restrictive practices as it refused to sell the product to Sesli (SA), forcing Sesli (SA) to import, as the product could not be sourced on the SACU market.

The Commission confirmed its preliminary determination and found that although the productivity of labour of the domestic producer has increased, the productivity of the SACU industry’s capital had decreased overall. This was evident from the turnover/capital ratio, which decreased in 2002, compared to 1999 and the fact that debtors increased significantly between 1999 and 2002. The Commission, therefore, found that no evidence has been provided to the effect that the domestic producer was producing the subject product in an inefficient manner, which resulted in self-inflicted material injury.

7.6 CONCLUSION

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

8. SUMMARY OF FINDINGS

8.1 Dumping

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

Country	Dumping Margin
Sesli Tekstil Sanayi ve Ticaret A.S.	455%
Other exporters	597%

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 utilisation 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

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 during the investigation.

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.

PWC, in its response to the Commission’s preliminary report, quoted paragraph 6 of Annex II to paragraph 8 of Article 6 of the Anti-dumping Agreement which states that “If evidence or information is not accepted,

the supplying party should be informed forthwith of the reasons thereof and have the opportunity to provide further explanations within a reasonable period". The paragraph further elaborates that "If the explanations are considered by the authorities as not being satisfactory, the reasons for rejection of such evidence or information should be given in any published findings".

It mentioned that the Commission never informed Sesli (SA) that its information with regard to the import prices was not accepted, nor was it granted an opportunity to "provide further explanations within a reasonable period". It also mentioned that the Commission's action violates the Anti-Dumping Agreement and discriminates against the Turkish exporter and SACU importer.

It requested the Commission to provide Sesli (SA) with the reasons as to why its information was not used and that if the Commission determines that acrylic fabric was causing material injury to the SACU industry and imposes the final anti-dumping duties, the lesser rule be applied in determining the anti-dumping duty.

The Commission noted that both the importer and exporter were sent verification reports, which, amongst others, detailed how the normal value and the export price were determined as well as the preliminary margins of dumping, and that no comments were received from either party in this regard.

The Commission, therefore, found that there were substantial differences between the export prices as reflected by the exporter and import prices as reflected by the importer and decided not to apply the lesser duty rule for the purposes of the anti-dumping duties.

9.4 Amount of duty:

The Turkish Government, in its response to the Commission's preliminary report, stated that the proposed dumping margins for acrylic fabrics, which were used for blanket production, were twice the dumping duty levied for blankets for all companies and almost thrice the duty levied for Sesli (Turkey). It also stated that even Ak-Pa (an exporter in Turkey), which was not subjected to any duty for blankets, was subjected to a provisional dumping duty of R15.50/kg.

It stated that the high level of the duties on inputs along with the already high customs duty would simply encourage importation of blankets rather than the major input, which would result in the loss of employment, most probably far more than the alleged employment loss by Waverley. It stated that the Turkish investors in South Africa would be forced to close down their manufacturing facilities and import whole blankets.

It requested the Commission to protect the rights of manufacturers other than the SACU producers, who create employment for South Africa, as there was a substantial domestic demand for blankets of all quality in SACU.

Ak-Pa did not respond to the Commission's questionnaire and therefore its exports of the subject products are subjected to the residual dumping duty. Both the dumping duty for Sesli (Turkey) and the residual dumping duty, for other exporters of the subject product in Turkey were based on verified information of Sesli (Turkey) and Sesli (SA).

The amount of duty was determined to be the following:

Exporter	Rate of anti-dumping duty
-Sesli Tekstil Sanayi ve Ticaret A.S.	R11.78 per kilogram
-Other exporters	R15.50 per kilogram

10. RECOMMENDATION

The Commission made a final determination that:

- 1 The subject product originating in or imported from Turkey 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 of the subject products and the 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, 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
- Sesli Tekstil Sanayi ve Ticaret A.S.	R11.78 per kilogram
- Other exporters	R15.50 per kilogram

and that these anti-dumping duties be imposed retroactive to the date of the provisional payments, that is 13 February 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 fabrics of acrylic fibres other than the manufacture of blankets in such quantities for uses at such times and on such conditions as ITAC may allow by specific permit.