ITAC International Trade Administration Commission of South Africa

Report No. 148

Investigation into the alleged dumping of unframed glass mirrors of a thickness of 2 mm to 6 mm originating in or imported from India and Indonesia: Preliminary determination

enabling FAIR TRADE

The International Trade Administration Commission of South Africa herewith presents its **Report No. 148: INVESTIGATION INTO THE ALLEGED DUMPING OF UNFRAMED GLASS MIRRORS OF A THICKNESS OF 2MM TO 6MM ORIGINATING IN OR IMPORTED FROM INDIA AND INDONESIA: PRELIMINARY DETERMINATION**

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PRETORIA

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INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF SOUTH AFRICA

INVESTIGATION INTO THE ALLEGED DUMPING OF UNFRAMED GLASS MIRRORS OF A THICKNESS OF 2MM TO 6MM ORIGINATING IN OR IMPORTED FROM INDIA AND INDONESIA: PRELIMINARY DETERMINATION

SYNOPSIS

On 27 May 2005, the Commission formally initiated an investigation into the alleged dumping of unframed glass mirrors of a thickness of 2mm to 6mm originating in or imported from Chinese Taipei, India and Indonesia.

The application was lodged on behalf of the Southern African Customs Union (SACU) industry by PFG Building Glass (Pty) Ltd, claiming that the dumped imports from Chinese Taipei, India and Indonesia were causing it material injury. PFG Building Glass (Pty) Ltd is the sole manufacturer of the subject product in the SACU.

The government representatives of Chinese Taipei, India and Indonesia were advised accordingly as required by Article 5.5 of the Anti-Dumping Agreement.

The investigation was initiated through Notice No.780 in *Government Gazette* No. 27599 on 27 May 2005 after the Commission considered that there was *prima facie* proof of dumping, material injury and causal link between the dumping and the material injury suffered by the SACU industry.

Exporters and importers questionnaires were sent to various known interested parties, including the government representatives of Chinese Taipei, India and Indonesia. The original deadline for comments was 05 July 2005. However, extensions were granted up to 19 July 2005.

On 23 June 2005, the Directorate: Trade Remedies received a letter from the Applicant requesting that the investigation against Chinese Taipei be terminated. The Applicant indicated that Taiwan Glass Ind. Corp, the biggest glass producer in Chinese Taipei has offered an undertaking that their mirrors will in future not be exported to SACU at prices below the ex-factory domestic prices in Chinese Taipei.

The Commission considered the request and made a final determination to recommend to the Minister of Trade and Industry that the investigation into the alleged dumping of unframed glass mirrors of a thickness of 2mm to 6mm originating in or imported from Chinese Taipei be terminated.

The Commission's recommendation was approved by the Minister and the notice to terminate the investigation was published in Notice No. 1580 of *Government Gazette* No 27913 on 26 August 2005.

One producer in Indonesia, PT Matahari Silverindo Jaya in Semarang responded fully to the Commission's exporter questionnaire and information submitted by it was subsequently verified from 30 August 2005 to 02 September 2005.

No complete responses to the Commission's exporters questionnaire were received from any manufacturer of the subject products in India. However, a deficient response was received on time, from Saint-Gobain Glass India Ltd.

On 16 November 2005, the Commission considered the information submitted and made a preliminary determination that:

- the subject products originating in India and Indonesia (excluding those manufactured and exported by P.T Matahari Silverindo Jaya) are imported into the SACU area at dumped prices; and that
- the SACU industry is experiencing material injury; and
- the material injury experienced by the SACU industry is causally linked to the dumped imports originating in or imported from India and Indonesia.

As the Commission concluded that the SACU industry would not experience material injury as a result of further imports of the subject products from Indonesia during the course of the investigation before it makes its final determination, the Commission decided not to request the Commissioner for the South African Revenue Service to impose provisional payments against Indonesia.

The Commission decided to request the Commissioner for the South African Revenue Service to impose the following provisional payment for a period of 26 weeks:

Country:	Rate of provisional payments
India: All exporters	68.74%

This provisional payment is the amount required to prevent further injury being experienced by the SACU industry as a result of further imports of the subject products at prices that constitute dumping during the course of the investigation before the Commission makes its final determination.

1. APPLICATION AND PROCEDURE

1.1 APPLICANT

The SACU application was lodged by PFG Building Glass (Pty) Ltd (Applicant), the sole manufacturer of unframed glass mirrors in the SACU.

1.2 DATE OF ACCEPTANCE OF APPLICATION

The application was accepted by the Commission as being properly documented in accordance with Article 5.2 of the Anti-Dumping agreement on 18 May 2005. The trade representatives of the countries concerned were advised accordingly.

1.3 ALLEGATIONS BY THE APPLICANT

The Applicant alleged that imports of the subject product, originating in or imported from Chinese Taipei, India and Indonesia were being dumped on the SACU market, thereby causing material injury to the SACU industry. The basis of the alleged dumping was that the goods were being exported to the SACU at prices less than the normal value in the countries of origin.

The Applicant further alleged that as a result of the dumping of the subject products from Chinese Taipei, India and Indonesia, the SACU industry was suffering material injury in the form of:

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

- decline in market share;
- decline in productivity;
- decrease in profits;
- decline in utilisation of production capacity;
- decline in return on investments;
- negative effect on cash flow;
- decline in employment;
- decline in wages per employee;
- inability to raise capital;
- inability to show growth;
- increase in inventory levels.

1.4 INVESTIGATION PROCESS

The application was submitted on 10 December 2004. A deficiency letter was sent to the Applicant on 13 January 2005 and the application was re-submitted on 14 February 2005. A further deficiency letter was sent to the Applicant on 19 February 2005 and a complete application was submitted on 25 February 2005. On 18 March 2005, the verification of information submitted by the Applicant was carried out on at the Applicant's premises in Springs.

The investigation was initiated through Notice No.780 in *Government Gazette* No. 27599 on 27 May 2005 after the Commission considered that there was *prima facie* proof of dumping, material injury and causal link between the dumping and the material injury suffered by the SACU industry.

Prior to the initiation of the investigation, the trade representatives of the countries concerned were notified of the Commission's intention to investigate, in terms of Article 5.5 of the Anti-Dumping Agreement.

All known interested parties were informed and requested to respond to the questionnaires and the non-confidential version of the petition.

On 23 June 2005, the Directorate: Trade Remedies received a letter from the Applicant requesting that the investigation against Chinese Taipei be terminated. The Applicant indicated that Taiwan Glass Ind. Corp, the biggest glass producer in Chinese Taipei has offered an undertaking that their mirrors will in future not be exported to SACU at prices below the ex-factory domestic prices in Chinese Taipei.

The Commission considered the request and made a final determination to recommend to the Minister of Trade and Industry that the investigation into the alleged dumping of unframed glass mirrors of a thickness of 2mm to 6mm originating in or imported from Chinese Taipei be terminated.

The Commission's recommendation was approved by the Minister and the notice to terminate the investigation was published in Notice No. 1580 of *Government Gazette* No 27913 on 26 August 2005.

1.5 INVESTIGATION PERIOD

This submission contains information with regard to dumping for the period 01 January 2004 to 31 December 2004, and information with regard to material injury for the period 01 January 2001 to 31 December 2004.

1.6 PARTIES CONCERNED

1.6.1 SACU INDUSTRY

The application was lodged by PFG Building Glass (Pty) Ltd, the only manufacturer of unframed glass mirrors in the SACU.

1.6.2 Exporters/Foreign Manufacturers

The following exporters/manufacturers were identified as interested parties:

INDIA

(a) Babsurya Mirror Limited
(b) Gujarat Guardian Limited
(c) Gulati Glass Industries
(d) Saint-Gobain Glass India Ltd
(e) Floatglass India Limited
(f) Triveni Glass Limited
(g) Gujarat Borosil Limited

Saint-Gobain Glass India Ltd submitted a response to the Commission's questionnaire, albeit deficient.

INDONESIA

(a) PT Tunggal Majuasri;
(b) PT Alamkaca Prabawa Indonesia;
(c) PT Asahi Mas
(d) PT Matahari Silverindo
(e) PT Tungal Majusri
(f) PT Tensindo
(g) PT Abdi Rakyat Bakti
(h) C.V. Karuna Intan Mandiri
(i) PT Bali Permai Crafindo

PT. Matahari Silverindo Jaya submitted a full response to the Commission's questionnaire, which was verified on 30 August 2005 to 02 September 2005.

1.6.3 Importers

The following SACU importers were identified as interested parties:

(a) McCoy's Glass
231 Wadeville Road
Germiston

(b) Natglass Distributors (Pty) Ltd
700 Mainreef Road
Denver
Johannesburg

(c) Guardian Africa Corporation
124 North Reef Road
Germiston

McCoy's Glass responded fully to the Commission's questionnaire and its information was subsequently verified on 18 August 2005.

2. PRODUCTS, TARIFF CLASSIFICATION AND DUTIES

2.1 IMPORTED PRODUCTS

2.1.1 Description

The subject products are described as unframed glass mirrors of a thickness of 2mm to 6mm.

2.1.2 Country of origin/export

The subject products are exported from India and Indonesia.

2.1.3 Application/end use

The application and end use of the imported subject product is general trade mirror merchants and architectural, domestic and furniture applications.

2.1.4 Main raw materials

The main raw materials used in the production of mirrors are float glass, cleaning agent, tin chloride, palladium chloride, silver nitrate, passivator, base coat paint and topcoat paint.

2.1.5 Technical characteristics

The mirror has a reflective surface on the one side and is painted on the opposite side. The product is supplied in a variety of standard stock sizes and thickness.

2.1.6 Tariff classification

The subject products are classifiable as follows:

TABLE 2.1.6

TARIFF SUBHEADING	DESCRIPTION	UNIT OF MEASUREMENT	RATE OF CUSTOMS DUTY ('GENERAL')	REBATE PROVISION DESCRIPTION
7009	Glass Mirrors, whether or not framed, including rear-view mirrors:			
7009.91	= Unframed	kg	15%	None

2.1.7 Other applicable duties and rebates

There are no rebates provision applicable.

2.1.8 Production process

The production process used in producing mirror is cleaning of the glass by washing the top surface, spraying on the tin chloride, spraying on the palladium chloride, spraying on the silver nitrate in solution form, application of the passivator chemicals, drying of the glass, application of the base coat paint, drying of that coat, application of top coat paint, baking of the final layer.

2.2 SACU PRODUCT

2.2.1 Description

The SACU product is described as "unframed glass mirrors of a thickness of between 2 mm and 6 mm".

2.2.2 Main raw material

The main raw materials used in the production of mirrors are float glass, cleaning agent, tin chloride, palladium chloride, silver nitrate, passivator, base coat paint and topcoat paint.

2.2.3 Tariff classification

The SACU product is classifiable under tariff subheading 7009.91.

2.2.4 Application/end use

The application and end use of the SACU product is general trade mirror merchants and architectural, domestic and furniture applications.

2.2.5 Production process

The production process used in producing the mirror is cleaning of the glass by washing the top surface, spraying on the tin chloride, spraying on the palladium chloride, spraying on the silver nitrate in solution form, application of the passivator chemicals, drying of the glass, application of the base coat paint, drying of that coat, application of top coat paint, baking of the final layer.

2.3 LIKE PRODUCTS

2.3.1 General

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

2.3.2 Analysis

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

(a) raw material used;
(b) physical appearance and characteristics;
(c) method of manufacturing;
(d) customer demand and end use; and
(e) tariff classification.

(a) Raw material

The main raw materials used for the manufacturing of the domestic product are similar to the one used for the imported product, being float glass, cleaning agent, tin chloride, palladium chloride, silver nitrate, passivator, base coat paint and topcoat paint.

(b) Physical appearance and characteristics

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

(c) Method of manufacturing

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

(d) Customer demand and end use

The demand and the end use of the products sold domestically and those imported are the same for purposes of comparison.

(e) Tariff classification

The products sold domestically and those imported are classifiable under the same six-digit tariff subheading (7009.91).

The Commission found that the SACU product and the imported product were "like products", for purposes of comparison in terms of Article 2.6 of the Anti-Dumping Agreement and ADR 1.

3. SACU INDUSTRY

3.1 INDUSTRY STANDING

The Applicant is the sole manufacturer of the subject products in the SACU.

The Commission made a preliminary determination that the Application can be regarded as being made "by or on behalf of the domestic industry" and, therefore, was eligible for initiation under the provisions of the Anti-Dumping Agreement and ADR 7.3.

4. DUMPING

4.1 METHODOLOGY IN THIS INVESTIGATION FOR INDIA

India is considered to be a country with a free market economy and therefore section 32(2)(b)(i) of the ITA Act (Act 71/2002) was used as a basis.

No complete responses to the Commission's exporters questionnaire were received from the manufacturers of the subject products in India. However, a deficient response was received on time from Saint-Gobain Glass India Ltd.

According to the deficient information submitted by Saint-Gobain Glass India Ltd, like products to those exported to the SACU area during the period of investigation were sold in the domestic market in India.

In terms of ADR 32.4 if an exporter has submitted an incomplete or otherwise deficient submission by the deadline, the Commission will disregard its information for purpose of its preliminary finding.

The Commission, therefore, made a preliminary finding to base the normal value of India on best information available.

The Commission noted its policy in calculating dumping margins for non-cooperating parties, which is normally calculated by using information in the application.

However, the Commission also noted that in terms of paragraph 7 of Annex II to the Anti-Dumping Agreement if the authorities have to base their findings, including those with respect to normal value, on information from a secondary source, including the information supplied in the application for the initiation of the investigation, they should do so with special circumspection. In such cases, the authorities should, where practicable, check the information from other independent sources at their disposal, such as published price lists, official import statistics and customs returns, and from the information obtained from other interested parties during the investigation (Own underlining). It is clear, however, that if an interested party does not cooperate and thus relevant information is being withheld from the authorities, this situation could lead to a result, which is less favorable to the party than if the party did cooperate.

Based on the above provisions, the Commission made a preliminary determination that best information available is information obtained from other interested parties (i.e. Saint-Gobain) and not information in the application.

The Commission, therefore, based the normal value for India on the average price of Saint-Gobain before adjustments.

Export price

According to the exporter like products to those sold in the domestic market in India were exported to the SACU area during the period of investigation. The export price is, therefore, normally determined using section 32(2)(a) of the ITA Act (Act 71 of 2002) as a basis.

According to deficient information submitted by the exporter, export sales to SACU were made to Kenross Agencies and Furman Glass Co.

In terms of ADR 32.4 if an exporter has submitted an incomplete or otherwise deficient submission by the deadline, the Commission will disregard its information for purpose of its preliminary finding.

The Commission, therefore, made a preliminary finding to base the export price of India on best information available. Citing the same reasons as in the establishment of the normal value, the Commission decided for purpose of establishing the export price for India, that best information available is information obtained from other interested parties (i.e. Saint-Gobain) and not information in the application.

Dumping margin

When comparing the average normal value (before adjustments) of Saint Gobain with its average export price (after adjustments), a dumping margin of 68.74 per cent was calculated.

4.2 METHODOLOGY IN THIS INVESTIGATION FOR INDONESIA

4.2.1 PT Matahari Silverindo Jaya, Semarang

4.2.1.1 Normal value

Indonesia is considered to be a country with a free market economy and therefore section 32(2)(b)(i) of the ITA Act (Act 71/2002) was used as a basis.

Like products to those exported to the SACU area during the period of investigation were sold in the domestic market in Indonesia.

Sales to distributors were used to determine the normal values. The weighted average domestic selling price for each of the various models (thicknesses) was calculated by dividing the total sales values by the total sales volumes for each model.

Weighted average domestic selling prices were calculated for 2mm, 3mm, 4mm, 5mm and 6mm thicknesses.

Adjustments to the normal values

The following adjustments to the normal value, which were verified, were claimed by the exporter. These adjustments were allowed by the Commission as it was satisfied that there were differences in costs between domestic and export sales, which was demonstrated to have affected price comparability at the time of setting the prices.

Credit adjustment

An adjustment was made for the cost of payment terms. The Commission calculated this adjustment based on the standard payment terms and the interest rate applicable for short-term borrowings.

Delivery expense

An adjustment was made for transport and delivery expenses to sales invoiced on a delivered basis.

Packaging

An adjustment for was made for packing. The domestic packaging costs per square meter were verified and deducted from the selling price.

Ex-factory Prices

After taking the above adjustments into consideration the ex-factory domestic selling prices were calculated per thickness.

4.2.1.2 Export price

Like products to those sold in the domestic market in Indonesia were exported to the SACU area during the period of investigation. The export price was therefore determined using section 32(2)(a) of the ITA Act (Act 71 of 2002) as a basis.

Sales to distributors in SACU were used to determine the export values. The weighted average f.o.b export sales values for the various thicknesses were calculated by dividing the total sales values by the total sales volumes for each thickness.

Weighted average export prices were calculated for 3mm, 4mm, 5mm and 6mm models.

Adjustments to the export price

The Commission made the following verified adjustments to the f.o.b export prices for purposes of calculating the ex-factory export prices:

Payment terms

An adjustment was made for the cost of payment terms.

Export packaging

The export packaging costs were verified and deducted from the export price.

Clearing charges

Clearing charges were verified and deducted from the fob export price.

Inland transport

An adjustment was made for transport costs incurred by Matahari Silverindo Jaya in Indonesia to the port of export.

Discounts

An adjustment was made for discount allowed. The amount was verified and deducted from the export price.

Ex-factory Prices

After taking the above adjustments into consideration the ex-factory export prices per model were calculated.

4.2.1.3 Dumping margin

The margin of dumping was determined by comparing the ex-factory normal value for each model with the corresponding ex-factory export prices. The resulting dumping margins were then weighted by the respective export volumes to arrive at the dumping factors. The dumping factors were then added together to arrive at a *de minimis* average dumping margin of (–1) per cent.

4.3 Residual dumping margin

Since there are other manufacturers of the subject product in Indonesia, the residual dumping margin was calculated. The Commission calculated the residual dumping margin by comparing the highest normal value (per model) before adjustments of the cooperating exporters to the lowest export price (per model) after adjustments of the cooperating exporters. The resulting dumping margins were weighted by the respective export volumes to arrive at the dumping factors. These dumping factors were then added together to arrive at an average residual dumping margin of 6.61 per cent.

4.4 SUMMARY – DUMPING

For purposes of its preliminary determination, the Commission considered all the comments from interested parties and found that the subject product originating in India and Indonesia was being dumped into the SACU market with the following margins:

Table 4.4

Country:	Dumping margins
India: All exporters All other exporters from Indonesia: excluding those manufactured by PT Matahari Silverindo Jaya	 68.74% 6.61%

5. MATERIAL INJURY

5.1 DOMESTIC INDUSTRY FOR THE PURPOSE OF DETERMINATION OF INJURY

5.2 GENERAL

The following injury analysis in this submission relates to the PFG Glass, the sole manufacturer of the subject product in the SACU.

The Commission made a preliminary determination that this constitutes "a major proportion" of the total domestic production, in accordance with Article 4.1 of the WTO Anti-Dumping Agreement.

5.3 IMPORT VOLUMES AND EFFECT ON PRICES

5.3.1 Import volumes

In any dumping investigation, the Commission normally uses audited import statistics from SARS to determine the volume of the subject product entering the SACU from the countries under investigation and other countries. It considers these statistics to be the most reliable.

The following table shows the volume of the alleged dumped imports in kilograms for the subject product as obtained from SARS:

Table 5.3.2

Import Volumes (kg)	**2002**	**2003**	**2004**
India	36	831 339	945 135
Indonesia	40 285	661 497	973 805
Imports from other countries	930 154	1 245 121	1 092 527
Total imports	970 475	2 737 957	3 011 467
Alleged dumped imports as % of total imports -India - Indonesia	 0.00% 4.15%	 30.40% 24.20%	 31.40% 32.34%

The information in the table above indicates that the volume of the dumped imports from India as a percentage of total imports increased from 0 in 2002 to 30.40 percent in 2003 and to 31.40 per cent in 2004.

The volume of the alleged dumped imports from Indonesia as a percentage of total imports increased from 4.15 per cent in 2002 to 24.20 percent in 2003 and to 32.34 percent in 2004.

The information in the table further shows that volume of imports from other countries increased in absolute terms by 17.5 per cent.

5.3.3 Effect on Domestic Prices

Price undercutting: Indonesia

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

The average landed cost of the imported product from Indonesia was calculated on the basis of adding 17 per cent to the CIF values to make provision for customs duty, landing costs, shipping fees, agency documentation and other costs. The 17 per cent is based on actual costs verified at McCoys Glass.

When comparing the average landed cost of the Indonesian price with the Applicant's average ex-factory price, the Commission found that the price of the Indonesian product was undercutting the Applicant's price by 6.6 per cent.

Price undercutting: India

The average landed price of the imported product from India was calculated on the basis of adding 35.5% to the average unverified FOB value of Saint Gobain to make provision for ocean freight, insurance, customs duties and clearing costs. As no importer responded the 35.5 per cent was based on information provided by the Applicant.

When comparing the average landed cost of the Indian price with the Applicant's average ex-factory price, the Commission found that the price of the Indian product was undercutting the Applicant's price by 3 per cent.

Price depression

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

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

Table 5.3.3.1

Price Depression (R/Ton)	**2002**	**2003**	**2004**
PFG Glass	100	90	74

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

The above table shows that the Applicant's selling prices have been on the decline since 2002 indicating that the Applicant is experiencing price depression.

The Applicant stated that it had to significantly decrease its prices in 2003 and again in 2004, indicating that it is experiencing severe price depression.

Price suppression

Price suppression is the extent to which increases in the cost of production of the product concerned, cannot be recovered in selling prices.

To determine price suppression, a comparison is made of the percentage increase in cost with the percentage increase in selling price (if any), and whether or not the selling prices have increased by at least the same margin at which the cost of production increased.

The following table shows the Applicant's costs of production and its actual selling prices for the subject product:

Table 5.3.3.2

Price suppression (R/Ton)	2002	2003	2004
Cost of production (total)	100	107	101
Selling price	100	90	74
Cost as % of selling price	100	119	137

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

The above table indicates that the Applicant was not able to recover the increases in cost in its selling prices.

5.3.4 Consequent Impact of The Dumped Imports on The Industry

5.3.4.1 Actual and potential decline in sales

The following table shows the Applicant's sales volume:

Table 5.3.4.1

Sales volumes (tons)	2002	2003	2004
PFG sales	100	117	149
*Other SACU producers	100	44	0
Total SACU sales	100	93	100

This table was indexed due to confidentiality using 2002 as the base year.
*Other SACU manufacturers ceased production in 2003

The above table indicates that the SACU sales volume of the subject product decreased in 2003 from 2002, but increased in 2004 from 2003 by 7 index points to the same level as in 2002.

The Applicant stated that even though it managed to increase its sales volume, this was only possible through severe price cutting and effectively inheriting some of the sales volumes of Furmon Glass and Africa Glass when these companies ceased production owing to injurious dumped competition. It stated also that despite reducing prices significantly to meet the prices of the dumped imports, and despite significant growth in the SACU market, overall SACU producer sales volumes remained stable when comparing 2004 with 2002, indicating severe market share erosion.

5.3.4.2 Profit

The following table shows the Applicant's profit situation:

Table 5.3.4.2

	2002	**2003**	**2004**
Net profit margin	**100**	**-43**	**-179**

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

The above table indicates that the Applicant's net profit margin decreased significantly since 2002, to a loss situation.

5.3.4.3 Output

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

Table 5.3.4.3

	2002	2003	2004
Output (tons)	**100**	**72**	**82**

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

The information in the above table indicates that the Applicant's output decreased by 28 index points from 2002 to 2003, but increased slightly by 10 index points in 2004 from 2003, but to a level lower than 2002.

5.3.4.4 Market share

The market share table was removed due to confidentiality. However, the information illustrated that the Applicant was unable to gain the market share it lost since 2003 in a growing market, while market share of alleged dumped imports from the India and Indonesia increased significantly since 2003.

The information in the market share table shows that the market share of other imports increased slightly in 2003 from 2002 by 14 index points, but only to decrease in 2004 from 2003, by 22 index points.

The information further shows that the market share of the alleged dumped imports from India increased significantly (from 0 index points to 10 index points) during the same period.

The market share of the alleged dumped imports from Indonesia also increased significantly (from an index point to 10 index points) during the same period.

5.3.4.5 Productivity

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

Table 5.3.4.5

Productivity	**2002**	**2003**	**2004**
Production/Employee (tons)	100	72	82

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

The information in the above table indicates that the Applicant's tons per employee decreased by 28 index points in 2003 from 2002, but increased slightly in 2004 from 2003 by 10 index points, but to a level lower than 2002.

The Applicant stated that its productivity has decreased in line with production. It also stated that it couldn't retrench without closing the plant, as the number of workers is the minimum required to operate the production line. It further stated that the nominal improvement in productivity in 2004 must be seen in light of the fact that two of the three SACU producers closed their mirror production lines during the injury investigation period, indicating that SACU productivity decreased more significantly than indicated in the table.

5.3.4.6 Return on investment

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

The following table shows the Applicant's return on investment position:

Table 5.3.4.6

Return on investment (Rand)	**2002**	**2003**	**2004**
Assets at replacement value (SACU sales only)	100	144	178
Return on assets at replacement value (SACU sales only)	100	-32	-111

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

The above table shows that the Applicant's return on assets decreased from 100 index points in 2002 to (32) index points in 2003. The Applicant's return on assets further decreased from (32) index points in 2003 to (111) index points in 2004.

The Applicant stated that the total net PBIT for the subject product has decreased significantly between 2001 and 2004, to the extent that it is experiencing a significant negative return. It also stated that during the same period the two other SACU producers ceased production as a result of incurring losses. It further stated that the required return before interest and tax on replacement value of total assets to meet minimum shareholder requirements and to generate funds for periodic investment in plant renewal and upgrading is in line with the return generated in 2001.

5.3.4.7 Utilisation of production capacity

The following table provides the Applicant's utilisation of production capacity for the subject product:

Table 5.3.4.7

Capacity utilisation	2002	2003	2004
Capacity (tons)	100	100	100
Actual production (tons)	100	72	82
Utilisation	100	72	82

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

The above table illustrates that the Applicant's capacity utilisation decreased from 100 index points in 2002 to 72 index points in 2003 but increased in 2004 by 10 index points, although to a level lower than in 2002.

The Applicant stated that its capacity utilisation declined significantly over the three-year period, and the other two SACU producers ceased mirror production entirely. It stated further that this indicated a marginal increase in its capacity utilisation in 2004 and this is simply the result of it gaining a minor part of the sales volume of the other South African producers that terminated mirror production entirely and not as a result of improved trading conditions.

The Applicant stated that its production could be increased significantly by adding more shifts. It stated, however, that production capacity beyond a three-shift basis, can only be increased by investing in a new plant. It further stated that considering current over-capacity, profitability and return on investment, it couldn't foresee investing in a new plant or an upgrading of the existing plant.

5.3.4.8 Factors affecting domestic prices

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

5.3.4.9 The magnitude of the margin of dumping

In Chapter 4 of this report, the following dumping margins were calculated:

Table 5.3.4.9

Country:	Dumping margins
India: All exporters	68.74%
Indonesia: Manufactured by PT Matahari Siverindo Jaya	-0.96%
All other exporters from Indonesia: excluding those manufactured by PT Matahari Silverindo Jaya	6.61%

5.3.4.10 Actual and potential negative effects on cash flow

The following table shows the Applicant's cash flow position for the period:

Table 5.3.4.10

Cash Flow (Rand)	**2002**	**2003**	**2004**
SACU: Net cash flow	100	(46)	(198)

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

The above table illustrates that the Applicant's net cash flow has decreased since 2002.

The Applicant stated that its total incoming cash flow has decreased to the extent that outflows significantly exceed inflows. It also stated that during the same period the other two SACU producers ceased production, adding to the diminished cash flow in the industry and that the aggressive price cutting that it has had to practice to retain some market share in the face of the dumped pricing prevailing in the SACU market is resulting in the typical double squeeze of increasing the negative cash flow the more product is sold.

5.3.4.11 Inventories

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

Table 5.3.4.11

Inventories	2002	2003	2004
Volumes (tons)	100	57	43

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

The above table indicates that inventories decreased from 2002 to 2003 by 43 index points. The inventories further decreased from 2003 to 2004 by 14 index points.

The Applicant stated that that inventories do not reflect the difference between production and SACU sales, as it has exported mirrors in each of the years under consideration.

It also stated that inventories are not normally subject to variation, although a slightly higher inventory may be held in October and November when sales levels are higher.

It further stated that continued increased dumping by India and Indonesia has forced it to cut back production to match output to achievable sales and to reduce inventories to a minimum, as the least harmful option for the business.

5.3.4.12 Employment

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

Table 5.3.4.12

Employment	2002	2003	2004
Units of employment: Production	100	100	100

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

The above table shows that the Applicant's employment levels remained constant throughout the investigation period.

5.3.4.13 Wages

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

Table 5.3.4.13

Wages	2002	2003	2004
Average Wages: Production	100	97	90

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

The above table shows that wages decreased from 2002 to 2003. The table also shows that the wages decreased further from 2003 to 2004.

The Applicant stated that as a result of its poor performance in view of the increased dumping, no wage increase was effected in 2004. It stated this followed negotiations with the labour union in this regard. It further stated that actual total wages and wages per employee decreased as overtime decreased, following lower production in 2004 than in 2003. It concluded by stating that total wages in the industry decreased more sharply, as two of the three mirror producers ceased production and retrenched their workers.

5.3.4.14 Growth

The applicant submitted the following information regarding growth of the SACU industry:

Table 5.3.4.14

Growth (Tons)	**2002**	**2003**	**2004**
	Actual	**Actual**	
Size of the SACU market	**100**	**118**	**128**
Growth from 2002		**18**	**28**
SACU's sales volume	**100**	**93**	**100**
SACU growth (using 2002 as base)		**-7**	**0**

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

The information in the table indicates that the total SACU market of the subject products increased by 28 index points during the period of investigation.

The information further indicates that the SACU sales remained constant during the period, demonstrating that the SACU industry experienced no growth in a growing market.

5.3.4.15 Ability to raise capital or investments

The following table provides the Applicant's ability to raise capital and investment for the subject product:

Table 5.3.4.15

	2002	2003	2004
Replacement value of assets (Rand)	100	97	102
Pro Rata Domestic assets (Rand)	100	144	178

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

The above table illustrates that the Applicant's replacement value of assets increased slightly in 2004 from 2002, by 2 index points.

The table further shows that its *pro rata* domestic assets increased in 2004 from 2002 by 78 index points

The Applicant stated that the capital and investments are based on replacement value of the assets. It also stated that for 2004 it is estimated that replacement cost will be 5 per cent higher than in 2003, indicating that there has been no investment relating to the subject product during the investigation period.

The Applicant also indicated that this factor is irrelevant to the injury investigation in the current investigation, as it has significant spare capacity available. It also stated that however, if it did not have spare capacity available, it would still be unable to attract any additional capital or investments considering that it is currently operating at a significant loss.

5.4 SUMMARY - MATERIAL INJURY

After considering all relevant factors and taking all comments into account, the Commission made a preliminary determination that the Applicant and therefore, the SACU industry was suffering material injury in the form of:

- price undercutting;
- price depression;
- price suppression;
- decline in profits;
- decline in output;
- decline in market share;
- decline in productivity;
- negative return on investments;
- decline in capacity utilization;
- negative effect on cash flow;
- inability to show growth.

6. CAUSAL LINK

6.1 GENERAL

In order for the Commission to initiate an investigation, 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 products.

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 allegedly dumped products.

The market share table in paragraph 5.3.4.4 of this submission shows the market share for the subject product since 2002 to 2004. The information with regard to market share shows that the SACU market share decreased in 2003 from 2002. During 2003 to 2004, the SACU market share was constant, however, during the period of investigation the SACU market share decreased by 21 index points.

The information further shows that the market share of the alleged dumped imports from India increased significantly (from 0 index points to 10 index points) during the same period, which the Commission found to be significant.

The market share of the alleged dumped imports from Indonesia also increased significantly (from an index point to 10 index points) during the same period, which the Commission also found to be significant.

The dumped imports from India and Indonesia have between themselves managed to acquire a market share of over 20 index points, which could be directly linked to the loss in market share of the SACU industry, of 21 index points.

The information further shows that the market share of imports from other countries increased slightly (by an index point) in 2003 from 2002,but decreased again in 2004 from 2003 by 2 index points

6.3 EFFECT OF DUMPED IMPORTS ON PRICES

It has been indicated in section 5 of this report that there was price depression and price suppression.

The information clearly indicates that despite significant price suppression and price depression, the dumped imports still manage to undercut the Applicant's price. It has been indicated in paragraph 5.3.3 that the subject products from India and Indonesia were undercutting the Applicant's prices by 3 per cent and 6.6 per cent respectively.

6.4 CONSEQUENT IMPACT OF DUMPED IMPORTS

The information in the application clearly indicates that dumped unframed mirrors from India and Indonesian have aggressively entered the SACU market and that they have increased their market share by volume significantly within a period of only three years, while the market share of both SACU producers and other imports decreased.

6.5 FACTORS OTHER THAN THE DUMPING CAUSING INJURY

6.5.1 The volume and price of other imports

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

Table 6.5.1

	2002		2003		2004	
	Volume/ kg	**Price R/kg**	**Volume Kg**	**Price R/kg**	**Volume kg**	**Price R/kg**
Allegedly dumped imports:						
India	36	54.583	831 339	3.610	945 135	3.81
Indonesia	40 285	4.205	661 497	3.047	973 805	4.13
Imports from other countries	930 154	11.604	1 245 121	9.479	1 092 527	30.09
Total imports	970 475		2 737 957		3 011 467	

The Commission noted that the information regarding prices of imports was not reliable, especially information regarding prices of India for 2002 and prices of imports from other countries for 2004.

The Commission, therefore, did not make a causal link finding on this factor.

6.5.1 Competition between domestic producers

The Applicant is currently the only domestic producer.

6.5.2 Developments in technology

No information was provided in this regard.

6.5.3 Contraction in demand or changes in the patterns of consumption

The total size of the market (by volume) grew by 28 index points between 2002 and 2004. During the same period, the alleged dumped imports from India and Indonesia increased their market by 10 index points and 9.8 index points respectively.

The total SACU industry's sales remained constant between 2002 and 2004, however, the Applicant's sales increased by 49 index points.

During the same period, the volume of imports from other countries increased by 17.5 index points, however, their share of the market decreased by 8 index points

6.5.4 Export performance

The Applicant indicated that its exports have decreased significantly over the period.

6.5.5 Competition between foreign and domestic producers

No information was provided in this regard.

6.5.6 Trade restrictive practices

No information was provided in this regard.

6.5.7 Productivity of the domestic industry

It was shown in paragraph 5.3.4.5 of this submission that the productivity of the SACU industry decreased during the period of investigation.

The Applicant stated that its productivity could be at par with foreign manufacturers once economy of scale benefits could be gained with increased volumes when dumped imports are removed from the market.

6.5.8 CONCLUSION ON CAUSAL LINK

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

7. SUMMARY OF FINDINGS

7.1 Dumping

There is sufficient evidence that the subject product originating in or imported from India and Indonesia were imported at dumped prices into the SACU market. The following dumping margins were calculated:

Table 7.1

Country:	Dumping margin
India: All exporters All other exporters from Indonesia:	 68.74% 6.61%

7.2 Material injury

There is sufficient evidence that the Applicant suffered material injury in the form of:

- price undercutting;
- price depression;
- price suppression;
- decline in profits;
- decline in output;
- decline in market share;
- decline in productivity;
- negative return on investments;
- decline in capacity utilization;
- negative effect on cash flow.

7.3 Causal link

The Commission found that there was a causal link between the dumping and the material injury experienced by the SACU industry.

8. PROVISIONAL PAYMENTS

8.1 Calculation of duty

In accordance with Article 9.1 of the Anti-Dumping Agreement, the provisional payment should be less than the dumping margin if such lesser duty would be adequate to remove the injury to the domestic industry. The provisional payment should therefore not be more than the amount of the price disadvantage experienced by the SACU industry. If this is lower than the dumping margin it can be considered to be the amount of duty required to prevent further injury to the SACU industry during the investigation as a result of the further importation of the subject product at the dumping margins that were found by the Commission.

8.3 Price disadvantage

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

It is the Commission's policy that the price disadvantage is only applied when both the exporter and the Importer responded in the investigation.

The Applicant's unsuppressed selling price was calculated by adding a return of approximately 10% achieved in 2002 to the total cost for the product in 2004.

In comparing the Applicant's unsuppressed and undepressed ex-factory selling price with the fob export price of the Indian and Indonesian subject products, the Commission calculated the price disadvantage percentage of 39.8 and 63.7 percent respectively.

Amount of duty:

The amount of duty was concluded to be the following, being the dumping margin:

Table 8.4

Country:	Dumping margin
India: All exporters	68.74%
All other exporters from Indonesia: excluding those manufactured by PT Matahari Silverindo Jaya	6.61%

9. DETERMINATION

The Commission made a preliminary determination that:

- the subject products originating in or imported from India and Indonesia (excluding those manufactured and exported by P.T Matahari Silverindo Jaya) are being dumped on the SACU market;
- the SACU industry is suffering material injury ;
- the material injury experienced by the SACU industry can be causally linked to the dumped imports.

As the Commission concluded that the SACU industry would not experience material injury as a result of further imports of the subject products from Indonesia during the course of the investigation before it makes its final determination, the Commission decided not to request the Commissioner for South African Revenue Services to impose provisional payments against Indonesia.

The Commission decided to request the Commissioner for South African Revenue Services to impose the following provisional payment for a period of 26 weeks:

Table 9.1

Country:	Rate of duty
India: All exporters	68.74%

This provisional payment is the amount required to prevent further injury being experienced by the SACU industry as a result of further imports of the subject products at prices that constitute dumping during the course of the investigation before the Commission makes its final determination.

Interested parties will be invited to submit comments and make representations on the preliminary determination within the specified time periods, which the Commission will consider prior to making its final determination and recommendation to the Minister of Trade and Industry.