

Report No. 492

INVESTIGATION INTO THE ALLEGED DUMPING OF FROZEN BONE-IN
PORTIONS OF FOWLS OF THE SPECIES *GALLUS DOMESTICUS*,
ORIGINATING IN OR IMPORTED FROM GERMANY, THE NETHERLANDS
AND THE UNITED KINGDOM: FINAL DETERMINATION

The International Trade Administration Commission of South Africa herewith presents its
Report No. 492: INVESTIGATION INTO THE ALLEGED DUMPING OF FROZEN BONE-
IN PORTIONS OF FOWLS OF THE SPECIES *GALLUS DOMESTICUS*, ORIGINATING
IN OR IMPORTED FROM GERMANY, THE NETHERLANDS AND THE UNITED
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PRETORIA
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INVESTIGATION INTO THE ALLEGED DUMPING OF FROZEN BONE-IN PORTIONS OF FOWLS OF THE SPECIES *GALLUS DOMESTICUS*, ORIGINATING IN OR IMPORTED FROM GERMANY, THE NETHERLANDS AND THE UNITED KINGDOM: FINAL DETERMINATION

SYNOPSIS

On 25 October 2013, the Commission initiated an investigation into the alleged dumping of frozen bone-in portions of fowls of the species *gallus domesticus*, originating in or imported from Germany, the Netherlands and United Kingdom through Notice No. 1047 of 2013 of *Government Gazette* No. 36951 dated 25 October 2013.

The South African Poultry Association (SAPA), the association representing the domestic industry in this investigation, lodged the application.

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

Upon initiation of the investigation, the diplomatic representatives and industry associations of the subject product in Germany, the Netherlands and the United Kingdom were sent a non-confidential copy of the application, initiation notice and the foreign manufacturers/exporters questionnaires to complete. The Commission determined that it was not practical to send the initiation pack to all identified parties, due to the high number of identified producers/exporters of the subject product in the respective countries. Importers of the subject product in the SACU were also sent a non-confidential copy of the application, initiation notice and the importer's questionnaires to complete.

After considering responses and comments received from interested parties, the Commission made a preliminary determination that frozen bone-in portions of fowls of the species *gallus domesticus*, originating in or imported from Germany, the Netherlands and the United Kingdom were being dumped and causing material injury to the domestic industry. The Commission further decided to request the Commissioner for South African Revenue Service (SARS) to impose provisional payments for a period of six months in order to protect the domestic industry while the investigation continued.

Provisional payments were imposed effective from 04 July 2014 up to and including 02 January 2014.

A preliminary report was issued to the interested parties and interested parties were invited to comment. Based on the details as contained in the Commission's preliminary report, the comments received, and the verified exporters' information, the Commission made a final determination before "essential facts" that it was considering that the subject product was being dumped on the SACU market and that, as a result, the SACU industry was suffering material injury.

Essential facts letters were sent out to all interested parties, informing them of the "essential facts" which were being considered by the Commission, and inviting comments from interested parties on those "essential facts".

After considering all parties' submissions, presentations and comments received, the Commission made a final determination that frozen bone-in portions of fowls of the species *gallus domesticus*, originating in or imported from Germany, the Netherlands and the United Kingdom were being dumped and causing material injury to the domestic industry. The Commission therefore decided to recommend to the Minister of Trade and Industry that definitive anti-dumping duties on the imports of the subject product originating in or imported from Germany, the Netherlands and the United Kingdom be imposed.

1. APPLICATION AND PROCEDURE

1.1 LEGAL FRAMEWORK

This investigation was conducted in accordance with the International Trade Administration Act, 2002, and the International Trade Administration Commission of South Africa Anti-Dumping Regulations (ADR), having due regard to the World Trade Organisation Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade, 1994 (the Anti-Dumping Agreement).

1.2 APPLICANT

SAPA, an industry association representing approximately 72 percent of the SACU industry by production volume of the subject product, lodged the application on behalf of the SACU industry, with support from Grain SA, Animal Feed Manufacturers Association, Namib Poultry Industries (Pty) Ltd, Swazi Poultry Processors, Botswana Poultry Association and Basotho Poultry Farmers Association.

1.3 DATE OF ACCEPTANCE OF APPLICATION

The application was accepted by the Commission as being properly documented in accordance with Section 21 of the ADR on 24 September 2013.

Comment from interested parties

ITAC should have rejected the application filed by the applicant on April 2013, instead ITAC proceeded with the application and allowed the applicant to provide additional information and subsequently accepted the application as properly documented in September 2013.

Commission's consideration

In order to address issues of accuracy and adequacy, the Commission, in accordance with the ADR21.2, liaised with the SACU industry to ensure that all required information had been submitted in the required manner. The application was in fact rejected on the basis of deficiencies identified. The application was resubmitted on 23 May 2013 and was finally accepted as properly documented on 24 September 2013.

1.4 ALLEGATIONS BY THE APPLICANT

The applicant alleged that imports of the subject product, originating in or imported from Germany, the Netherlands and the United Kingdom were being dumped into the SACU market, thereby causing material injury to the SACU industry. The basis of the alleged dumping was that the goods were being exported to SACU at prices less than the normal value in the country of origin.

The investigation periods are as follows:

- Period of investigation for dumping: 01 January 2012 to 31 December 2012;
- Period of investigation for injury: 01 January 2010 to 31 December 2012.
- Additional information for 01 January 2013 to 31 December 2013 was considered to review subsequent performance of the domestic industry after initiation of the investigation.

The applicant further alleged that the dumping of the subject product from Germany, the Netherlands and the United Kingdom was causing the SACU industry material injury in the form of:

- Price suppression;
- Price undercutting;
- Decline in market share;
- Increased inventories;
- Decline in return on investments;
- Underutilisation of capacity;
- Negative impact on growth; and
- Employment (Retrenchments).

1.5 INVESTIGATION PROCESS

The applicant submitted the application on 23 May 2013. The information of the applicant was verified on 24 June to 19 July 2013.

The diplomatic representatives of Germany, the Netherlands and the United Kingdom were notified of the Commission's receipt of a properly documented application on 11 October 2013, in terms of Section 27.1 of the ADR.

The Commission at its meeting of 08 October 2013 decided to initiate an investigation into the alleged dumping of frozen meat of fowls of the species *gallus domesticus*, cut in pieces with bone-in classifiable under tariff sub-heading 0207.14.90 and originating in or imported from Germany, the Netherlands and United Kingdom.

The products under investigation were frozen meat of fowls of the species *gallus domesticus* classifiable in SACU under tariff subheading 0207.14.90, including, without limitation, breasts and cuts there-off, legs, with or without backbone and cuts there-off, full wings, prime wings, two-joint wings, 2nd joint/flat wings, thighs with or without backbone, drumsticks, halves and quarters.

The Commission based its merit determination for normal value on Euro export statistics from Germany, the Netherlands and the United Kingdom to various third countries. The Commission selected Benin as the appropriate third country based on the following criteria:-

- Volumes exported to that country are comparable to the volumes exported to SACU.
- Customers exported to in that country are comparable to the customers in SACU.
- Country exported to should have a domestic manufacturing industry.

Euro statistics for exports of the subject product to Benin during the period of investigation, covering tariff sub-headings 0207.14.20, 0207.14.30, 0207.14.50, 0207.14.60 and 0207.14.70 were used.

The weighted average normal values for the subject product in Germany, the Netherlands and the United Kingdom were determined to be €1.33/ kg; €1.39/kg; and €1.39/ kg respectively. For export price determination, imports statistics from the South African Revenue Service for the period of investigation were used. The export prices were determined to be €1.08/kg; €1.17/ kg; and €1.13/kg respectively.

The initiation of the investigation into the alleged dumping of frozen bone-in portions of fowls of the species *gallus domesticus*, originating in or imported from Germany, the Netherlands and the United Kingdom was published in Notice No.1047, of Government Gazette No. 36951 on 25 October 2013.

Copies of the non-confidential application, initiation notice and the foreign producer/exporter questionnaire were sent to the Embassies of Germany, the Netherlands the United Kingdom, and the European Union, as well as to the Association of Poultry Processors and Poultry Trade in the EU ("AVEC"); British Poultry Council; German Poultry Industry Federation (Zentralverband der Deutschen Geflügelwirtschaft e. V.) and Vereniging van de Nederlandse Pluimveeverwerkende Industrie (NEPLUVI).

The associations were requested to inform/distribute the questionnaire to their members who exported the subject product to the SACU during the period of investigation for dumping.

A non-confidential copy of the application, initiation notice and the importer's questionnaire were sent to the identified importers of the subject product in the SACU.

Comments from interested parties

- The investigation was initiated based on information that was older than six months (ten months) and ITAC should provide reasons for this. Although ITAC acknowledged the use of information older than six months in the initiation notice, it was justified on the basis that there were seven companies which would have had to update their information. It was noted that the applicant listed five domestic producers which represented the majority of SACU production by mass and value.
- The sworn statement had to provide reasons why information could not be summarized. In this regard same reasons cannot apply to all different types of information and separate reasons should have been indicated in each instance. This has not been done, rendering the sworn statement null and void. It is noted that a single sworn statement was submitted by SAPA. SAPA did not have the authority to claim confidentiality on behalf of its members. SAPA has claimed blanket confidentiality on a number of issues without providing proper reasons for claiming confidentiality and without providing proper non-confidential versions of the information submitted in confidence.
- The initiation notice did not satisfy the publication requirement of Article 12.1.1 of the ADA. Notice of initiation did not have adequate information regarding the basis of alleged dumping nor did it indicate factors on which the allegation of dumping was

based.

- The Commission failed to send producers'/exporters' questionnaire to the companies identified in the application. Therefore producers were not given ample opportunity to present in writing all evidence which they considered relevant. ITAC failed to inform AMIE and known exporters of the investigation as interested parties, despite knowing AMIE's role as the official representative. Failure to send exporter's questionnaires was in violation of Articles 6.1, and 12.1 of the ADA.
- Export price used for initiation based on SARS statistics cannot be used in the application as the price variation is simply too large on the range of products imported. The product under investigation is imported into SACU under 0207.14.90 which includes non-subject product, falling within EU code 0207.14.40 which should have been excluded for the purposes of calculating the export price.
- The adjustment used by SAPA on export price is either unsupported or should not have been used because sales to third countries used took place at the same level of trade as sales to SACU (thus at FOB level). SAPA therefore failed to meet either the requirements of Article 2.4 of the AD to establish a fair comparison between the normal value and export price, or the requirements of the ADR 11.1 and 11.2.
- SAPA failed to provide information properly establishing normal value. Some of the information submitted relates to fresh products. The applicant used normal value for fresh products and then converted to frozen products without any evidence supporting this information. It provided export prices for spent hen product.

Comments by the applicant

- With regard to the adjustment of 5 percent, it was clearly pointed out that even without the adjustment the products were being dumped.
- Information was submitted on the domestic selling price of the subject product in the countries subject to this investigation, as well as the highest comparable price of the like product when exported to Benin in accordance with the ITA Act, ADA and ADR. The hen products that interested parties refer to are classified under the EU journal as bone-in products. It does not distinguish between depleted hens and broiler products.

Commission's consideration

- The Commission decided to initiate the investigation based on information older than six months because of the many companies involved. It was considered that if the industry was required to update the information, it would unduly delay the process. The Commission resolved to base its decision on the information up to December 2012.
- The reasons for confidentiality were claimed in the application for the relevant paragraphs in each cooperating company's information. Together with SAPA, all cooperating companies submitted individual sworn statements for the information claimed to be confidential.
- The notice of initiation clearly indicated the information and methodology utilized by the Commission to determine dumping, the injury and causality.
- The Commission determined that it was not practical to send the initiation notice to all identified parties. Initiation packs were sent to diplomatic representatives of the relevant countries as allowed per footnote 16 in Article 6.1.3 of the ADA. Furthermore those parties that were not directly informed were given extra time to respond to the exporter's questionnaire in line with Section 29.4 of the ADR. Members of AMIE were informed about the anti-dumping investigation.
- Products exported under EU tariff subheading 0207.14.40 were not used for initiation purposes as alleged. Those products are imported into SACU under a different subheading, 0207.12.20.
- There was no 5 percent adjustment made as the comparison on normal value and export price were both at FOB level.
- The information used for initiation purposes related only to frozen products. The interested parties were incorrect as both the normal value and export prices used were for frozen products only. The interested parties made an unsubstantiated claim that the export prices submitted by the applicant for normal value were for spent hen. The Euro export statistics used, which was the best available information, were for frozen bone-in chicken portions, the subject product.

1.6 INVESTIGATION PERIOD

The investigation period for dumping was 01 January 2012 to 31 December 2012. The investigation period for injury involved evaluation of data for the period 01 January 2010 to

31 December 2012. Additional information for twelve months, 01 January 2013 to 31 December 2013 was considered for subsequent performance of the SACU industry.

1.7 PARTIES CONCERNED

1.7.1 SACU industry

The SACU industry consists of growers, processors and producers of the subject product. SAPA, lodged the application. Letters of support for the investigation were received from:

- Grain S.A;
- Animal Feed Manufacturers Association (AFMA);
- Namib Poultry Industries (Pty) Ltd;
- Swazi Poultry Processors;
- Botswana Poultry Association; and
- Basotho Poultry Farmers Association.

AFGRI, County Fair, Early Bird, Rainbow, Sovereign and Supreme provided injury information.

1.7.2 Foreign Manufacturers/Exporters

Responses to the Commission's exporter's questionnaire were received from the following foreign producers/traders/exporters of the subject product in Germany, the Netherlands and United Kingdom:

- Anhaltinische Geflügelspezialitäten GmbH (Möckern), Donautal Geflügelspezialitäten Zweiniederlassung der Lohman & Co (Bogen), Nienburger Geflügelspezialitäten Zweiniederlassung der Oldenburger Geflügelspezialitäten GmbH (Holte), Oldenburger Geflügelspezialitäten GmbH (Lohne) and Wiesenhof International GmbH Co. KG;
- Plukon Group of Companies - Plukon Goor, Plukon Blokker, Plukon Dedemsvaart BV in Netherlands Friki Storkow GmbH, Franziska Stolle GMBH, Plukon Gudensberg GMBH and Gebr. Stolle GMBH;
- Pluimveeslachterij C van Miert BV (Miert) and Pluimveeslachterij Mieki Hunsel BV (Mieki);
- Moy Park Ltd;
- 2 Sisters Food Group and Amber Foods;
- Frisia Foods BV; and

- Traders: Source Foods, Kappers Foods, Partners Network in Netherlands and Vestey Foods International and Reids of Norwich.

1.7.3 Friki Storkow GmbH, Franziska Stolle GMBH, Plukon Gudensberg GMBH and Gebr. Stolle GMBH from Germany indicated that they were no longer participating in the proceedings of the investigation.

1.7.4 All the companies mentioned above requested extension to the Commission's due date for responses and were granted extension on good cause shown, with the exception of Vestey Foods International, Moy Park, Humeat, ESS Foods, Sprehe Feinkost, Nepluvi, and the British Poultry Council, whose reasons were not considered as good cause.

- Vestey cited insufficient time to respond to the investigation.
- Moy Park gave inconsistent and contradictory reasons as motivation.
- Humeat indicated insufficient time.
- ESS Foods cited uncertainty with filling out the questionnaire.
- Sprehe Feinkost indicated insufficient time.
- Nepluvi cited Christmas time, illegible copies and lack of clarity regarding product scope.
- British Poultry Council requested extension on behalf of its members and to make a joint submission with NEPLUVI and BVG.

Comments from interested parties

ITAC did not give due consideration to the duly substantiated, repeated and detailed deadline extension requests justifying the reasons necessitating the extension as submitted. Requests for extension were rejected without any justification.

Commission's consideration

Extensions were granted to interested parties that showed good cause for their requests. It considered and found questionable the validity of the issue of illegible copies that was brought to the attention of ITAC a month after the investigation was initiated.

1.7.5 At the request of AVEC, a meeting was held with the Association of Poultry Processors and Poultry Trade in the EU countries (A.V.E.C) and the EU delegation on 22 November 2013, to discuss several issues regarding the investigation, amongst other

things, sampling.

1.7.6 Initial responses from the foreign producers/exporters were found to be deficient, and the exporters were advised and given a further seven days to correct the identified deficiencies. Updated responses from the respective foreign producers/exporters, excluding Vestey Foods International were received within the 7-day period. Vestey Foods International's response was submitted after the specified due date for submission. Reids of Norwich indicated that it wished not to continue its participation in this investigation.

Frisia Food BV and Wiesenhof (Holte plant, Bogen plant, Lohne plant, Möckern plant and Wiesenhof International) rectified the deficiencies in time for purposes of the preliminary determination. On-the-spot verification of their information took place from 25 March 2014 to 10 April 2014.

All the other producers/exporters were informed of the deficiencies in their responses and that their information would not be taken into account for the purposes of the Commission's preliminary determination. They were also advised that should their information be rectified within the deadline date for comments on the preliminary determination, the information would be considered for the final determination.

Plukon Goor and Plukon Dedemsvaart; Miert and Mieki; Moy Park Ltd and 2 Sisters Food Group and Amber Foods; Kappers Foods BV and Source Foods rectified the identified deficiencies within the deadline date for comments on the preliminary determination and their information was verified. On-the-spot verification of their information took place from 25 August 2014 to 09 October 2014.

Plukon Blokker (one of Plukon Group of companies) submitted an updated response within the deadline date for comments to the preliminary determination, however the response was still deficient. The cost and price build-up information was incomplete. Plukon Blokker was informed of the deficiencies and advised that the information may not be taken into account for final determination.

1.7.7 Importers

Responses to the Commission's importers' questionnaire were received from Merlog Foods (Pty) Ltd and Federated Meats (Pty) Ltd. Initial responses from both importers were found to be deficient. The importers were advised of the identified deficiencies and given a further seven days to correct deficiencies. Updated rectified responses were received within the seven day time frame period and were verified. Their information was verified from 13 to 14 March 2014.

1.7.8 Other interested parties

Comments were received from the Association of Poultry Processors and Poultry Trade in the EU ("AVEC"); British Poultry Council; German Poultry Industry Federation (Zentralverband der Deutschen Geflügelwirtschaft e. V.); Vereniging van de Nederlandse Pluimveeverwerkende Industrie (NEPLUVI), the European Union (EU), and the Association for Meat Importers and Exporters (AMIE).

1.8 After considering all the responses and comments by interested parties, the Commission made a preliminary determination, at its meeting of 10 June 2014, that frozen bone-in portions of fowls of the species *gallus domesticus* originating in or imported from Germany, the Netherlands and United Kingdom were being imported into the SACU industry at dumped prices, thereby causing material injury to the SACU industry.

The Commission considered that the SACU industry would continue to suffer material injury during the course of the investigation if provisional payments were not imposed. The Commission therefore decided to request the Commissioner of South African Revenue Service to impose provisional measures on imports of the subject product from Germany, the Netherlands and United Kingdom, for a period of six months. Provisional payments were imposed effective from 04 July 2014 up to and including 02 January 2015.

The Commission's preliminary determination was sent to interested parties for comments. Comments on the Commission's preliminary determination were received from the applicant, EU, AMIE, NEPLUVI, Merlog, Wiesenhof International and Kappers through their representatives.

Comments from interested parties

- The imposition of the provisional duties by ITAC was inconsistent with Article 7.1 of the ADA. ITAC's preliminary determination effectively pushed foreign producers out of the SACU market and were certainly not in the spirit of levelling the playing field as ITAC puts it.
- ITAC is requested to reconsider its position and apply the lesser duty rule on its final findings as there were two importers verified.
- Interested parties requested ITAC to terminate the investigation on account of procedural errors and the inconsistencies of the Commission's determination with the ADA and/or suspend the provisional duties until such time as the technical issues raised had been resolved.
- ITAC's preliminary report was inconsistent with Article 12.2 and 12.2.1 of the ADA, since it did not set forth sufficient detail explaining the findings and conclusions on all material, legal and factual issues relating to dumping and injury, and did not respond to the comments made prior to the preliminary determination or provide reasons for rejecting the arguments of Nepluvi. Therefore interested parties do not understand how ITAC carried out the dumping and price effects calculations and find it difficult to conclude that the SACU industry is suffering as a result of alleged dumped imports from the three countries.
- ITAC's injury and causal link preliminary determinations are inconsistent with Article 3 of the ADA. ITAC has not been able to demonstrate on the basis of an objective assessment of positive evidence, as required by Articles 3.1 and 3.4 of the ADA, that the applicants have suffered injury on account of the alleged dumped imports from the three countries.
- The applicant's own residual dumping margin calculation (using SAPA's information provided in its application, which ITAC also used in this regard) for United Kingdom is contradictory with ITAC's finding.

Applicant's comments

- The methodology used to calculate the residual dumping margins for the three countries is incorrect. The Commission, in determining the normal value, should have used constructed normal values, and in determining the export price, the Commission

should have used the lower of the export price using SARS statistics and the export sales of all participating producers to SACU, both adjusted for transport costs.

- There is a particular market situation that exists in these three countries and therefore sales of the subject product in these three countries are not in the ordinary course of trade for purposes of normal value determination. The EU market is characterised by a strong preference for white meat over dark meat which is different from the South African market. ITAC acted inconsistently with Article 2.2.1.1 of the ADA by accepting the "sales value" cost allocation methodology used by the verified exporters, instead of adopting the weighted cost methodology in considering the cost and price build-up of the subject product.

Commission's consideration

- The investigation was initiated in accordance with Article 5 provisions. Public notice was given and interested parties were given ample opportunity to submit information and make comments. An affirmative preliminary determination of injury to the domestic industry caused by dumping was made; and it was judged that provisional payments were necessary to prevent injury to the domestic industry while the investigation continued. The provisional measures imposed were in line with Article 7.1.
- The ADR17 provides that the Commission shall consider applying the lesser duty rule if both the corresponding exporter and importer cooperated fully. In considering the application of lesser duty the Commission noted that the corresponding responding importer imported only one model out of three models exported to SACU by a foreign producer whereas a dumping duty is determined for the product under investigation. It was also found that some of the goods procured by responding importers were done through traders, and those traders bought from various producers including non-cooperating foreign producers. The Commission therefore made a final determination not to apply the lesser duty for the cooperating exporters.
- There were no procedural errors found by the Commission which necessitated that the investigation be terminated. It is in the nature of the investigations that any inconsistencies, errors and technical issues would be resolved during the course of the investigation. That is why the investigation was conducted over a stipulated

period of time to allow opportunities for comments and consideration of comments leading to the final determination.

- All relevant comments submitted by interested parties were considered and responded to by the Commission for the preliminary determination. The Commission issued the preliminary report in compliance with Section 34 of the ADR. The methodology used to determine dumping margins; price effects and Commission's consideration of comments were comprehensively explained in the report.
- The Commission's analysis of causality was consistent with Article 3 of the ADA, and this analysis was contained in the preliminary report, as it is in this final report which contains all the positive evidence used by the Commission, including an objective evaluation of the volume of dumped imports and its impact on the domestic industry and a proper evaluation of all the economic factors concerned.
- Both in preliminary and final determinations, the method used to calculate residual dumping margins was in line with relevant statutes, and there is no requirement on the Commission to only construct the normal value when calculating a residual dumping margin. The information at the Commission's disposal necessitated that the Commission used best information available, which in this case was the verified information.
- There is nothing untoward with the Commission's findings being different from what the applicant submitted. The differences may be explained by different choices by the Commission and the applicant concerning the third country used for normal value, and the EU tariff subheadings used.
- It was found that the exporters produced and sold both dark and white meat in the domestic markets. However, dark meat portions were mostly sold as fresh products in the exporters' domestic markets, Germany, the Netherlands and the United Kingdom. It was found that the main business of the verified producers that generated the most revenue was fresh chicken products (mainly breast part of a chicken), as in almost all the producers verified, approximately 75 percent of products produced were fresh products.

The Commission considered that, in most cases, the chicken portions regarded as white meat were sold as boneless in different models and classified under a different tariff heading. The preference that was identified was that in Germany, the

Netherlands and the United Kingdom consumers have a preference for fresh chicken products over frozen chicken products. Fresh chicken products are sold at higher value than the frozen products, as is the case in SACU.

- 1.9 A letter of essential facts detailing the Commission's consideration was sent to interested parties for comments. Comments to the essential facts were received from the applicant, Merlog, AMIE, NEPLUVI, BPC and BVG.

After considering the submitted information, parties' comments and representations in respect of the preliminary determination and "essential facts", the Commission made a final determination that the subject product from Germany, the Netherlands (excluding those produced by Miert, Mieki and Frisia Foods BV) and the United Kingdom was being dumped into the SACU market causing material injury to the SACU industry.

The Commission therefore decided to recommend to the Minister of Trade and Industry that definitive anti-dumping duties on frozen bone-in portions of fowls of the species *gallus domesticus* originating in or imported from Germany, the Netherlands and the United Kingdom be imposed as follows:

- 31.30% *ad valorem* on imports of frozen meat of fowls of the species *gallus domesticus*, cut in pieces with bone-in classifiable under tariff sub-heading 0207.14.90 and originating in or imported from Germany and produced by Anhaltinische Geflügelspezialitäten GmbH, Donautal Geflügelspezialitäten Zweinierderlassung der Lohman & Co, Nienburger Geflügelspezialitäten Zweinierderlassung der Oldenburger Geflügelspezialitäten GmbH, Oldenburger Geflügelspezialitäten GmbH and Wiesenhof International GmbH Co. KG;
- 73.33% *ad valorem* on imports of frozen meat of fowls of the species *gallus domesticus*, cut in pieces with bone-in, classifiable under tariff sub-heading 0207.14.90 and originating in or imported from Germany and produced by all other producers in Germany (excluding those produced by Anhaltinische Geflügelspezialitäten GmbH, Donautal Geflügelspezialitäten Zweinierderlassung der Lohman & Co, Nienburger Geflügelspezialitäten Zweinierderlassung der Oldenburger

Geflügelspezialitäten GmbH, Oldenburger Geflügelspezialitäten GmbH and Wiesenhof International GmbH Co. KG).

- 3.86% *ad valorem* on imports of frozen meat of fowls of the species *gallus domesticus*, cut in pieces with bone-in, classifiable under tariff sub-heading 0207.14.90 and originating in or imported from the Netherlands and produced by Plukon Dedemsvaart BV; Plukon Goor BV and Plukon Blokker BV.
- 22.81% *ad valorem* on imports of frozen meat of fowls of the species *gallus domesticus*, cut in pieces with bone-in, classifiable under tariff sub-heading 0207.14.90 and originating in or imported from the Netherlands and produced by all other producers in the Netherlands (excluding those produced by Frisia Foods BV; Pluimveeslachterij C van Miert BV; Pluimveeslachterij Mieki Hunsel BV; Plukon Dedemsvaart BV; Plukon Goor BV and Plukon Blokker BV).
- 12.07% *ad valorem* on imports of frozen meat of fowls of the species *gallus domesticus*, cut in pieces with bone-in, classifiable under tariff sub-heading 0207.14.90 and originating in or imported from the United Kingdom and produced by Moy Park Ltd.
- 12.07% *ad valorem* on imports of frozen meat of fowls of the species *gallus domesticus*, cut in pieces with bone-in, classifiable under tariff sub-heading 0207.14.90 and originating in or imported from the United Kingdom and produced by 2 Sisters Food Group Ltd and Amber Foods Ltd.
- 30.99% *ad valorem* on imports of frozen meat of fowls of the species *gallus domesticus*, cut in pieces with bone-in, classifiable under tariff sub-heading 0207.14.90 and originating in or imported from the United Kingdom and produced by all other producers in the United Kingdom (excluding those produced by Moy Park Ltd; 2 Sisters Food Group Ltd and Amber Foods Ltd).

All submissions made by interested parties are contained in the Commission's public file for this investigation and are available for perusal. It should be noted that this report does not purport to present all comments received and considered by the Commission. However, some of the salient comments received from interested parties and the Commission's consideration of these comments are specifically included in this report.

2. PRODUCTS, TARIFF CLASSIFICATION AND DUTIES

2.1 IMPORTED PRODUCTS

2.1.1 Description

The subject products are described as frozen bone-in portions of the species *gallus domesticus*.

2.1.2 Country of origin/export

The subject product originates in or is imported from Germany, the Netherlands and United Kingdom.

2.1.3 Tariff Classification

The following table shows the ordinary customs duty table for the subject product:

Table 2.1.3: Applicable duties and rebates

Tariff sub-heading	Description	Customs Duty			
		General	EU	EFTA	SADC
0207	Meat and edible offal, of the poultry of heading 01.05, fresh, chilled or frozen				
0207.1	Of fowls of the species GALLUS DOMESTICUS Cuts and offal, frozen				
0207.14					
0207.14.90	Other	37%	Free	37%	Free

Source: SARS

2.1.4 Negligibility test

The volume of dumped imports into SACU shall be considered negligible if it accounts for less than 3 percent of total imports of the subject product during the period of investigation for dumping. The following table shows the alleged dumped imports as a percentage of the total imports:

Table 2.1.4: Import volumes

	Import volumes (kg) (2012)	Volume as a % of total imports
Germany	23 027 601	12.2%
The Netherlands	39 701 366	21%
The United Kingdom	25 108 849	13.3%
Other imports	101 171 265	53.5%
Total imports	189 009 081	100%

The information above indicates that 12.2 percent, 21 percent and 13.3 percent of the subject product was imported from Germany, the Netherlands and United Kingdom respectively during the period of investigation for dumping. The Commission made a final determination that the imports from Germany, the Netherlands and the United Kingdom were above the negligibility level.

2.2 SACU PRODUCT

2.2.1 Description

The SACU product is described as frozen bone-in portions of fowls of the species *gallus domesticus* sold under various names such as Farmer Brown, Rainbow, Festive, Goldi, County Fair, and Supreme.

2.2.2 Production process

BREEDING: Genetic material, at the grandparent level, in the form of day-old-chicks is imported and maintained locally. The import of genetic material is done on a rolling basis. Depleted stock is sold as live chicken or slaughtered.

REARING AND LAYING: The purpose of these operations is to generate eggs for own hatcheries, from where day-old-chicks are obtained. Except for the local supplier contracts for services and materials there are no supply side agreements vastly different from any local operation e.g. cleaning services, delivery of eggs to hatcheries, feed supply etc. The cost to the business is determined by the cost of day-old-chicks placed on the broiler farm. Depleted hens are sold live or slaughtered.

PRODUCTION: Day-old-chicks are placed on broiler farms and grown to a point of readiness for the abattoir. The companies own most of the farms and some belong to or

are leased to contract growers. The contract growers operate on a modified franchise basis; the focus being the healthy and timely growth of the birds.

SLAUGHTER & PROCESSING: These broilers are delivered live at the abattoirs where the broilers are slaughtered. The slaughtered broiler birds are either processed as whole birds or cut up in portions and sold either chilled or frozen. Therefore, a frozen bone-in portion is one of the products of the producers.

2.2.3 Raw Material used

The main raw material used is broiler chicken.

2.2.4 Application or end use

The end use and or application of the subject product is for human consumption.

2.2.5 Tariff Classification

The subject product is classifiable under tariff subheading 0207.14.90.

2.2.6 LIKE PRODUCTS ANALYSIS

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

Table 2.2.6: Like product determination

	Imported product	SACU product
Raw materials	Broiler chicken.	Broiler chicken.
Physical appearance	Consists of whole bird cut up in portions that contain bones, either white or brown meat.	Consists of whole bird cut up in portions that contain bones, either white or brown meat.
Tariff classification	0207.14.90 – other	0207.14.90 – other
Production process	The production of chicken meat comprises the breeding, rearing, laying, production, slaughtering and processing of broilers.	The production of chicken meat comprises the breeding, rearing, laying, production, slaughtering and processing of broilers.
Application or end use	Products for human consumption.	Products for human consumption.
Substitutability	The imported and SACU products are fully substitutable.	The SACU and imported products are fully substitutable.

2.2.7 Comments from interested parties

(i) Like product

- The initiation notice indicates that the imported and local products are like products, but no cognisance has been taken of the severe brining of the local product and the size of the portions and the fact that the imported product is not brined.
- The imported product is packed in bulk boxes of varying quantities and after importation these products are split into smaller packs involving a significant amount of labour, packing material and other costs. Therefore the imports do not compete with the SAPA product in the exported form. A comparison cannot be made based on landed costs of the imported product.

Comments from the applicant

- The issue of brine meat is based on unsubstantiated allegations. The brining is also done with regard to imports from the subject countries.
- The correct comparison for the imported product is made at the landed cost level. This is the methodology which is used by the Commission.

Commission's consideration

- The Commission considered that the subject product whether brined or not, is a like product imported and classified under tariff heading 0207.14.90, and also that some of the European producers brine the subject product as verified in Wiesenhof.
- The Commission considered that the determination of dumping is done at the ex-factory level. Note is taken of the differences in the level of trade between the local product and the imported product. However, the products are all classified under tariff heading 0207.14.90, categories of users are the same, application is the same and they are fully substitutable, as they ultimately compete with one another in the SACU market at a retail or wholesale level.

There has been contradictory information regarding the processing of bulk frozen chicken once landed in the domestic market. In one instance the argument has been that there are further processing costs incurred in breaking the bulk frozen chicken and repacking it in smaller packages. On the other hand it has been submitted that the bulk frozen chicken is meant for commercial use and not households who would

need to break the portions into smaller packages. Since the bulk frozen chicken is meant for fast food restaurants, there is no need for it to be defrosted and repackaged as would be the case if it was meant for household use. The Commission considered that there are no further costs incurred as alleged, before the product competes with locally produced product.

(ii) Lack of complete description of the product concerned (Product scope)

A complete and proper description of the allegedly dumped product has not been provided by SAPA. Unclear definition of the product concerned: The application lacks sufficient evidence of the volume and value of the domestic production. Tariff code 0207.14.90 includes non-subject products; therefore allegations of injury caused by allegedly dumped imports are incorrect.

No information has been provided by ITAC on the product types produced by the applicants. To Nepluvi and members, the product scope is yet not clear since it is not known which products ITAC has considered for injury margin calculations. ITAC has used the information for all products produced by the applicant for certain injury indicators.

Commission's consideration

- The product under investigation was frozen bone-in portions of fowls of the species *gallus domesticus* classifiable under tariff subheading 0207.14.90, including, without limitation breasts and cuts there-off, legs, with or without backbone and cuts there-off, full wings, prime wings, two-joint wings, 2nd joint/flat wings, thighs with or without backbone, drumsticks, halves and quarters.
- The information for all products produced by the applicant has been used where it was not possible to separate only for the subject product in line with Article 3.6 of the ADA¹.

After considering all the above, the Commission made a final determination that the SACU products and the imported products were "like products", for purposes of comparison.

¹ The effect of dumped imports shall be assessed in relation to domestic production of the like product when available data permit the separate identification of that production on the basis of such criteria as the production process, producer's sales and profits. If such separate identification of that production is not possible, the effects of dumped imports shall be assessed by examination of the production of the narrowest group or range of products, which includes the like product, for which the necessary information can be provided.

3. INDUSTRY STANDING

The applicant (SAPA) is an industry association with an output of approximately 72 percent of the total SACU industry by production volume. Letters of support were also submitted by Namib Poultry Industries (Pty) Ltd, Swazi Poultry Processors, Botswana Poultry Association and Basotho Poultry Farmers Association.

3.1 Comments from interested parties

- SAPA is estimating the size of the rest of the SACU industry, and that no party other than those specifically supplying information in support of the application have submitted any information. Therefore there is no basis for SAPA's figures pertaining to the "rest of the SACU industry".
- The aggregated data of the seven applicants used in determining SAPA's standing and SACU injury has not been disclosed in the preliminary report and such information is not confidential by nature on account of being aggregated. No justification or reasoning by ITAC as to why this information was not disclosed.
- The Commission's industry standing determination is incorrect as it did not consider information of Grain Fields and Namibian Poultry Industries which are large producers in the domestic industry.

Commission's consideration

- The industry standing is based on information of SAPA members and others supporting the application. No SACU producer came forward opposing the application.
- The non-confidential information supplied by the applicant where confidentiality was requested was indexed accordingly. The Commission considered that the non-confidential information provided sufficient detail for interested parties to obtain a meaningful understanding of the indexed information.
- Namib Poultry Industries (Pty) Ltd and Grain Fields were considered and have supported the application.

The Commission made a final determination that the application could be regarded as being made "by or on behalf of the domestic industry".

4. DUMPING

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

4.1 METHODOLOGY IN THIS INVESTIGATION FOR WIESENHOF UNDER THE PHW GROUP IN GERMANY

The following Wiesenhof companies which are all part of the Paul-Heinz Wesjohann (PHW) group in Germany, Anhaltinische Geflügelspezialitäten GmbH (Möckern), Donautal Geflügelspezialitäten Zweiniederlassung der Lohman & Co (Bogen), Nienburger Geflügelspezialitäten Zweiniederlassung der Oldenburger Geflügelspezialitäten GmbH (Holte), Oldenburger Geflügelspezialitäten GmbH (Lohne) and Wiesenhof International GmbH (dealing with export sales of the four producing companies) are all characterised by the following:

- Common ownership by one Group;
- Common shareholdings and management;
- Domestic sales made through the same agents;
- Sales shift amongst the companies and they invoice each other for transactions;
- Central procurement department; and
- The Group makes decision on cost and price determination for all their producers.

On the basis of the above, the Commission made a final determination that the relationship of the PHW Group of companies is such that the producers/exporters can be considered as a single entity for purposes of determining a single dumping margin.

It was found that Möckern, Bogen, Holte and Lohne determine the models of the subject product based on cut, grade, article number and packaging. It was also found that some products are not indicated whether A-grade or B-grade, and whether calibrated or uncalibrated. The Commission considered that although the product is packed differently, or is identified by different article numbers, it was still the same product and therefore

made a final determination to determine the models of the subject product based on cut and grade. The Commission also made a final determination that those products which are not indicated whether A-grade or B-grade, would be considered as A-grade. It also made a final determination that products not specified as calibrated or uncalibrated will be determined as uncalibrated and this was also confirmed during verification.

It was explained during verification that chicken leg with backbone and chicken leg quarter are both a thigh and drumstick together. The Commission made a final determination to consider these two models to be one model for dumping margin calculation.

The PHW Group of companies that were verified had the following issues relating to their adjustments, for both their normal values and export prices:

- It was found that they make their domestic sales through two agents which are part of the PHW group, and they also make their export sales through another agent, Wiesenhof International. They pay their two agents responsible for domestic sales, a commission of either 1% or 1.5% of the sales value, and Wiesenhof International, which is responsible for export sales, is paid commission of 3%. They did not claim an adjustment for the commissions. The Commission made a final determination to make adjustments for commissions paid on the normal values and export prices.
- The producers also claimed adjustment for packaging for both domestic and export sales, but were unable to explain and substantiate the amount apportioned to each sales transaction during the verification. It was also found that the packaging for the subject product was similar for both domestic and export markets. The Commission made a final determination not to allow this adjustment.
- For sales to SACU it was found during verification that Wiesenhof International, as a seller, only arranges transport and the buyer incurs the transportation costs, including inland transport. The Commission made a final determination not to allow adjustment of transport cost on export price.

The respective normal values and export values for each of the PHW Group of companies was determined as follows:

4.1.1 HOLTE

(a) Normal Value

Holte plant produced and sold various models of the subject product in Germany. For normal value determination, comparable models produced and exported to the SACU market during the period of investigation for dumping were used. Of the various models produced and sold by Holte in Germany, only one model (leg quarters A-grade) was produced and exported to SACU during the period of investigation for dumping.

The normal value before adjustments was based on domestic sales of the chicken leg quarters model that were made in Euro (€). In order to bring the normal value to ex-factory level, the Commission made a final determination to allow adjustment for commission to the normal value for which it was shown that there were differences in costs and demonstrated to have affected price comparability at the time of setting of prices.

(b) Export price

To calculate the export price, Holte's verified export sales to the SACU market that were made in Euro (€) were used. Holte exported one model to the SACU market, namely chicken leg quarters A-grade during the period of investigation for dumping. In order to bring the export price to ex-factory level, the Commission made a final determination to allow the following adjustments to the export price for which it was shown that there were differences in costs and demonstrated to have affected price comparability at the time of setting of prices:

- Commission paid; and
- Cost of payment terms.

4.1.2 MÖCKERN

(a) Normal value

Möckern produced and sold various models of the subject product in Germany. For normal value determination, comparable models produced and exported to the SACU market during the period of investigation for dumping were used. Of the various models produced and sold by Möckern in Germany, only one model (3-joint wings A-grade) was produced and exported to SACU during the period of investigation for dumping.

The normal value before adjustments was based on domestic sales of the three-joint wings A-grade model that were made in Euro (€). In order to bring the normal value to ex-factory level, the Commission made a final determination to allow the following adjustments to the normal value for which it was shown that there were differences in costs and demonstrated to have affected price comparability at the time of setting of prices:

- Commission paid;
- Transport costs; and
- Cost of payments terms.

(b) Export price

To calculate the export price, Möckern's actual verified export sales to the SACU market that were made in Euro (€) were used. Möckern exported one model to the SACU market, namely 3-joint wings A-grade during the period of investigation for dumping.

In order to bring the export price to ex-factory level, the Commission made a final determination to allow the following adjustments to the export price for which it was shown that there were differences in costs and demonstrated to have affected price comparability at the time of setting of prices:

- Commission paid; and
- Cost of payment terms.

4.1.3 BOGEN

(a) Normal Value

Bogen produced and sold various models of the subject product in Germany. For normal value determination, comparable models produced and exported to the SACU market during the period of investigation for dumping were used. Of the various models produced and sold by Möckern in Germany, only one model (leg-quarters A-grade) was produced and exported to SACU during the period of investigation for dumping.

In its sales schedule, Bogen had sales transactions of the subject product that had no values but just volumes. The Commission made a final determination not to consider these

sales/transactions for normal value determination as they were not in the ordinary course of trade.

The normal value before adjustments was based on domestic sales of leg with backbone A-grade which were made in Euro (€). In order to bring the normal value to ex-factory level, the Commission made a final determination to allow the following adjustments to the normal value for which it was shown that there were differences in costs and demonstrated to have affected price comparability at the time of setting of prices:

- Commission paid;
- Transport costs; and
- Cost of payments terms.

(b) Export price

To calculate the export price, Bogen's actual verified export sales to the SACU market that were made in Euro (€) were used. Bogen exported one model to the SACU market, namely leg-quarters A-grade during the period of investigation for dumping.

In order to bring the export price to ex-factory level, the Commission made a preliminary determination to allow the following adjustments to the export price for which it was shown that there were differences in costs and demonstrated to have affected price comparability at the time of setting of prices:

- Commission paid; and
- Cost of payment terms.

4.1.4 LOHNE

(a) Normal Value

Lohne produced and sold various models of the subject product in Germany. For normal value determination, the comparable models produced and exported to the SACU market were considered. Of the four comparable models to those produced and exported to SACU, three comparable models (drumsticks A-grade, leg quarter A-grade and thigh with back bone A-grade) were sold in Germany during the period of investigation for dumping. Lohne did not sell model chicken leg quarters B-Grade in Germany during the same period.

For leg quarter A-grade model, it was found that there were transactions with volumes with no values. The Commission decided not to consider these sales for purposes of normal value determination as they were not in the ordinary course of trade. Of the three comparable models sold in Germany, some of the sales of leg quarter A-grade and thigh with back bone A-grade were sold below cost. Such sales were found to be less than 20 percent by volume of domestic sales and therefore all domestic sales for this model as well as all sales of drumsticks A-grade model were used for normal value determination.

Sales of thighs with backbone A-grade model in Germany during the period of investigation for dumping were found to be less than 5 percent of export sales to SACU, thus not sufficient for the Commission to make a proper comparison, as these sales did not meet the requirements of section 8.3 of the ADR, which states that domestic sales of the like product shall normally be considered a sufficient volume to determine a normal value if such sales constitute 5 percent or more of the sales volume of the product to the SACU.

Leg quarters B-grade not sold in the producer's domestic market and thighs with backbone that had insufficient volumes, were however sold to various export markets. In selecting the appropriate third country, the Commission considered the following criteria:

- Volumes exported to that country are comparable to volumes exported to SACU;
- Customers exported to in that country are comparable to customers exported to in SACU; and
- The country exported to should have a domestic manufacturing industry.

On the basis of the above criteria, the Commission determined that Great Britain met the criteria for third country selection for both these models, and therefore exports to Great Britain were used for normal value determination.

The normal values before adjustments were based on domestic sales of drumsticks A-grade and leg quarters A-grade models and exports to Great Britain for thighs with backbone A-grade and leg quarters B-grade. In order to bring the normal value to ex-factory level, the Commission made a final determination to allow the following adjustments to the normal value for which it was shown that there were differences in

costs and demonstrated to have affected price comparability at the time of setting of prices:

- Commission paid;
- Transport costs; and
- Cost of payment terms.

(b) Export price

To calculate the export price, Lohne's actual verified export sales to the SACU market that were made in Euro (€) were used. Lohne exported four models to the SACU market, namely leg quarters A-grade, leg quarters B-grade, drumsticks A-grade and thighs with backbone during the period of investigation for dumping.

In order to bring the export price to ex-factory level, the Commission made a final determination to allow the following adjustments to the export price for which it was shown that there were differences in costs and it was demonstrated to have affected price comparability at the time of setting of prices:

- Commission paid; and
- Cost of payment terms.

4.1.5 DUMPING MARGIN

A single dumping margin for the PHW companies was determined by weighting the individual company normal values and export prices with respective volumes. The weighted overall dumping margin for the PHW group was found to be 32.72 percent.

4.1.6 Comments by interested parties

- The determination of dumping margins by ITAC for certain interested parties from the Netherlands, United Kingdom and Germany is inconsistent with the provisions of Articles 2, 6.8 and 9.2 of the ADA with regard to:-
 - the methodology of combining models;
 - treatment of sales to related parties; and
 - level of trade comparison used by ITAC to determine the margins of dumping for Wiesenhof and for the rest of Germany, resulting in higher margins is incorrect.

- The Commission should not have made an adjustment for the commission cost as it was explained during verification that this cost did not affect the selling price.
- The determination of the margins of dumping is flawed, since ITAC did not compare like with like in comparing bulk frozen portions with IQF frozen portions.

Commission's consideration

- The responding exporters defined models according to article number, grade, packaging, and cut. The Commission established that the article numbers were used by exporters/producers to differentiate in some cases customers or orders for similar products (cuts). The producers/exporters also used packaging to define models where, for example, 3-joint wings A grade 5kg and 10kg were defined as different models.

The Commission considered that even though a product may be packed in different sizes and given different article numbers, these do not change the nature of the product concerned. The Commission decided to determine models based on cut and grade. Further, the packaging amount claimed as adjustment by the PHW Group could not be substantiated. Therefore models where the difference as per the exporter's submission was found to be based on article number and packaging, were combined.

Sales to a related party are not automatically deemed not in the ordinary course of trade. The regulation is also not prescriptive of treatment of sales to related buyers as it is phrased as "may". The Commission considered that there were sales made to related parties but it was found that from the price charged, the exporter was able to recover all production related costs, and thus also comparable with prices the producer charged to other buyers, or non-related parties and therefore concluded that these sales were made in the ordinary course of trade. Such sales transactions were made at market related prices, and in this case the Commission found no reason not to use such sales.

With respect to level of trade it was submitted that prices charged by companies within the PHW Group were not customer dependent, and therefore the levels of trade did not affect the setting of prices.

Furthermore, the Commission's exporter's questionnaire specifically indicates that

adjustments including the level of trade be specified and quantified if applicable. This was not provided or indicated by PHW Group in its questionnaire response; during verification; nor in any submissions to the Commission during the course of the investigation.

- Differences in costs which were found to have affected price comparison have to be adjusted for, whether claimed or not claimed by the exporter. It was found that commission cost was directly related to the sales which were considered and that it affected setting of prices. The Commission charged for the export market was also found to be different from that charged in the domestic market. The Commission made a final determination to adjust both domestic and export sales for commission cost.
- The Commission considered the difference in freezing. However, it found that the type of freezing does not change the cut or model as determined by the Commission. All the models that were considered were the subject product. The costs of freezing for bulk or IQF freezing could not be determined, as PHW Group provided combined freezing costs (costs for both bulk and IQF freezing), without clearly differentiating the differences in costs for bulk frozen or IQF frozen. The one exporter who indicated an adjustment for freezing costs could not substantiate the costs. The Commission decided not to make adjustments for freezing costs.

4.2 METHODOLOGY FOR THE RESIDUAL DUMPING MARGIN – GERMANY

(a) Normal value

The Commission made a determination to determine the normal value for all other producers in Germany based on best information available, being the verified PHW Group information in this case. The Commission considered all models of the subject product of the PHW group sold in Germany excluding sales made to charities, factory shops, sales volumes without values, and sales made at a loss.

The Commission made a final determination that sales by charities are donations, and thus not made in the ordinary course of trade and sales to factory shops are as a result of special agreements between the Wiesenhof companies which would not exist for independent buyers. In order to bring the normal value to ex-factory level, the Commission

made a final determination to allow the adjustment of transport cost to the normal value for which it was shown that there were differences in costs and demonstrated to have affected price comparability at the time of setting of prices.

(b) Export price

For purposes of export price determination, the Commission considered that PHW Group companies exported only a maximum of four frozen bone-in portion models to SACU during the period of investigation for dumping. The Commission therefore decided to use information of all participating producers from Germany, including those from Stolle Group which provided export sales information, but chose not to continue participating in the investigation. No adjustments were made to the export price of all export sales from PHW Group as adjustments relating to cost of payment terms were company specific.

(c) Margin of dumping

Based on the above, the residual margin of dumping was calculated to be 76.52 percent.

4.3 METHODOLOGY FOR FRISIA FOODS B.V IN THE NETHERLANDS

(a) Normal Value

Frisia Foods produced and sold various models of frozen bone-in chicken portions in the Netherlands. It was found that Frisia Foods models are specified by cuts only (i.e. Leg quarter, drumstick and etc.). For normal value determination, comparable models produced and exported to the SACU market during the period of investigation for dumping were used.

Of the various models produced and sold by Frisia Foods in the Netherlands, only one model (leg-quarters) was produced and exported to SACU during the period of investigation for dumping. The normal value before adjustments was based on domestic sales made in Euro (€), of the leg-quarters model.

It was found that some of the sales of this model were sold below cost, in quantities exceeding 20 percent by volume of total domestic sales. The Commission made a final determination to disregard the sales made at a loss, by volume exceeding 20 percent of total domestic sales during the period of investigation for dumping in accordance with the ADR8.2.

The remaining domestic sales were found to be 4.5 percent of the volumes of exports to SACU. The Commission made a final determination that sales less than 5 percent of the export sales to SACU be considered as not sufficient for the Commission to make a proper comparison and thus did not meet the requirements of ADR 8.3.

The Commission considered export sales to an appropriate third country but no country met the Commission's selection criteria for an appropriate third country. The Commission used the following criteria to choose an appropriate third country:

- Volumes exported to that country are comparable to the volumes exported to SACU.
- Customers exported to in that country are comparable to the customers in SACU.
- Country exported to should have a domestic manufacturing industry.

The Commission made a final determination to construct the normal value for Frisia Foods based on verified cost of production plus SG&A costs and reasonable profit.

(b) Export price

To calculate the export price, Frisia Foods's actual verified export sales to the SACU market were used. Frisia Foods exported one model to the SACU market, chicken leg-quarters, during the period of investigation for dumping.

(c) Export sales adjustments

In order to bring the export price to ex-factory level, the Commission made a final determination to allow adjustment of cost of payment terms to the export price for which it was shown that there were differences in costs and demonstrated to have affected price comparability at the time of setting of prices.

(d) Margin of dumping

The dumping margin for Frisia Foods was found to be 0.88 percent as a percentage of the ex-factory export price.

4.4 METHODOLOGY FOR MIERT AND MIEKI IN THE NETHERLANDS

Miert and Mieki are all part of Van Miert Procuratie Breukelen BV, characterised by the following:

- Common ownership by one holding company;
- Common shareholdings and management; and
- Sales shift amongst the two companies and they invoice each other for these transactions.

On the basis of the above, the Commission made a final determination that the relationship of the two companies (Mieki and Miert) is such that the producers/exporters can be considered as a single entity for purposes of determining a single dumping margin.

It was found that the companies determine the models of the subject product based on cut and grade. The Commission made a determination to determine models of the subject product based on cut and grade.

The cost and price build-up of both Miert and Mieki apportioned the warehousing cost (freezing) on all products produced. The Commission made a determination to allocate the warehousing cost to only frozen products as these are the only products that incur freezing or warehousing costs.

Sales of frozen bone-in chicken portions were directly made and invoiced to traders in the Netherlands and other foreign countries, who resale and/or deliver the subject product to the final destination of consumption. Therefore to determine/prove the final destination of the subject product, orders by the trader(s) supplied by the company, invoices supplied by the traders who cooperated in this investigation and other correspondences between the company and the trader, were used.

Mieki and Miert indicated that the destination may sometimes not be indicated by traders at the time of placing an order. For those sales of which final destination was not confirmed because of the non-cooperation of trader(s), the Commission made a final determination to deem as domestic sales, the sales to the non-cooperating trader(s) situated in the Netherlands, and deem as sales to third countries, the sales to non-cooperating trader(s) situated outside of the Netherlands.

All Miert's and Mieki's sales to cooperating traders (Partners Network, Source Foods BV and Kappers Foods BV) were destined for the export market. This is based on the verified

information from and the two respective producers and the three respective traders. Since the producers only sell the subject product through traders, the Commission considered the information of the producers together with the respective trader(s) for both normal value and export price determination, where applicable.

Miert and Mieki claimed an adjustment for packaging on normal value of wings A grade model. During verification it was indicated that packaging for domestic and export markets models of the subject products is the same, except for a sticker indicating whether a product is fresh or frozen. With regard to the adjustment requested it was found that certain transactions had an adjustment claimed while others did not, notwithstanding the fact that packaging is the same for all products. The reasons for these differences were not provided. The Commission made a final determination not to allow this adjustment as it did not affect price comparability at the time of setting prices.

4.4.1 MIERT

(a) Normal value

Miert produced and sold various models of the subject product in the Netherlands. For normal value determination, the comparable models produced and exported to the SACU market were considered. Of the three comparable models to those produced and exported to SACU, two comparable models (legs and wings A-grade) were sold in the Netherlands during the period of investigation for dumping. The sales of the SACU comparable models were made to non-cooperating traders in the Netherlands, and the Commission considered these sales as domestic sales. Miert did not sell model miscut wings in the Netherlands during the same period.

Some of the sales of the two comparable models sold in the Netherlands were sold below cost. For model legs, sales made at loss were found to be less than 20 percent by volume of domestic sales and therefore all domestic sales for this model were used for normal value determination. For wings A-grade, sales made at loss were found to be more than 20 percent by volume of domestic sales. The Commission made a final determination to disregard the sales made at a loss, by volume exceeding 20 percent of total domestic sales during the period of investigation for dumping in accordance with the ADR8.2, and use remaining sales for normal value determination.

For the model miscut wings which were not sold in the Netherlands, the Commission considered export sales to an appropriate third country, but no country met the Commission's selection criteria for an appropriate third country. The Commission uses the following criteria to choose an appropriate third country:

- Volumes exported to that country are comparable to the volumes exported to SACU.
- Customers exported to in in that country are comparable to the customers in SACU.
- Country exported to should have a domestic manufacturing industry.

The Commission made a final determination to construct the normal value for this model based on Miert's verified cost of production plus SG&A costs and reasonable profit.

(b) Export price

To calculate the export price, Miert's actual verified price to responding traders who in turn exported to the SACU market were used. SACU sales were made on an ex-works basis to its traders, therefore no adjustments were claimed. Miert exported legs, miscut wings and wings A-grade to SACU during the period of investigation for dumping.

4.4.2 MIEKI

(a) Normal value

Mieki produced and sold various models of the subject product in Germany. For normal value determination, the comparable models produced and exported to the SACU market were considered. Of the three comparable models to those produced and exported to SACU, two comparable models (legs and wings A-grade) were sold in the Netherlands during the period of investigation for dumping. The sales of the SACU comparable models were made to non-cooperating traders in the Netherlands, and the Commission considered these sales as domestic sales. Mieki did not sell model miscut wings in the Netherlands during the same period.

Of the two models sold in the Netherlands, some of the sales of model legs were sold below cost in quantities less than 20 percent by volume of domestic sales and therefore all domestic sales for this model were used for normal value determination.

For the model miscut wings which were not sold in the Netherlands, the Commission considered export sales to an appropriate third country but no country met the

Commission's selection criteria for an appropriate third country. The Commission uses the following criteria to choose an appropriate third country:

- Volumes exported to that country are comparable to the volumes exported to SACU.
- Customers exported to in that country are comparable to the customers in SACU.
- Country exported to should have a domestic manufacturing industry.

The Commission made a final determination to construct the normal value for this model based on Mieki's verified cost of production plus SG&A costs and reasonable profit.

(b) Export price

To calculate the export price, Mieki's actual verified price to responding traders who in turn exported to the SACU market were used. SACU sales were made on an ex-works basis to its traders, therefore no adjustments were claimed. Mieki exported chicken legs, miscut wings and wings A-grade to SACU during the period of investigation for dumping.

4.4.3 DUMPING MARGIN

A single dumping margin for the two companies was determined by weighting the individual company's normal values and export prices with respective volumes. The weighted overall dumping margin for the two companies (Mieki and Miert) was found to be minus 1.08 percent.

4.5 METHODOLOGY FOR PLUKON GROUP (DEDEMSVAART, GOOR AND BLOKKER) IN THE NETHERLANDS

Plukon Dedemsvaart, Goor and Blokker are part of the Plukon Group of companies characterised by the following:

- Common ownership and management by one holding company;
- Sales shift amongst the three companies and they invoice each other for these transactions;
- Procurement of inputs is done by the same company; and
- All the Plukon companies have a common pricing policy.

On the basis of the above, the Commission made a final determination that the relationship of the three companies (Dedemsvaart, Goor and Blokker) is such that the

producers/exporters can be considered as a single entity for purposes of determining a single dumping margin.

4.5.1 PLUKON DEDEMSVAART

(a) Normal value

Dedemsvaart produced and sold various models of the subject product in the Netherlands. For normal value determination, the comparable models produced and exported to the SACU market were considered. Dedemsvaart produced and sold four models of the subject product which are leg quarters A-grade, drumsticks A-grade, and 3-joint wings B-grade and thigh quarters with backbone A-grade to SACU during the period of investigation for dumping. Drumsticks A grade model was sold in the Netherlands during the same dumping, and leg quarters A-grade, 3-joint wings B-grade and thigh quarters with backbone A-grade were not sold in the Netherlands during the same period.

The domestic sales of drumsticks A-grade were found to be 2.72 percent of the volumes of exports to SACU. The Commission made a final determination that sales less than 5 percent of the export sales to SACU be considered as not sufficient for the Commission to make a proper comparison and thus do not meet the requirements of the ADR 8.3.

For all the concerned models, the Commission considered export sales to an appropriate third country. The Commission uses the following criteria to choose an appropriate third country:

- Volumes exported to that country are comparable to the volumes exported to SACU.
- Customers exported to in that country are comparable to the customers in SACU.
- Country exported to should have a domestic manufacturing industry.

Based on this method, the Commission made a final determination to use exports to Bulgaria for drumsticks A-grade and the Comoros for 3-joint wings B-grade, as these countries met the criteria for selecting a third country for normal value determination. No suitable country met the Commission's criteria for selection of a third country.

The Commission made a final determination to construct the normal values for thigh quarters with backbone A-grade and leg quarters A-grade based on Dedemsvaart verified cost of production, plus SG&A costs and reasonable profit.

(b) Normal value adjustments

The Commission made a final determination to allow adjustments of cost payment terms on normal values of the two models, and cost of a health certificate for the normal value of 3-joint wings B-grade model, for which it was shown that there were differences in costs and demonstrated to have affected price comparability at the time of setting of prices.

(c) Export price

To calculate the export price, Dedemsvaart actual verified export sales to the SACU market were used. Plukon Dedemsvaart exported four models to the SACU market, leg-quarters A-grade, thigh quarters with backbone A-grade, drumsticks A-grade and 3-joint wings B-grade during the period of investigation for dumping.

(d) Adjustments on the export price

In order to bring the export price to ex-factory level, the Commission made a final determination to allow adjustment of cost of payment terms and cost of issuing a health certificate to the export price for which it was shown that there were differences in costs and demonstrated to have affected price comparability at the time of setting of prices.

4.5.2 PLUKON GOOR

(a) Normal value

Dedemsvaart produced and sold various models of the subject product in the Netherlands. During verification the company stated that it does not normally sell the subject product in its domestic market, but during the period of investigation for dumping there was a recall of its fresh products and those products were frozen and sold to an animal feed processor. For normal value determination, the comparable models produced and exported to the SACU market were considered. Dedemsvaart produced and sold four models of the subject product which are 3-joint wings A-grade, leg quarters A-grade, drumsticks A-grade and prime wings A-grade to SACU during the period of investigation for dumping.

3-joint wings A-grade and leg quarters A-grade were sold in the Netherlands during the period of investigation for dumping and drumstick A-grade and prime wings A-grade were not sold in the Netherlands during the same period. The domestic sales of 3-joint wings A-grade were found to be 0.01 percent of the volumes of exports to SACU. The Commission

made a final determination that sales less than 5 percent of the export sales to SACU be considered as not sufficient for the Commission to make a proper comparison and thus do not meet the requirements of the ADR 8.3.

All the sales of leg quarters A-grade were found to be sold below the cost, in quantities exceeding 20 percent by volume of total domestic sales. The Commission made a final determination to disregard the sales made at a loss, by volume exceeding 20 percent of total domestic sales during the period of investigation for dumping in accordance with the ADR8.2.

For all the concerned models, the Commission considered export sales to an appropriate third country. The Commission uses the following criteria to choose an appropriate third country:

- Volumes exported to that country are comparable to the volumes exported to SACU.
- Customers exported to in that country are comparable to the customers in SACU.
- Country exported to should have a domestic manufacturing industry.

Based on this method, the Commission made a final determination to use exports to Romania for leg quarters A grade and as this country met the criteria for selecting a third country for normal value determination.

No suitable country met the Commission's criteria for selection of a third country for 3-joint wings A-grade and drumsticks A-grade models. Prime wings were only exported to SACU, not to any other third country. The Commission made a final determination to construct the normal values for 3-joint wings A-grade, drumsticks A-grade and prime wings A-grade based on Goor verified cost of production plus SG&A costs and reasonable profit.

(b) Normal value adjustment

The Commission made a final determination to allow adjustment of cost of payment terms to the normal value for which it was shown that there were differences in costs and demonstrated to have affected price comparability at the time of setting of prices.

(c) Export price

To calculate the export price, Goor actual verified export sales to the SACU market were used. Plukon Goor exported four models to the SACU market, leg-quarters A-grade, drumsticks A-grade, prime wings A-grade and three joint wings A-grade during the period of investigation for dumping.

(d) Adjustments on the export price

In order to bring the export price to ex-factory level, the Commission made a final determination to allow adjustment of cost of payment terms and cost of issuing a health certificate to the export price for which it was shown that there were differences in costs and demonstrated to have affected price comparability at the time of setting of prices.

4.5.3 PLUKON BLOKKER

Blokker's information was found to be deficient after preliminary determination, as the cost and price build-up was incomplete. The Commission could not use the information as provided by Plukon Blokker as it could not be determined as to whether the sales made by Plukon Blokker were in the ordinary course of trade or not, as a result of their deficient cost and price build-up.

The Commission made a final determination to construct the normal values using the verified cost and price build-ups of other Plukon Group companies for production costs and all the cooperated producers in the Netherlands for SG&A and reasonable profit.

Blokker produced and sold various models of the subject product in the Netherlands. For normal value determination, the comparable models produced and exported to the SACU market were considered. Blokker produced and sold four models of the subject product which are leg quarters A-grade, leg quarters B-grade, 3-joint wings B-grade and thigh quarters with backbone to SACU during the period of investigation for dumping.

The Commission considered that the difference between A and B grade products lies in the sales prices, based on quality of the finished product, and that the cost of producing A or B grade products is the same and therefore based on this, the Commission made a final determination to construct the normal value for leg quarters A-grade and leg quarters B-grade using the same costs.

(a) Normal value

For 3-joint wings B-grade, leg quarters B and A grades, the Commission made a final determination to use Plukon Goor's verified cost and price build-up for cost of production, all cooperated poultry producers' cost and price build-ups for average SG&A and all cooperated producers', excluding Plukon Dedemsvaart and Goor, cost and price build-ups for average profit.

For thighs with backbone A-grade the Commission made a final determination to use Plukon Dedemsvaart verified cost and price build-up for cost of production, all cooperated poultry producers' cost and price build-ups for average SG&A and all cooperated producers', excluding Plukon Dedemsvaart and Goor, cost and price build-ups for average profit.

(b) Export price

To calculate the export price, the Commission made a final determination to use Plukon Blokker's actual export sales to the SACU market. Plukon Blokker exported three models to the SACU market, leg quarters A&B grades, 3-joint wings B-grade and thigh quarters with backbone to SACU during the period of investigation for dumping.

4.5.4 DUMPING MARGIN

A single dumping margin for the three companies (Dedemsvaart, Goor and Blokker) was determined by weighting the individual company's normal values and export prices with respective volumes. The weighted overall dumping margin for Plukon Group of companies was found to be 4.02 percent.

4.6 METHODOLOGY FOR THE RESIDUAL DUMPING MARGIN – THE NETHERLANDS

(a) Normal value

For purposes of normal value determination, the Commission considered that Frisia Foods sold various models of frozen bone-in portions in the domestic market (the Netherlands) and these could be considered to be more representative of a variety of models sold in the Netherlands. The Commission made a final determination to use domestic sales information of Frisia Foods, excluding sales made below the cost of production.

(b) Export price

For purposes of export price determination, the Commission considered that Frisia Foods exported only one frozen bone-in portion model to SACU during the period of investigation for dumping. The Commission therefore made a final determination to use information of all participating producers from the Netherlands as these were representative of all the different models exported to SACU during the period of investigation. The Commission further decided not to make any adjustments to the export price, as the adjustments claimed were all company specific. None of the exporters claimed an adjustment for transport cost.

(c) Margin of dumping

Based on the above, the residual margin of dumping was calculated to be 22.83 percent.

Comments by interested parties

Interested parties fail to fully understand the legal and factual basis on which ITAC has calculated the residual dumping margin for the Netherlands, and therefore requested ITAC to disclose further information as regards the basis for the residual dumping margin calculation.

Commission's consideration

The methodology to determine residual margin applicable to the Netherlands was provided in the preliminary report and is also provided in this report. Because the normal value was determined based on one verified exporter, its confidential information could not be disclosed.

4.7 METHODOLOGY FOR MOY PARK

In the cost and price build-up, it was found that Moy Park did not allocate to the frozen bone-in chicken portions, salaries and wages, in the selling and general administration costs section. The Commission made a final determination to allocate salaries and wages to bone-in portions in the cost and price build-up, based on weight.

(a) Normal value

Moy Park produced and sold different models of frozen bone-in chicken portions in the United Kingdom during the period of investigation for dumping. Moy Park sold the subject product to traders both in the United Kingdom and outside. Sales made to traders in the United Kingdom were treated by Moy Park as domestic sales, and those made to traders outside of the United Kingdom were treated as third country sales. Moy Park produced and sold three models of the subject product which are leg quarters, drumsticks and wings 1st joint to SACU during the period of investigation for dumping. Leg quarters, drumsticks and 1st joint wings were sold in the United Kingdom during the period of investigation for dumping.

Of the three models sold in the United Kingdom, it was found that some of the sales of models leg quarters and drumsticks were sold below cost, in quantities exceeding 20 percent by volume of total domestic sales.

The Commission made a final determination to disregard the sales made at a loss, by volume exceeding 20 percent of total domestic sales during the period of investigation for dumping in accordance with the ADR8.2, and use remaining sales to determine normal value for these two models.

Of the three models sold in the United Kingdom, it was found that some of the sales of 1st joint wings were sold below cost in quantities less than 20 percent by volume of domestic sales and therefore all domestic sales for this model were used for normal value determination.

Normal value adjustments

The Commission made a final determination to allow adjustments for cost of payment terms, on normal values of the three models, for which it was shown that there were differences in costs and it was demonstrated to have affected price comparability at the time of setting of prices.

The Commission made a final determination not to allow adjustments of delivery, packaging and other adjustments (adjustments for the difference in labour costs in the production of calibrated and uncalibrated products and production of IQF versus Bulk

products), on normal values of the three models, for which it was not shown that there were differences in costs and were not demonstrated to have affected price comparability at the time of setting of prices. Moy Park claimed an adjustment for packaging; however it was found that there were no differences in packaging for products meant for domestic sales and export sales. Moy Park then indicated that it would no longer pursue the claim for the packaging.

(b) Export price

To calculate the export price, Moy Park's actual verified export sales to the SACU market were used. Moy Park exported three models to the SACU market: leg-quarters, drumsticks and 1st joint wings during the period of investigation for dumping.

(d) Adjustments on the export price

In order to bring the export price to ex-factory level, the Commission made a final determination to allow adjustment for transport cost to the export price for which it was shown that there were differences in costs and demonstrated to have affected price comparability at the time of setting of prices.

(e) Margin of dumping

The dumping margin for Moy Park was found to be 13.07 percent as a percentage of the ex-factory export price.

4.8 METHODOLOGY FOR 2 SISTERS FOOD GROUP AND AMBER FOODS LIMITED

2 Sisters Food Group (2SFG) and Amber Foods Limited are characterised by the following:

- Common ownership and management;
- Sales shift between 2SFG and Amber Foods for A-grade frozen bone-in portions;
- 2SFG and Amber Foods invoice each other for these transactions;
- Procurement of inputs is done by common company.

On the basis of the above, the Commission made a final determination that the relationship of the two companies (2SFG and Amber Foods) is such that the

producers/exporters can be considered as a single entity for purposes of determining a single dumping margin.

DUMPING MARGING

On the basis of the above the Commission made a final determination that the relationship between 2SFG and Amber Foods is such that the 2SFG and Amber Foods can be considered as a single entity for purposes of determining a dumping margin.

Neither 2SFG nor Amber Foods exported directly to SACU during the period of investigation. 2SFG obtained documentation from (non-co-operating) traders proving that its frozen chicken parts landed in SACU.

Costs of production are far above the sale price of all transactions. All the sales are made below cost of production, and SG&A. The costs are not comparable to the other cooperating producer's costs in the United Kingdom or any cooperating producer in the investigated countries.

The Commission made a final determination that the costs of production do not reasonably reflect the costs associated with production and sale of the product under consideration. To the extent that 2SFG and Amber Foods cooperated, the Commission made a final determination to use Moy Park's information. A single dumping margin for 2SFG and Amber Foods was determined to be 13.07 percent.

4.9 METHODOLOGY FOR THE RESIDUAL DUMPING MARGIN – THE UNITED KINGDOM

(a) Normal value

Two producers from United Kingdom fully cooperated, Moy Park Ltd and 2SFG and Amber Foods in this investigation. 2SFG and Amber Foods' domestic sales information could not be used for normal value determination as discussed above. For the purposes of calculating a residual dumping margin for United Kingdom, the Commission made a final determination to use all Moy Park's domestic sales made above cost for normal value determination. The Commission decided not to make any adjustments to the normal value, as the allowed adjustment (cost of payment terms) was company specific.

(b) Export price

The volume of imports and the range of imports by Moy Park were not sufficient for determining a residual dumping margin, as exports by Moy Park were only 14.7% of total imports from United Kingdom, and they comprised of only three models of the subject product. The Commission considered that other exporters might be exporting to SACU more model ranges than Moy Park also at different price ranges.

The Commission made a final determination to use import statistics of the subject product from the United Kingdom, obtained from SARS for the period of investigation for dumping, to determine export price. The SARS FOB price was adjusted by inland transport costs obtained from verified importers.

(c) Margin of dumping

Based on the above, the residual margin of dumping was calculated to be 33.57 percent.

4.1.2 Comments from interested parties

- SAPA failed to provide information properly establishing normal value. Some of the information submitted relates to fresh products. The applicant used normal value for fresh products and then converted to frozen products without any evidence supporting this information.
- It provided export prices for spent hen product.
- The applicant did not provide the volume of domestic sales in the three countries but derived average sales. The domestic prices pertain to September 2012.
- Export price used for initiation based on SARS statistics cannot be used in the application as the price variation is simply too large on the range of products imported. The products under investigation are imported into SACU under 0207.14.90 which includes non-subject product, falling within EU code 0207.14.40 which should have been excluded for the purposes of calculating the export price.
- The adjustment used by SAPA on export price is either unsupported or should not have been used because sales to third countries used took place at the same level of trade as sales to SACU (thus at FOB level). SAPA therefore failed to meet either the requirements of Article 2.4 of the AD to establish a fair comparison between the normal value and export price, or the requirements of the ADR 11.1 and 11.2. There

is no basis or substantiating documents for the very significant adjustment of 5% made to the export price.

- The sworn statement has to provide reasons why information cannot be summarized. In this regard the same reasons cannot apply to all different types of information and separate reasons should have been indicated in each instance. This has not been done, rendering the sworn statement null and void.
- It is noted that a single sworn statement has been submitted by SAPA. SAPA does not have the authority to claim confidentiality on behalf of its members. SAPA has claimed blanket confidentiality on a number of issues without providing proper reasons for claiming confidentiality and without providing proper non- confidential versions of the information submitted in confidence.
- The Commission initiated the investigation using information which is older than 6 months. ITAC also indicated that there are 7 companies which would have to update their information, while the application is with regard to five companies.
- The Commission failed to send producers'/exporters' questionnaire to the companies identified in the application. Therefore producers were not given ample opportunity to present in writing all evidence which they considered relevant.
- ITAC failed to inform AMIE and known exporters of the investigation as interested parties, despite knowing AMIE's role as the official representative.
- ITAC did not give due consideration to the duly substantiated, repeated and detailed deadline extension requests justifying the reasons necessitating the extension as submitted. Requests for extension were rejected without any justification.
- Notice of initiation did not include adequate information regarding the basis of alleged dumping nor did it indicate factors on which the allegations of dumping were based.

Comment from the applicant

- Information was submitted on the domestic selling price of the subject product in the countries subject to this investigation, as well as the highest comparable price of the like product when exported to Benin in accordance with the ITA Act, Anti-Dumping agreement and regulations.
- With regard to the adjustment of 5 percent it was clearly pointed out in the application that even without the adjustment the products were being dumped.

Commission's consideration

- The normal value and export price information used for initiation purposes relates only to frozen products of the subject product, and no fresh products were used.
- The EU tariff classification clearly states that 0207 is for "fowls of the species *gallus domesticus*", and it goes further to indicate that 0207.14, is for frozen cuts, and the eight digit tariff specifies the specific cuts of the subject product.
- The September 2012 normal value from the application was not used, and the applicant also provided exports to third countries to the Commission. The Commission determined the normal value on the basis of exports to Benin for Germany, the Netherlands and the United Kingdom which were for the entire period of investigation for dumping.
- The comment that the export price from SARS data contain non-subject product is not substantiated with any positive evidence. The product range covered in the SARS statistics is for all frozen bone-in portions, which are the subject products, and the fact that the export statistics are not similar to those of the EU where models are clearly specified do not make the export statistics flawed. The normal value considered by the Commission did not contain goods under EU tariff heading 0207.14.40. It was found through a verified importer that products which fall under EU tariff code 0207.14.40 are imported to SACU under tariff code 0207.12.20.
- There was no adjustment made as the comparison of normal value and export price were both at FOB level.
- The reasons for confidentiality claimed are provided in the application for the relevant paragraphs in each cooperating company's information. If the same reasons apply to different information in the application, there was no reason for the Commission to not have considered the sworn statement.
- SAPA submitted individual sworn statements for all cooperating companies, and for the information claimed to be confidential which was not summarised, and where appropriate proper non-confidential summaries were provided.
- Although information older than six months was used to initiate the investigation, the reasons for relying on this information were stated in the initiation notice. The injury information submitted by the applicant was for seven plants, and if they were required to update their information prior to initiation, this would have taken them too long, as their information also needed to be consolidated. The Commission considered that

the industry, with about five companies comprising seven plants in total, would have had to update their information which would have unduly delayed the process and therefore resolved to base its decision on the information up to December 2012.

- The Commission determined that it was not practical to send the initiation notice to all identified parties. Initiation packs were sent to representatives of the relevant countries. Furthermore those parties that were not directly informed were given extra time to respond to the exporter's questionnaire in line with section 29.4 of the Anti-dumping Regulations.
- AMIE and all other exporters/foreign producers who identified themselves had ample opportunities to defend their interests. Others requested extension to submit their responses/comments, which were given.
- Extensions were granted to interested parties who showed good cause.
- The notice of initiation clearly indicated the information and methodology utilized by the Commission to determine dumping.

4.10 Summary – Dumping

For the purpose of its final determination, the Commission considered all information from the interested parties and found that the subject product originating in or imported from Germany, the Netherlands and United Kingdom was being dumped in the SACU market.

Table 4.10: Dumping Margins

Country / Producer	Dumping margins
Germany: (PHW Group) Anhaltinische Geflügelspezialitäten GmbH Donautal Geflügelspezialitäten Zweinierderlassung der Lohman & Co; Nienburger Geflügelspezialitäten Zweinierderlassung der Oldenburger Geflügelspezialitäten GmbH; and Oldenburger Geflügelspezialitäten GmbH, and Wiesenhof International GmbH Co. KG.	32.72%
Germany: All other producers/exporters	76.52%
The Netherlands: Frisia Foods BV	0.88%
The Netherlands: (Plukon Group) Plukon Dedemsvaart, Plukon Goor and Plukon Blokker	4.02%
The Netherlands: Pluimveeslachterij C van Miert B.V and Pluimveeslachterij Mieki Hunsel B.V	Minus 1.08%

Country / Producer	Dumping margins
The Netherlands: All other producers/exporters	22.83%
The United Kingdom: Moy Park Ltd	13.07%
The United Kingdom: 2Sisters Food Group and Amber Foods	13.07%
The United Kingdom: All other producers/exporters	33.57%

The Commission made a final determination that dumping of the subject product originating in or imported from Germany, the Netherlands and the United Kingdom was taking place.

5. MATERIAL INJURY

5.1 DOMESTIC INDUSTRY – MAJOR PROPORTION OF PRODUCTION

The following injury analysis relates to AFGRI, Astral Foods Ltd (County Fair, Early Bird – Olifantsfontein, Early Bird – Standerton), Rainbow, Sovereign and Supreme, some of the members of SAPA, whom together constitute approximately 44 percent of the SACU production volumes.

The Commission made a preliminary determination that this constitutes "a major proportion" of the total domestic production, in accordance with section 7 of the ADR.

5.2 CUMULATIVE ASSESSMENT

There are three countries involved in this investigation, Germany, the Netherlands and the United Kingdom. In terms of the ADR 16.3, the Commission may cumulatively assess the effect of the dumped imports only if it finds that cumulation is appropriate in light of–

- competition between imports from the different countries; and
- competition between the imported products and the SACU like products; and if
- the imports from the countries are not negligible as contemplated in subsection 3; and
- the dumping margin is one percent or more when expressed as a percentage of the export price.

In considering whether cumulation is appropriate with regard to the imports from Germany, the Netherlands and United Kingdom, the Commission considered the following:

Table 5.2: Consideration for cumulation

The imports from the countries are not negligible	The imports from all countries are above negligibility, as contained in table 2.1.4 of this report.
The residual margin of dumping is above <i>de minimis</i> level	The dumping margins calculated are above two percent, as expressed as a percentage of the export price. This is evident in section 4 of this report.
Competition between imports from the different countries	<p>They are both like products for purposes of comparison, their end use and substitutability is similar.</p> <p>They are both traded in the SACU market, and therefore part of the SACU market share analysis and the fluctuating market share throughout the POI for both parties as contained in table 5.5.4 is evident of competition.</p> <p>The price undercutting of the imports from the three countries is evident of competition as they are undercutting the applicant's prices at different levels.</p>
Competition between imported product and SACU like product	<p>The imported product and the SACU product are like products for purposes of comparison, they are fully substitutable and have similar end use.</p> <p>They are both traded in the SACU market and the market share analysis shows that there is competition as table 5.6.4 shows the fluctuating levels of market share throughout the POI for both parties.</p> <p>The imported products from the three countries are undercutting the SACU prices.</p>

5.2.1 Comments from interested parties

- Section 16.3 of the ADR that ITAC has relied on whose provision refers to competition is in contradiction with Article 3.3 of the ADA whose provision refers to conditions of competition.
- The conditions of competition between imports from the three countries and the SACU like product are not comparable, and therefore ITAC's cumulative injury assessment of imports of the three countries is inconsistent with Article 3.3 of the ADA.

Commission's consideration

To cumulatively assess the effect of the dumped imports, the Commission complied with Section 16.3 of the ADR. It was determined that there is competition between the imported product and the SACU product, and this competition was analysed. However the ADA refers to conditions of competition from which the ADR does not deviate. It is but a different wording which does not imply that the Commission did not consider and analyse competition holistically.

On the basis of the above, the Commission made a final determination to cumulatively assess the impact of the imports from Germany, the Netherlands and United Kingdom for purposes of injury determination.

5.3 MATERIAL INJURY ANALYSIS

The injury information presented below relates to the verified information of AFGRI, Astral Foods Ltd (County Fair, Early Bird – Olifantsfontein, Early Bird – Standerton), Rainbow, Sovereign and Supreme. Injury analysis is done on the consolidated information for the seven plants (AFGRI, County Fair, Early Bird – Olifantsfontein, Early Bird – Standerton, Rainbow, Sovereign and Supreme). The consolidated information, based on weighted average calculation, will from hereon be referred to as the applicant's information.

5.4 IMPORT VOLUMES AND EFFECT ON PRICES

5.4.1 Import volumes

The following table shows the volume of the allegedly dumped imports of the subject product as sourced from the South African Revenue Service from 01 January 2010 to 31 December 2012 plus additional twelve months information (January 2013 – December 2013).

Table 5.4.1: Import volumes

Kg	2010	2011	2012	2013
*Alleged dumped imports: (cumulated)	3 787 291	53 004 925	87 837 816	105 822 822
^Other imports	104 196 612	115 627 802	101 171 265	38 949 951
Total imports	107 983 903	168 632 727	189 009 081	144 772 413
Alleged dumped imports as a % of total imports: Cumulatively assessed	3.5%	31.4%	46.5%	73.1%
Other imports as a % of total imports	96.5%	68.6%	53.5%	26.9%

*The volumes in 2012 are after deducting import volumes of Frisia, Miert and Mieki.

^ Other imports in 2012 are after adding import volumes of Frisia, Miert and Mieki.

The information in the table above indicates that the alleged dumped import volumes increased from 3 787 291kg to 87 837 816kg during the period of investigation when cumulatively assessed, an increase of 2 219 percent. The total Imports increased from 107 983 903kg to 189 009 081kg. non-dumped imports decreased from 104 196 612kg to 101 171 265kg, representing a decline of 2.90 percent.

5.4.1.1 Comments by interested parties

- To assess the effect of allegedly dumped imports on sales volume, prices and other economic indicators, the applicant has chosen an incorrect base year for imports from Germany and the Netherlands because there were no imports from Germany to South Africa in 2010. ITAC incorrectly used 2010 as a base year in a bid to demonstrate a significant increase in the imports from the three countries without providing any justification for the use of 2010 as base year.
- The South African poultry meat market is already highly protected in view of the recent imposition of duties on the imports from other destinations than the EU. Further closure of the poultry meat market would lead to price increases of poultry meat that would harm in particular the poorest in the South African society as poultry meat is an affordable and valuable protein source.
- Imports for the subject product used by ITAC in its preliminary report for the 3 countries are not the same with the actual imports recorded in the SARS yearbook as reported by SAPA on its website. ITAC's assessment overestimated the imports from the three countries.
- ITAC does not mention in its preliminary report that the increase in imports of over 1000% for the alleged dumped imports from the three countries were from a low base.

Commission's consideration

- There are no statutes governing the choice of a base year. The Commission normally reviews and assesses injury data over a three year period, using the year 1 (2010 in this case), as a base year, to observe a trend and to determine the impact of the alleged dumping on the SACU industry. This was also applicable in this investigation. To the extent that the choice of the period of investigation was consistent with ITAC's determinations on injury, and choice of a different year would have been considered prejudicial by one party or another anyway, it is objective. It was also considered that the imports are in fact cumulated, therefore consideration of only Germany could not be justified.
- The applicant submitted *prima facie* evidence to indicate dumping, injury and causal link.
- Import statistics which were used in this investigation were obtained from SARS.

- The trend in imports in the preliminary report and this final report indicates that imports of the subject product from the three countries have increased drastically over the period of investigation. That clearly indicates that import volumes in base year (2010) were lower than imports volume in the most recent year (2012). There is no requirement for ITAC to justify the “low base” of the imports.

5.4.2 Growth of the subject imports

The effects of dumped imports on domestic consumption and production were considered and the following table 5.4.2 shows details:

Table 5.4.2: Growth of subject imports

	2010	2011	2012	2013
Subject imports/domestic production	100	1 440	2 700	2 840
Subject imports/domestic consumption	100	1 650	3 100	7 000

The table was indexed due to confidentiality using 2010 as base year.

Subject imports relative to production increased over the period of investigation. There was a dramatic increase in 2011 and 2012 as a result of imports from Germany, which were non-existent in 2010. Subject imports relative to consumption increased during the period of investigation for injury.

5.4.3 Effect on Domestic Prices

5.4.3.1: Price undercutting

Price undercutting is the extent to which the price of the imported product is lower than the price of the like product produced by the SACU industry. The price undercutting was cumulated based on the applicant's ex-factory selling price and landed cost. The landed cost for the period of investigation was based on the verified importers' information (FOB value of dumped imports plus the landing and clearing costs; internal transport costs (from plant to harbour); sea freight and insurance; documentation fees and other port charges). The landed cost is based on the average of all the imports from the named countries of the two importers that responded to the questionnaire.

It was found that the imported product from Germany, the Netherlands and United Kingdom undercut the applicant's selling price on average by 11.11 percent during the period of investigation for dumping.

Comments from interested parties

- Price undercutting can only be determined on a product-by-product basis at the appropriate level of trade of the imported and SACU product. Imported product is further processed before it competes in the domestic market. ITAC should have a detailed domestic price for each product as the average for all products cannot be used. Weighing could differ between time periods and prices can vary significantly. Price depression cannot be made without specific price information of each of different products as a change in product mix could cause a decrease in price. No finding can be made on price suppression unless cost and prices are available for specific and individual product.
- ITAC has not acted as an objective investigating authority to duly assess the volume and price effects of the imports, and acted in a non-transparent manner in price undercutting calculations. ITAC is requested to provide data underlining the calculation of the price undercutting of each country and the overall 11.11 percent.

Response by the applicant

Price comparison is made between the landed price of bone-in portions and the ex-factory selling price of the same product by the SACU industry. Although prices have increased they have not increased in line with the cost of production indicating that prices have been suppressed had SACU not increased prices, the injury suffered by SACU would have been greater. An increase in cost of production could not be passed on to consumers because of dumping.

Commission's consideration

- Price undercutting is the extent to which the price of the imported product (at landed cost) is lower than the price of the like product produced by the SACU industry (at ex-factory). The landed cost was obtained from the verified importer's information of the subject product from the respective countries subject to this investigation. All models of frozen bone-in portions produced by the applicant were considered for price undercutting, suppression and depression. This is compared to all models of frozen bone-in portions which landed in SACU during the period of investigation.

5.4.3.2 Price depression

Price depression takes place where the SACU industry's ex-factory selling price decreases during the investigation period.

Table 5.4.3.2: Price depression

R/kg	2010	2011	2012	2013
Applicant's ex-factory price	100	107	111	117

The table was indexed due to confidentiality using 2010 as a base year.

Table 5.4.3.2 above indicates that the applicant's selling prices increased by 7 index points during that period 2010 to 2011 and continued to increase by 4 index points during the period 2011 to 2012. The table 5.4.3.2 indicates that the applicant did not experience price depression during the period of investigation as the prices increased by 11 indexed points.

5.4.3.3 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.

Table 5.4.3.3: Price suppression

R/kg	2010	2011	2012	2013
Applicant's ex-factory selling price	100	107	111	117
Applicant's production cost	100	108	120	130
Applicant's gross profit per unit	100	103	78	62
App's cost as a % of selling price	100	101	107	112

The table was indexed due to confidentiality using 2010 as a base year.

Table 5.4.3.3 above indicates that the applicant's cost as percentage of selling price increased by 1 index point during period 2010 to 2011 and continued to increase by 6 index points during the period 2011 to 2012. The above table also indicates that the applicant experienced price suppression during the period of investigation, as the applicant's cost as percentage of selling price increased by 7 index points during the POI.

The Commission also noted that although the applicant increased its selling prices during the POI, the costs of production increased more than the selling prices in the same period, in particular as a result of high feed and energy costs. Under normal circumstances, these costs should have been passed on to consumers, however the applicants' prices could not fully accommodate for the increase in costs, as it had to compete with dumped imports.

Comments from interested parties

- The prices of imported products significantly increased between 2010 and 2012. The sales prices of the domestic industry have consistently increased year-on year. Import prices increased at the highest rate. Domestic industry was able to increase sales prices by 7 percent, which shows there is no correlation between imports and the situation of the domestic industry. The domestic industry seems to be affected by the increasing costs of production which increased by 8 percent between 2010 and 2011 and 11 percent between 2011 and 2012. The domestic industry's claim that imports were the cause of price suppression is false.
- ITAC failed to undertake relevant enquiry as to whether the massive increase in the production costs could have been passed on to the consumers and establish that regardless of the imports between 2010 to 2012 period, the domestic industry could not have increased its sales prices at the rate of increase of the production costs in light of the poor economic situation and constrained consumer spending.

Comments by the applicant

Price comparison is made between the landed price of the subject imports and the SACU ex-factory selling price. Although prices have increased, they have not increased in line with costs.

Commission's consideration

The Commission determined that the SACU industry could not increase the selling price to recover cost of production because of increased dumped imports. The constrained consumer spending argument is not consistent with the observed growing demand as indicated by growth of the SACU market.

5.5 CONSEQUENT IMPACT OF THE DUMPED IMPORTS ON THE INDUSTRY

5.5.1 Actual and potential decline in sales

The following table shows the SACU sales volumes and values of the subject product for the period of investigation:

Table 5.5.1: Sales

	2010	2011	2012	2013
Applicant's sales volume (kg)	100	102	105	106
Applicant's sale value (R)	100	109	117	124

The table was indexed due to confidentiality using 2010 as a base year.

Table 5.5.1 above indicates that the applicant's sales volume and sales values both increased by 2 and 9 index points respectively during the period 2010 to 2011, and continued to increase by 3 and 8 index points respectively between 2011 and 2012. The table indicates that the applicant's sales volume and sales values both increased by 5 and 17 index points respectively during the POI.

Comments from interested parties

The sales volume of the domestic industry have increased consistently between 2010 and 2012, which implies that neither was the domestic industry injured in terms of prices nor in terms of sales volumes. Based on the increase in sale prices and volumes, sales values increased by 9 percent from 2010-2011 and 17 percent from 2010 -2012.

Commission's consideration

Although the sales volume has increased by 5 percent from 2010 to 2012, the volumes of imports of the subject product from the subject countries increased by 96 percent during the same period. This indicates that the sales volumes of the domestic industry increased at a slower rate than imports. Production of the subject product cannot be easily stopped, as the birds have to be slaughtered when they reach a certain age. The Commission considered that the sales have increased but at prices not sufficient to cover the increased costs, and were undercut by the imports from the subject countries.

5.5.2 Profit

The following table shows the applicant's profit situation of the subject product:

Table 5.5.2: Profit

	2010	2011	2012	2013
Applicant's units sold (kg)	100	102	105	106
Applicant's sales value (R)	100	109	117	124
Applicant's gross profit (R)	100	105	82	66
Applicant's net profit (R)	100	103	67	29
Applicant's gross profit per unit	100	103	78	62

The table was indexed due to confidentiality using 2010 as a base year.

Table 5.5.2 above indicates that the applicant's gross profit and net profit both increased by 5 and 3 index points respectively during the period 2010 to 2011. The applicant's gross profit and net profit both decreased by 23 and 36 indexed points respectively during the period 2011 to 2012. The applicant's gross profit and net profit both decreased respectively by 18 and 33 index points during the POI. It was observed that profits have declined despite the selling prices increasing, indicating that the increase in sales price was not sufficient to cover the rising costs in 2012 which could not be passed on to consumers.

Comments from interested parties

In 2010 to 2011 when imports increased at the highest rate, the domestic industry made profits higher than the profits made in 2010 when imports from Germany did not exist and imports from the Netherlands were limited.

Commission's consideration

During the period of investigation, net and gross profit levels decreased by 33 percent and 18 percent respectively. Furthermore the increase in profits from 2010 to 2011 could be attributed to lower import volumes from other countries, compared to the accelerated growth of imports from the three subject countries in 2011 to 2012.

5.5.3 Output

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

Table 5.5.3: Output

Kg	2010	2011	2012	2013
Applicant's production volumes	100	104	107	106

The table was indexed due to confidentiality using 2010 as a base year.

Table 5.5.3 above shows that the applicant's production volumes increased by 4 index points between 2010 and 2011. Production continued to increase by 3 index points between 2011 and 2012. The applicant's output increased by 7 index points during the POI.

It is important to note that the increased output did not enable the applicant to produce at full capacity. Capacity utilisation continuously decreased over the POI. The Commission also noted the fact that the applicant could not reduce or stop producing the subject product. Chickens must be slaughtered when they reach a certain age. If chickens are not slaughtered, producers will be faced with high feed costs without further gain, making the producers uncompetitive, and the birds will also not meet the standards of the customers if they are older than a certain age.

5.5.4 Market share

The following table shows the market share for the subject product based on volumes:

Table 5.5.4: Market share

	2010	2011	2012	2013
Applicant's sales volumes (kg)	100	102	105	106
Applicant share as a % of total market	100	99	100	105
[^] Other SACU sales (kg)	100	96	93	94
Other SACU sales as a % of total market	100	93	90	91
[*] Cumulative dumped imports (kg)	100	1 400	2 319	3 823
Cumulated imports as % total imports	100	1 650	2 700	3 305
[^] Other imports (kg)	100	111	97	37
Other imports as % of total market	100	107	93	36
Total SACU market (kg)	100	103	104	102

The table was indexed due to confidentiality using 2010 as a base year.

[^]This includes other SAPA members who supported the application.

^{*} Alleged dumped imports exclude imports by Frisia, Miert and Mieki in 2012 and those imports are included on other imports.

Table 5.5.4 above indicates that the applicant's market share slightly decreased by 1 index point between 2010 and 2011. The impact of dumped imports started showing on the applicant with the reduced market share. The market share of the applicant showed some improvement between 2011 and 2012. Over the period of investigation, the applicant's

market remained constant, while the market share of the alleged dumped imports increased drastically by more than 2 000 index points during the same period.

Comments from interested parties

The applicant experienced an increase in production volumes and there was no decline in market share.

Commission's consideration

The alleged dumped imports' market share increased at a rate that far outpaced the trend shown by the Applicant's market share i.e. the Applicant's market share was mainly constant during the period of investigation.

5.5.5 Productivity

Using the production and employment figures sourced from the applicant, its productivity in respect of all products is as follows:

Table 5.5.5: Productivity

	2010	2011	2012	2013
*Applicant's total production (kg)	100	106	109	108
*Applicant's no. of employees	100	112	109	108
*Applicant's productivity	100	94	100	100

The table was indexed due to confidentiality using 2010 as a base year.

*Production for all products

Table 5.5.5 above shows that productivity decreased by 6 index points from 2010 to 2011, and increased by the same number between 2011 and 2012. However during the POI it remained constant.

Comments from interested parties

The applicant alleged a decrease in productivity but indexed figures seem to contradict this allegation. Productivity is a function of actual production and employment. When the domestic industry increased employment more than production it is bound to lead to lower productivity. Therefore decline in productivity cannot be attributed to allegedly dumped imports.

Commission's consideration

The productivity above is for all products, as the applicant cannot separate employees as most of them work on all production lines, with most of the lines responsible not only for processing the subject product, but almost all products. Furthermore, some processes which the subject product goes through are not only for the subject product but for all products thus it cannot be said that the employees are solely for the subject product.

5.5.6 Return on investment

The following table shows the applicant's return on investment of the subject product:

Table 5.5.6: Return on investment

	2010	2011	2012	2013
*Applicant's net profit/loss (R)	100	100	56	26
*Applicant's total net assets (R)	100	102	113	108
*Applicant's return on net asset	100	99	49	24

The table was indexed due to confidentiality using 2010 as a base year.

*Production for all products

Table 5.5.6 above indicates that the applicant's return on net assets decreased by 1 index point between 2010 and 2011, and further decreased by 50 index points between 2011 and 2012. The table indicates that the applicant's return on assets decreased by 51 index points during the POI.

Comments from the applicant

The applicant stated that the decline in return on net assets above indicates the pressure the industry is facing from the increased level of dumped imports, thus it is clear that the industry is suffering material injury.

Comments from interested parties

Incorrect allegation of injury concerning return on investment as the information is a consolidation of all products produced by the applicant, it is not known which other products are produced by the applicant.

Commission's consideration

The applicant provided information for all products as most of its assets cannot be solely attributed to the subject product, however noting that the subject product accounts for

more than 67 percent of all products produced, a decline in return in net assets can also be attributed to the subject product, it being the major component of the applicant's business. As the return on investment is affected by profits and net assets the decline in profits contributed to the decline in return on investments.

5.5.7 Utilisation of production capacity

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

Table 5.5.7: Utilisation of production capacity

kg	2010	2011	2012	2013
Applicant's capacity	100	108	115	124
Applicant's actual production	100	104	107	106
Applicant's capacity utilisation	100	97	93	86

The table was indexed due to confidentiality using 2010 as a base year.

Table 5.5.7 above indicates that the applicant's capacity utilisation decreased by 3 index points during the period 2010 to 2011, and further decreased by 4 index points between 2011 and 2012. The applicant's capacity utilisation decreased by 7 index points during the POI.

Comments from interested parties

The applicant failed to mention that the capacity utilization declined even though the actual production volume increased by 7% because the domestic industry continuously increased the production capacity which is evident from the indexed information.

Commission's consideration

Capacity is determined by the amount of stock producers can keep in their freezers at a particular point in time. Although actual production increased, it did not increase enough to enable producers to meet capacity. Actual production is still lower than the plants' capacities, and it decreased during the POI despite an increase in production.

5.5.8 Factors affecting domestic prices

As indicated in sections 5.4.3.1 and 5.4.3.3 of this report, the applicant is experiencing price undercutting and price suppression.

5.5.9 The magnitude of the margin of dumping

The following margins of dumping were calculated:

Table 5.5.9: Margins of dumping

Magnitude of dumping	
PHW group of companies	32.72%
All other producers in Germany	76.52%
Frisia Foods	0.88%
Miert and Mieki	Minus 1.08%
Plukon Group	4.02%
All other producers in the Netherlands	22.83%
Moy Park	13.07%
2Sisters Food Group and Amber Foods	13.07%
All producers in United Kingdom	33.57%

The table above indicates that the majority of the producers are dumping, although Frisia Foods' margin of dumping is *de minimis* and Mieki and Miert margin of dumping is negative. However those from Germany are significantly dumping their products into the SACU market at very low prices, and this is evident from their margins of dumping. Notwithstanding those from Germany, those from the UK and non-cooperating producers from the Netherlands are also dumped at significant magnitudes.

5.5.10 Actual and potential negative effects on cash flow

The following table reflects the SACU industry's cash flow situation:

Table 5.5.10: Cash flow situation

	2010	2011	2012	2013
*Applicant's cash flow: incoming	100	90	103	129
*Applicant's cash flow: outgoing	100	-283	-318	-358
*Applicant's net cash flow	100	-343	-254	609
*SACU Debtors value	100	129	174	131
*Debtors: average days outstanding	100	103	103	100

The table was indexed due to confidentiality using 2010 as a base year.

*Company total

Table 5.5.10 above indicates that the applicant experienced a negative net cash flow during the full year period up to 2012.

The applicant stated that the negative cash flow is a clear demonstration of the impact of

the suppressed selling price, the deteriorating capacity utilization and increased holding and storage costs of the SACU industry.

Comments from interested parties

Cash flow information relates to the company's total turnover and has not been distinguished for the subject product. Considering that there has been an anti-dumping investigation into other poultry products imported from Brazil that overlapped the current investigation, it is clear that the industry has already complained of suffering injury therefore the current injury cannot be attributed to the three respective countries.

Comments from the applicant

In the Brazil case the representatives of the importers argued that the EU and Argentina were causing injury. The investigation period for the Brazil investigation did not overlap that much with this investigation.

Commission's consideration

The applicant submitted information which relates to the period of investigation, and it was noted that the investigation period of the Brazil investigation did not overlap much with this investigation. There is nothing preventing the domestic industry from alleging injury from any named country in the investigation, as long as it is substantiated, as is the case in this investigation. However, considering that the subject product accounts for approximately 67 percent of the applicant's total products, it can be reasonably concluded that the net cash flow on the subject product declined during the POI.

5.5.11 Inventories

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

Table 5.5.11: Inventories

	2010	2011	2012	2013
Applicant's inventory (kg)	100	193	308	194
Applicant's inventory (R)	100	209	374	267

The table was indexed due to confidentiality using 2010 as a base year.

Table 5.5.11 above indicates that the applicant's inventory volumes and inventory values both increased by 93 and 109 index points respectively during the period 2010 to 2011,

and both continued to increase by 115 and 165 respectively during the period 2011 to 2012. The table above indicates a drastic increase of 208 and 274 index points for the applicant's inventory volumes and inventory values respectively, during the POI as the applicant is unable to sell its product as a result of the low priced dumped imports.

Comments from interested parties

The applicant claimed that inventories increased significantly in volume and value, however what is relevant is the absolute figure as regards the inventory volume and value considering the fact that the product in question is not of a nature that can be stocked.

Commission's consideration

The increased inventory levels were as a result of the domestic industry increasing its production, however, it was unable to move its products as a result of the pressure exerted by the low priced, increased dumped imports.

The Commission considered that the subject product can be stored for up to a year prior to it being unsuitable for human consumption. The applicant cannot stop production as its chickens would get older and unsuitable for slaughtering if it stops production. The industry operates in such a way that production does not stop, except for maintenance, however stock is mostly kept in outside storages, if they cannot store the product on site.

5.5.12 Employment

The following table provides the SACU industry's production employment figures:

Table 5.5.12: Employment

	2010	2011	2012	2013
*Applicant's labour units	100	112	110	108

The table was indexed due to confidentiality using 2010 as a base year.

*production for all products

Table 5.5.12 above indicates that the applicant's labour units increased by 12 index points from 2010 to 2011, and decreased by 2 index points from 2011 to 2012. However, the table indicates that labour units increased by 10 index points during the POI.

The employment figures above are for all products, as the applicant could not separate employees as most of them work on all production lines, with most of the lines responsible not only for processing the subject product, but almost all products. Furthermore, some processes which the subject product goes through are not only for the subject product but for all products.

5.5.13 Wages and Salaries

The following table provides the SACU industry's wages:

Table 5.5.13: Wages and Salaries

	2010	2011	2012	2013
*Applicant's wages and salaries	100	115	120	94
App's wages and salaries per employee	100	102	110	87

The table was indexed due to confidentiality using 2010 as a base year.

*Production for all products

Table 5.5 13 above shows that production wages and salaries for employees directly involved in the production of the subject product increased by 15 index points during the period 2010 to 2011, and wages and salaries per employee also increased slightly by 2 index points during the same period. Production wages and salaries for employees directly involved in the production of the subject product increased by 5 index points during the period 2011 to 2012, and wages and salaries per employee also increased by 8 index points during the same period.

The table above indicates that both wages & salaries and wages and salaries cost per employee increased by 20 and 10 index points respectively during the POI. The wages above are for all employees involved in production, not just those of the subject product.

Comments from interested parties

The applicant provided wages and salaries with respect to all products produced with no bearing on imports of the subject product.

Commission's consideration

Labour cannot be separated or be exclusive for the subject product because of the processes involved in the chicken processing industry, and it is also clear that employment

increased during the POI, and wages are negotiated by the relevant trade unions in SACU in line with various considered conditions by the respective unions and employers.

5.5.14 Growth

The applicant provided the following information with regard to the growth of the market:

Table 5.5.14: Growth

	2010	2011	2012	2013
Size of SACU market (kg)	100	103	104	102
SACU market growth during POI (%)	4%			
Applicant's sales volume (kg)	100	102	105	106
Applicant's growth during POI (%)	5%			
Other SACU Producers (kg)	100	96	93	94
Other SACU producer's growth during POI (%)	-7%			
*Cumulative dumped imports(kg)	100	1 400	2 319	3 822
Growth of the alleged dumped imports (%)	2 219%			
*Other imports (kg)	100	111	97	37
Growth of other imports during POI (%)	-3%			

The table was indexed due to confidentiality using 2010 as a base year.

*The volumes in 2012 are after taking into account export volumes of Frisia, Miert and Miki.

The SACU market and the applicant's market grew by 4 and 5 index points respectively during the POI, while dumped imports grew significantly by 2 219 percent during the same period. From table 5.5.14 above, it is evident that the other SACU producers and other imports did not grow during the period POI.

Comments from interested parties

Imports from investigated countries increased. However the SACU producers also experienced significant growth. The estimates used for non-cooperating producers not known to the applicant, cannot be used as a basis to claim that the SACU industry's situation deteriorated.

Commission's consideration

The percentage growth of the SACU producers and that of the alleged dumped imports both surpassed that of the SACU market. Although the size of the SACU market grew it is evident that in absolute terms, the alleged dumped imports grew more than the applicant's.

5.5.15 Ability to raise capital or investments

The applicant provided the following information with regard to the SACU industry's ability to raise capital or investments:

Table 5.5.15: Ability to raise capital or investments

	2010	2011	2012	2013
Applicant's capital investment in subject product	100	107	118	102
Applicant's capital expenditure in subject product	100	177	196	96

The table was indexed due to confidentiality using 2010 as a base year.

Table 5.5.15 above indicates that both the applicant's capital investment and expenditure increased by 7 and 77 index points respectively during the period 2010 to 2011, and both continued to decrease by 11 and 19 index points respectively during the period 2011 to 2012. The applicant's capital investment and expenditure increased by 18 and 96 index points during the period the POI.

The applicant continued to invest despite the pressures from dumped imports. However, should these imports persist in the same manner, resulting in losses and poor returns, the applicant would have to reduce its investments or completely disinvest.

5.6 COMMENTS FROM INTERESTED PARTIES

Injury can only be found with respect to 4 of the 19 injury indicators. This is not indicative of injury, especially not injury caused by the alleged dumping, as there are other factors that have contributed to the industry's alleged injury.

Comment from the applicant

The analysis done by interested parties is incorrect and should be disregarded as it just evaluated the movement in indicators without investigating the mechanics behind the numbers.

Commission's consideration

The Commission noted that when all the injury indicators contained in the submission are analysed collectively, the SACU industry is suffering material injury. The twelve months additional information indicates that the SACU industry continues to suffer injury. The injury determination is based on SACU industry and not on individual companies.

In absolute and relative terms, the import volumes significantly increased during the POI. The increase in imports for the POI comes at the back drop of an increasing SACU market.

5.7 Summary - Material Injury

The examination of the impact of the dumped imports on the domestic industry shall include import volumes, price effects, the relevant economic factors and any other relevant information brought before the Commission that would have a bearing on the state of the industry.

The Commission found that the applicant was suffering material injury in the form of:

- Price suppression;
- Price undercutting;
- Decrease in profit;
- Decline in return on investments;
- Negative effects on capacity utilization; and
- Negative effects on net cash flow.

The additional twelve months information above indicates the following:

- Price suppression;
- Decrease in output;
- Decrease in profit;
- Decrease in employment;
- Negative effects on ability to raise capital;
- Negative effects on return on investments; and
- Negative effects on capacity utilization.

In absolute and relative terms, the import volumes significantly increased during the POI. The increase in imports during the POI significantly outweighs the percentage growth of the SACU market, percentage increase on sales volumes of the applicant, decline in other SACU producer's sales volumes and a decline in import volumes from other countries.

The alleged dumped imports are affecting the applicant's prices as they undercut the SACU industry by 11.11 percent, and should this trend persist, it has the potential of

further affecting the entire SACU industry negatively, as it will have to lower its prices to compete with the dumped imports. Although the SACU industry is not suffering any price depression as its prices increased, the increase in prices still does not allow the SACU industry to recover its costs.

The applicant's net profit and gross profits decreased as the SACU industry could not increase its prices to a level at which it could recover its costs, as seen in 2010, prior to the alleged dumped imports increasing from less than 3.5 percent in 2010 to 53 percent in 2012. This inability to recover costs adequately affected the applicant's gross profits and net profits, as they decreased significantly, resulting in net losses in the 2012 period. Their net cash flow situation shows that the situation is serious as it continues to decline.

The applicant could not increase its employment in line with the increase in production. Although employment increased over the POI, it would be more favourable should the applicant achieve the levels of employment it did in 2011, which are being prevented by the high volumes of dumped imports, which if not attended to will result in the applicant having to decrease its workforce in order to be competitive in the face of low-value dumped imports.

Considering the negative effects of dumped imports on domestic prices through price suppression and undercutting, decline in profit, decline in productivity, decline in return on investments, negative impact on net flow and capacity utilization. The Commission concluded that these were serious and causing material injury to the domestic industry.

The Commission considered that while each injury indicator is analysed, the determination of material injury is based on an overall assessment of all the injury indicators and it made a final determination that the applicant and therefore the SACU industry is suffering material injury.

6. CAUSAL LINK

6.1 GENERAL

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

6.2 VOLUME OF IMPORTS AND MARKET SHARE

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

6.2.1 Market share

The following table shows the market share for the subject product based on volumes:

Table 6.2.1: Market share

	2010	2011	2012	2013
Applicant share as a % of total market	100	99	100	105
Other SACU sales as a % of total market	100	93	90	91
Cumulated imports as % total imports	100	1 650	2 700	3 305
Other imports as % of total market	100	107	93	36

The table was indexed due to confidentiality using 2010 as a base year.

According to table 7.2.1 above, a cumulative assessment of the dumped imports shows that market share of the alleged dumped imports drastically increased from 100 to 1 650 index points between 2010 and 2011, and then further increased to 2 700 index points in 2012, with an overall increase of 3 000 index points during the POI. In the same period, the applicant's market share therefore remained constant.

6.3 EFFECT OF DUMPED IMPORTS ON PRICES

It has already been shown in section 5 of this report that the applicant suffered price suppression and price undercutting.

6.4 CONSEQUENT IMPACT OF DUMPED IMPORTS

Table 6.4: Material Injury Indicators

	Analysis (2010 – 2012)
Sales volume (kg)	Increased
Gross profit (R)	Decreased
Output (kg)	Increased
Market share (alleged dumped imports)	Increased
Market share (applicant)	Constant
Productivity (kg)	Decreased
Return on investment	Decreased
Net cashflow	Decreased
Utilisation of capacity	Decreased
Inventories (kg)	Increased
Employment(number of employees)	Increased
Wages and salaries (R)	Increased
Applicant's growth	Increased
Ability to raise capital (R)	Increased

6.5 FACTORS OTHER THAN THE DUMPING CAUSING INJURY

Table 6.5: Examination of causality under Article 3.5

	Year			
	2010	2011	2012	2013
*FOB prices of imports not sold at dumped prices (R/kg)	8.78	9.18	12.65	13.21
Alleged dumped import price (fob): R/kg - Cumulated	10.65	10.31	11.52	14.30
*Volume of imports not sold at dumping prices (kg)	104 196 612	115 627 802	101 171 265	38 949 951
Contraction in demand or changes in patterns of consumption	The applicant stated that the SACU poultry market is a growing market.			
Trade-restrictive practices of foreign and domestic producers	The applicant stated that it is not aware of such a practice.			
Developments in technology	The applicant stated that the equipment, genetics and technology used by SACU poultry producers is substantially equivalent to those used elsewhere in the world.			
Export performance of the Domestic industry	The applicant stated that the SACU industry is not export orientated as non-tariff barriers have prevented the SACU industry from exporting to major markets.			
Productivity of the domestic industry	The applicant stated that it believes its member's productivity is comparable to the overseas producer's productivity as the SACU producers utilise substantially the same equipment, genetics and technology as the exporting countries.			
Indicate any other factors affecting the SACU prices	None.			

*The figures in 2012 are after taking into account export volumes of Frisia, Miert and Mieki.

6.6 COMMENTS FROM INTERESTED PARTIES

- SAPA members' are using an incorrect business model as they sell between 65% and 75% of its total production as IQF which includes white and dark meat in one packet therefore failing to charge a premium price in some of the portions. (Or nearly 90% of total production of the subject product).
- During the last year of the POI, labour unrest within the SACU industry, resulted in losses in production volumes and cost increases. These need to be isolated and excluded. SAPA indicates that "only two" companies (which are the two biggest SACU producers) had labour unrest during the last year of the investigation period, without providing any more details. Loss for Rainbow was estimated to be R30 million as indicated in the financial statements. Production volumes losses and cost increases as a result of overheads need to isolated and excluded.
- SAPA indicates that its productivity is on par with producers in Germany, the Netherlands and the United Kingdom. However, this is not correct, as productivity in these markets is significantly higher. This is as a result of much higher investment in new technology, better climatic conditions and increased economies of scale compared to South Africa. No substantiation was provided in this regard.
- The industry's abuse of brine injections, so much that it has now started indicating on its product that brining is taking place and has started to market non-brined products and this must have had a very significant impact on the industry. There is no brined product or retail ready product imported from the three countries as alluded to in the Commission's preliminary report.
- SAPA failed to inform ITAC that some of its members have received very negative press coverage on the basis that it short-sold products, i.e. selling less product in a bag than the weight indicated on the bag.
- Between 2011 and 2012 the domestic industry alleged dumping from Brazilian imports. This appears opportunistic and clearly demonstrates that the applicant is trying to limit competition.
- The domestic industry is affected by rising cost of production in the form of feed, fuel, electricity and labour costs. The issue of feed is confirmed by a presentation made by SAPA on 10 September 2013 that the feed costs account for 60% of total company's cost of production.

- Another issue worsening the situation of the SACU industry is because they cannot export.
- The domestic industry is also experiencing lower increase in the consumption due to economic crisis.
- The applicant's injury was as a result of external and economic factors such as increased SACU capacity, new entrants and inability to pass on increased input costs and poor consumer demand, not imports.

Comments from the applicant

- SAPA denies that its members are employing an incorrect business model.
- The applicant indicated that it believes that the SACU industry productivity is comparable with the rest of the world, however different costs apply to different countries.
- Under like product the issue raised was that SACU industry brine injected products are not a like product to the imported equivalents, this indicating that there are quality issues and under brining that the consumer's negative perception of brined chicken is causing injury.

Commission's consideration

- The business model could be as a result of consumer demand and therefore while interested parties may see it as an incorrect model, it cannot be concluded that it has a negative impact on producers.
- There were no production volume losses for the SACU industry during the cited period, as interested parties suggest.
- Interested parties claim that EU has higher investments in new technology and do not acknowledge the SACU industry's continuous investment in upgraded technology even during the period of investigation.
- It was established that foreign producers also brine the subject product.
- SACU sales do not show a decrease as it would be expected with the alleged negative publicity.
- There is nothing preventing the domestic industry from lodging an application for alleged dumping against any country even if an application against another country had been lodged before.

- Although the applicant increased its selling prices during the POI, the costs of production increased more than the selling prices in the same period, in particular as a result of high feed and energy costs. The high feed costs did not only affect SACU producers, it was a worldwide phenomenon. Under normal circumstances, these costs should have been passed on to consumers, however the applicants' prices could not fully accommodate for the increase in costs, as it had to compete with dumped imports.

The current impact of the exchange rate cannot be linked to the injury suffered by the SACU industry during the POI. The exchange rate is indeed volatile and this is a known factor, and even during the POI the Rand's volatility was evident, however this did not stop the imports, as these imports continued entering the SACU market at dumped prices. The current Rand exchange rate is even weaker, however this does not deter any imports of the subject product from entering the SACU market.

- The inability to export may be experienced by any producers depending on trade policies of the various markets as it happened with the German producers at some point during the POI. The inability to export also does not take away the effect of dumped imports to the domestic industry.
- The domestic market has grown, and therefore the allegation of lower consumption in the domestic market is incorrect.

The Commission considered and analysed causal link factors, and after noting the comments from interested parties, the Commission concluded that the factors, as discussed in section 7.7 of this final report, do not sufficiently detract from the causal link established between the dumped imports and the material injury suffered by the applicant.

6.7 Summary - Causal Link

A cumulative assessment for all three countries shows that market share of the alleged dumped imports has increased from 0.2 percent in 2010 to 5.4 percent in 2012, whereas the applicant's market share remained at 45 percent during the POI.

The import volumes from all three countries Germany, the Netherlands and United Kingdom cumulatively increased from 3.5 percent in 2010 to 46.5 percent in 2012 as a percentage of total imports.

The price of the non-dumped imports from other countries was found to have increased from R8.78/kg in 2010 to R12.65/kg in 2012. The cumulated average price of imports of the subject products is lower than that of the non-dumped imports from other countries in 2012.

The price effects on the SACU industry in the form of undercutting can be attributed to the increased dumped imports which undercut the applicant's selling prices by 11.11 percent. The applicant also suffered price suppression during the period of investigation. The price suppression suffered by the applicant can be directly linked to the reduced gross profit and net losses suffered by the applicant as it is unable to recover the costs to a level which it did in 2010, prior to the market being flooded with dumped imports.

The applicant's inventory levels increased as the applicant could not sell goods produced. This also resulted in negative effects on the applicant's capacity utilisation and net cash flow. These effects can be attributed to the increased dumped imports entering the SACU market at dumped prices, thus injuring the SACU industry.

The Commission noted all the above causal link factors and comments from interested parties, and concluded that the factors as discussed above do not sufficiently detract from the causal link established between the dumped imports and the material injury suffered by the applicant.

The Commission made a final determination that there is a causal link between the alleged dumping of the subject product and the material injury suffered by the SACU industry.

7. SUMMARY OF FINDINGS

7.1 Dumping

The Commission found that the subject product originating in or imported from Germany, the Netherlands and the United Kingdom was being dumped in the SACU market with the following dumping margins:

Table: 7.1: Dumping Margins

Magnitude of dumping margins	
PHW group of companies (Wiesenhof)	32.72%
All other producers in Germany	76.52%
Frisia Foods	0.88%
Miert and Mieki	Minus 1.08%
Plukon Group	4.02%
All other producers in the Netherlands	22.83%
Moy Park	13.07%
2Sisters Food Group and Amber Foods	13.07%
All producers in United Kingdom	33.57%

7.2 Material Injury

The Commission found that the applicant was suffering material injury in the form of:

- Price suppression;
- Price undercutting;
- Decrease in profit;
- Decline in return on investments;
- Negative effects on capacity utilization; and
- Negative effects on net cash flow.

7.3 Causal Link

The Commission found that a causal link between the alleged dumped imports of the subject product originating in or imported from Germany, the Netherlands and United Kingdom and the material injury suffered by the SACU industry exists, and that there were no factors detracting from the causal link.

8. FINAL ANTI-DUMPING DUTIES

8.1 Calculation of duty

The Commission found that all requirements for imposition of final anti-dumping duties have been fulfilled.

8.2 Lesser duty

The lesser duty rule means the provisional payment or anti-dumping duty is imposed at the lesser of the margin of dumping or the margin of injury, which is deemed to be sufficient to remove the injury caused by the dumping.

ADR17 provides that the Commission shall consider applying the lesser duty rule if both the corresponding exporter and importer cooperated fully. The Commission considered applying the lesser duty but decided that it was not practical to apply the lesser duty rule as the models exported to the responding importers were not all the models exported to SACU by the foreign producers/exporters. It was also found that some of the goods procured by responding importers were done through traders, and those traders bought from various producers including non-cooperating foreign producers. The Commission therefore made a final determination not to apply the lesser duty for the cooperating exporters.

8.3 Amount of final anti-dumping duties

The amounts of final anti-dumping duties were concluded to be the following:

Table 8.3: Final anti-dumping duties

Tariff Subheading	Description of Goods	Final Duties	Imported from or Originating in
0207.14.90	Frozen meat of fowls of the species <i>Gallus domesticus</i> , cut in pieces with bone-in, produced by Anhaltinische Geflügelspezialitäten GmbH; Donautal Geflügelspezialitäten Zweinierderlassung Der Lohman & Co; Nienburger Geflügelspezialitäten Zweinierderlassung der Oldenburger Geflügelspezialitäten GmbH; and Oldenburger Geflügelspezialitäten GmbH; and Wiesenhof International GmbH Co. KG	31.30%	Germany
0207.14.90	Frozen meat of fowls of the species <i>Gallus domesticus</i> , cut in pieces with bone-in, (excluding those produced by Anhaltinische Geflügelspezialitäten GmbH; Donautal Geflügelspezialitäten Zweinierderlassung Der Lohman & Co; Nienburger Geflügelspezialitäten Zweinierderlassung der Oldenburger Geflügelspezialitäten GmbH; and Oldenburger Geflügelspezialitäten GmbH; and Wiesenhof International GmbH Co. KG.)	73.33%	Germany
0207.14.90	Frozen meat of fowls of the species <i>Gallus domesticus</i> , cut in pieces with bone-in, produced by Plukon Dedemsvaart BV; Plukon Goor BV and Plukon Blokker BV	3.86%	Netherlands
0207.14.90	Frozen meat of fowls of the species <i>Gallus domesticus</i> , cut in pieces with bone-in, (excluding those produced by Plukon Goor BV; Plukon Dedemsvaart BV; Plukon Blokker BV; Pluimveeslachterij C Van Miert BV; Pluimveeslachterij Mieki Hunsel BV and Frisia Foods BV).	22.81%	Netherlands
0207.14.90	Frozen meat of fowls of the species <i>Gallus domesticus</i> , cut in pieces with bone-in, produced by Moy Park Ltd.	12.07%	United Kingdom
0207.14.90	Frozen meat of fowls of the species <i>Gallus domesticus</i> , cut in pieces with bone-in, produced by 2 Sisters Food Group Ltd and Amber Foods Ltd.	12.07%	United Kingdom
0207.14.90	Frozen meat of fowls of the species <i>Gallus domesticus</i> , cut in pieces with bone-in, (excluding those produced by Moy Park Ltd 2 Sisters Food Group Ltd and Amber Foods Ltd.)	30.99%	United Kingdom

9. DETERMINATION

The Commission made a final determination that:

- Dumping of frozen bone-in portions originating in or imported from Germany, the Netherlands (except those produced by Pluimveeslachterij C van Miert BV; Pluimveeslachterij Mieki Hunsel BV; and Frisia Foods BV) and United Kingdom was taking place;
- Material injury was suffered by the SACU industry; and
- There was a causal link between the dumping of the subject product originating in or imported from Germany, the Netherlands and United Kingdom and the material injury suffered by the SACU industry and that the other known factors do not detract from causal link.

The Commission therefore made a final determination to recommend to the Minister of Trade and Industry to impose final anti-dumping duties on frozen meat of fowls of the species *gallus domesticus*, cut in pieces with bone-in, classifiable under tariff sub-heading 0207.14.90 and originating in or imported from Germany, the Netherlands and the United Kingdom, as contained in table 8.3 of this report.