ITAC International Trade Administration Commission of South Africa

Report No. 42

SUNSET REVIEW OF THE ANTI-DUMPING DUTIES ON UNCOATED WOODFREE PAPER ORIGINATING IN OR IMPORTED FROM BRAZIL AND POLAND

enabling FAIR TRADE

The International Trade Administration Commission herewith presents its Report No. 42: **SUNSET REVIEW OF THE ANTI-DUMPING DUTIES ON UNCOATED WOODFREE PAPER ORIGINATING IN OR IMPORTED FROM BRAZIL AND POLAND: FINAL DETERMINATION**

CHIEF COMMISSIONER

PRETORIA

06/01/ **2004**

INTERNATIONAL TRADE ADMINISTRATION COMMISSION

SUNSET REVIEW OF THE ANTI-DUMPING DUTIES ON UNCOATED WOODFREE PAPER ORIGINATING IN OR IMPORTED FROM BRAZIL AND POLAND: FINAL DETERMINATION

SYNOPSIS

General

The International Trade Administration Commission (the Commission) was established on 1 June 2003 in terms of the International Trade Administration Act 2002 (Act 71 of 2002) (the ITA Act), which replaced the Board on Tariffs and Trade Act 1986 (Act 107 of 1986) (the BTT Act). As regards anti-dumping matters the Commission superseded the Board on Tariffs and Trade (the Board) in all respects. For sake of simplicity all references in this report are to the Commission. All references in this submission referring to the Commission, and which relate to the period prior to 1 June 2003, should be understood to be a reference to the Board, and all references to the ITA Act, which relates to the period prior to 1 June 2003, should be understood to be a reference to the BTT Act.

On 2 August 2002, the Board notified the SACU industry through Notice No. 789 in Government Gazette No. 23450, that unless substantiated request is made by it indicating that the expiry of the duties on uncoated woodfree paper in reels and sheets originating in or imported from Brazil, Indonesia, Poland and Sweden, would likely to lead to continuation or recurrence of dumping and injury, the anti-dumping duties on uncoated woodfree paper in reels and sheets originating in or imported from Brazil, Indonesia, Poland and Sweden would expire on 13 February 2003.

The Board formally initiated a review of the anti-dumping duties on uncoated woodfree paper originating in or imported from Brazil and Poland pursuant to Notice No. 442, which was published in *Government Gazette* No. 24380 on 10 February 2003.

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

Deficiency letters were sent to exporters on 6 May 2003. On 30 May 2003, the non-confidential versions of the exporter's responses were given to the Petitioner for comment.

The information submitted by the exporters of the subject product was verified on 7 July 2003 to 18 July 2003.

On 30 September 2003 "essential facts" letters were sent out to all interested parties and the deadline for comments was 10 November 2003.

On 3 December 2003 the Commission considered all the comments received from interested parties in response to the "essential facts" letters. The Commission made the following final determination:

1. the expiry of the duty is likely to lead to continuation or recurrence of dumping of uncoated woodfree paper from Ripasa and the rest of Brazil;
2. the expiry of the duty is not likely to lead to continuation or recurrence of dumping of uncoated woodfree paper from International Paper;
3. the specific duty applicable to Suzano and Votorantim be removed, and imports from them be subject to the residual duty;
4. the expiry of the duty is likely to lead to continuation or recurrence of dumping of uncoated woodfree paper from Poland; and
5. the expiry of the duty is likely to lead to continuation or recurrence of material injury.

The Commission therefore decided to recommend to the Minister of Trade and Industry to impose the following duties:

Country	Exporter	Type of paper	Dumping Margin
Poland	All exporters	Sheets	8,9%
		Rolls	15,5%
Brazil:	Ripasa	Sheets	9.9%
	Other exporters (excluding International Paper and Ripasa)	Sheets	13.2%
	Other exporters (excluding International Paper and Ripasa)	Rolls	26.4%

1. PETITION AND PROCEDURE

1.1 LEGAL FRAMEWORK

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

In accordance with the provisions in Article 11.3 of the World Trade Organisation Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade, any definitive anti-dumping duty shall be terminated on a date not later than five years from its imposition, unless the authorities determine, in a review initiated before that date on their own initiative or upon duly substantiated request made by or on behalf of the domestic industry within a reasonable period of time prior to that date, that the expiry of the duty would be likely to lead to continuation or recurrence of dumping and injury.

The International Trade Administration Commission (the Commission) was established on 1 June 2003 in terms of the International Trade Administration Act 2002 (Act 71 of 2002) (the ITA Act), which replaced the Board on Tariffs and Trade Act 1986 (Act 107 of 1986) (the BTT Act). As regards anti-dumping matters the Commission superseded the Board on Tariffs and Trade (the Board) in all respects. For sake of simplicity all references in this report are to the Commission. All references in this submission referring to the Commission, and which relate to the period prior to 1 June 2003, should be understood to be a reference to the Board, and all references to the ITA Act, which relates to the period prior to 1 June 2003, should be understood to be a reference to the BTT Act.

1.2 PETITIONER

The Petitioner review questionnaires were sent to Mondi Paper and Sappi, being the only two manufacturers of the subject product in the SACU.

1.3 INVESTIGATION PROCESS

On 2 August 2002, the Board notified the SACU industry through Notice No. 789 in Government Gazette No. 23450, that unless substantiated request is made by it indicating that the expiry of the duties on uncoated woodfree paper in reels and sheets originating in or imported from Brazil, Indonesia, Poland and Sweden, would likely to lead to continuation or recurrence of dumping and injury, the anti-dumping duties on uncoated woodfree paper in reels and sheets originating in or imported from Brazil, Indonesia, Poland and Sweden would expire on 13 February 2003.

Detailed responses to the review questionnaire were received from Mondi and Sappi on 3 October 2002. The Petitioner addressed deficiencies in the petition. On 29 January 2003, the Board decided to initiate a review of the anti-dumping duties on uncoated woodfree paper in reels and sheets originating in or imported from Brazil and Poland, as it was of the opinion that the SACU industry provided prima facie information to justify the initiation of a review.

The Board formally initiated a review of the anti-dumping duties on uncoated woodfree paper originating in or imported from Brazil and Poland pursuant to Notice No. 442, which was published in *Government Gazette* No. 24380 on 10 February 2003.

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

Comments by the Government of Brazil

On 11 April 2003 a letter was received from the Brazilian Government stating that the decision to open an investigation concerning the review of anti-dumping rights to the above-mentioned product, is based on an unsubstantial petition, distinct from that laid down in Article 11.3 of the Anti-Dumping Agreement of the WTO, given that an impartial examination of the points presented in that petition would clearly indicate the inexistence of evidence of dumping practices with respect to Brazilian exports to third countries. Consequently, in the light of the criterion proposed by the Petitioner, the proof relating to the continuation or resumption of the alleged dumping to South Africa as a result of the extinction of the current laws in practice is inexistent, as too, is the proof relating to the continuation or resumption of the alleged harm to the domestic industry. As such, Brazil warns that the initiation of an investigation based on an unjustified petition and on a biased analysis of the proof of evidence presented, is a flagrant non-compliance of the obligations established in the above-mentioned Article 11.3.

The Commission took note of these comments and stated that it should be noted that it did not initiate this investigation on its own accord. On 2 August 2002, the Board notified the SACU industry through Notice No. 789 in Government Gazette No. 23450, that unless substantiated request is made by it indicating that the expiry of the duties on uncoated woodfree paper in reels and sheets originating in or imported from Brazil, Indonesia, Poland and Sweden, would likely to lead to continuation or recurrence of dumping and injury, the anti-dumping duties on uncoated woodfree paper in reels and sheets originating in or imported from Brazil, Indonesia. Poland and Sweden would expire on 13 February 2003. On 29 January 2003, the Board decided to initiate a review of the anti-dumping duties on uncoated woodfree paper in reels and sheets originating in or imported from Brazil and Poland, as it was of the opinion that the SACU industry provided prima facie information to justify the initiation of a review.

Deficiency letters were sent to exporters on 6 May 2003. On 30 May 2003, the non-confidential versions of the exporter's responses were given to the Petitioner for comment.

The information submitted by the exporters of the subject product was verified on 7 July 2003 to 18 July 2003.

On 30 September 2003 "essential facts" letters were sent out to all interested parties and the deadline for comments was 10 November 2003.

On 3 December 2003 the Commission considered all the comments received from interested parties in response to the "essential facts" letters. The Commission then made its final determination.

<u>Comments by the Government of Brazil on the essential facts letter:</u>

The Brazilian Government stated that the initiation of the referred review took place without the presentation of a justified petition from the local industry concerning the need for the continuation of this right, that is, a petition which contained sufficient elements to prove that the cancellation of this right would most probably mean the continuation or resumption of the dumping and the alleged injury, in terms of Article 11.3 of the Anti-Dumping Agreement.

The Commission considered these comments and stated that it should be noted that it decided to initiate a review of the anti-dumping duties on uncoated woodfree paper in reels and sheets originating in or imported from Brazil and Poland, as it was of the opinion that the SACU industry provided prima facie information to justify the initiation of a review.

1.4 INVESTIGATION PERIOD

The period of investigation for dumping is the period 1 January to 31 December 2002, and the period of investigation for injury is 1 January 1998 to 31 December 2002. An estimate of what the situation will be if the duties expire was also considered by the Board for purposed of initiation.

1.5 PARTIES CONCERNED

1.5.1 SACU industry

The SACU industry consists of two producers of the subject product, namely, Mondi Paper and Sappi Fine Paper (Pty) Ltd.

The Paper Manufacturers Association of South Africa (PAMSA) represents the SACU industry.

Mondi Paper submitted dumping information and both Mondi Paper and Sappi Fine Paper submitted material injury information.

1.5.2 Exporter

The following exporters were identified as interested parties:

BRAZIL:

(a) Companhia Suzano de Papel e Celulose

(b) Ripasa SA Celulose e Papel

(c) Votorantim Celulose Papel LTDA

(d) International Papers (previously Champion Papel e Celulose)

Full and complete information, was submitted by:

(a) Companhia Suzano de Papel e Celulose (Suzano),
(b) International Paper do Brasil LTDA (International Paper), and
(c) Ripasa SA Celulose e Papel (Ripasa).

The following companies' information was verified:
(a) International Paper do Brasil LTDA (International Paper), and
(b) Ripasa SA Celulose e Papel (Ripasa).

The investigating officers arranged for the verification of the information submitted by Suzano on 10 July 2003. On arrival, the investigating officers was informed by the Managing Director of Suzano that the information provided by them, contained mistakes and that he did not feel comfortable to proceed with the verification of the information. The Commission decided on 13 August 2003 that the information provided by Suzano be disregarded for purposes of this investigation and that they be informed accordingly. The Commission decided to remove the specific duty applicable to Suzano and that imports from them be subject to the residual duty.

Information provided by Ripasa and International Papers were verified at their offices.

On 19 June 2003 Votorantim Celulose E Papel (Votorantim) and Ripasa S.A. Celulose e Papel (Ripasa) were informed that their information would not be taken into account, since they did not supply a non-confidential version of their response. On 25 June Ripasa responded by stating that all the information provided should be regarded as non-confidential. The Commission subsequently informed Ripasa that its information would be taken into consideration for this investigation.

The Commission therefore decided that the specific duty applicable to Votorantim be removed and that imports from them be subject to the residual duty.

POLAND

(a) KOSTTRZYN Paper S. A.

No response by the Polish manufacturers /exporters was received.

<u>Comments by the Petitioner:</u>

The Petitioner stated that as no input had been received from Polish suppliers of uncoated woodfree paper and the Board would, therefore, have to use the best available data concerning that source in its investigation.

The Petitioner is also of the view that the responses are deficient and should be disregarded entirely; or the deficiencies addressed and Mondi given a further opportunity to provide more meaningful comment; that review investigations concern the future likelihood of injurious dumping recurring and that there are no arguments, substantiated or otherwise, in the submissions to indicate that injurious dumping will not recur; and that the Board should construct the various prices needed to determine normal values, export values, and margins of dumping, etc, in addition to the verifying company data, in view of the fact that aggregated accounting is used by both respondents; that the respondents' exports to all countries over a representative period would need to be examined in detail to determine whether there is a pattern of dumping ('behaviour') to any, or particular markets and such data should also be checked against official Brazilian export data.

These comments were presented to the Commission on 18 June 2003. The Commission decided that it was satisfied that the exporters, Suzano and International Paper provided the information according to the guidelines as set out in the exporters' sunset review questionnaire.

1.5.3 Importers

The following SACU importers were identified as interested parties:

(a) Finwood Papers

(b) First Paper House

(c) Haddons

(d) Papersmith & Son

(e) Peters Papers

(f) Spicers.

There were no responses from any importers.

2. PRODUCTS, TARIFF CLASSIFICATION AND DUTIES

2.1 IMPORTED PRODUCTS

2.1.1 Description

The subject product is described as:

Uncoated Woodfree Paper in reels and sheets.

2.1.2 Country of origin/export

The subject product is exported from Brazil and Poland

2.1.3 Application/end use

The imported subject product is used for conforming paper, the scholastic market, kraft and printing.

2.1.4 Tariff classification

The subject product is classifiable as follows:

Table 2.1.4(a)

Tariff subheading	Description	Duty
48.02	Uncoated paper and paperboard, of a kind used for writing, printing or other graphic purposes, and punch card stock and punch tape paper, in rolls or sheets (excluding paper of heading No. 48.01 or 48.03); hand-made paper and paperboard:	
4802.52	= Of a mass of $40gm/m^2$ or more but not more than $150g/m^2$	8%

On 30 January 2002, SARS re-classified this product as follows:

Table 2.1.4(b)

Tariff subheading	Description	Duty
48.02	Uncoated paper and paperboard, of a kind used for writing, printing or other graphic purposes, and non perforated punch-cards and punch tape paper , in rolls or rectangular (excluding square) sheets, of any size (excluding paper of heading No. 48.01 or 48.03); hand-made paper and paperboard:	
4802.55	= Of a mass of 40gm/m^2 or more but not more than 150g/m^2	7%

2.1.5 Other applicable duties and rebates

The following rebate provision existed until January 2002:

Table 2.1.5

Rebate item	Description	Extent of rebate
310.08	Other uncoated paper and paperboard, not containing fibres obtained by a mechanical process or of which not more than 10 percent by mass of the total fibre content consists of such fibres, of a mass of 40g/m^2 or more by not more than 150g/m^2 for the manufacture of banknotes	Full duty

The subject products are subject to the following anti-dumping duties:

Tariff subheading	Description	Imported from or originating in	Company	Rate of anti-dumping Duty %
4802.52	Uncoated paper and paperboard, white, not containing fibres obtained by a mechanical process, of a mass of 40g/m^2 or more but not more than 120g/m^2, of a kind used for writing, printing or other graphic purposes, and punch card stock and punch tape paper	Brazil	VCP	Reels 26,0
			Ripasa	Reels 9,9 Sheets 9,9
			Champion	Reels 19,0 Sheets 12,6
			Suzano	Sheets 12,6
			All others	Reels 26,4 Sheets 13,2
		Indonesia	Indah Kiat	No anti-dumping duty
			All others	Reels 20,5 Sheets 20,5
		Poland	All companies	Reels 15,5 Sheets 8,9
		Sweden	Eikman Liebig and Hans Anderson	Reels 13,2 Sheets 13,2

2.1.6 Production process

The subject products have the following production processes:

First stage:

The removal of bark from the wood and the reduction of the wood to small chips, which are then treated chemically at high temperatures and pressures to produce a liquified mixture of wood fibres (wood pulp). The pulp is then bleached to whiten the mixture.

Second stage:

This stage consists of refining and separation of fibres and the addition of fillers and chemicals, which impact on the appearance and physical properties of the final product.

The pulp slurry is then fed into paper machines where it is distributed evenly on endless screens of very fine mesh and gradually de-watered by suction/gravity. Once the fibres are capable of supporting their own weight, they have become paper. Additional liquid is then removed with pressure before the paper enters the first drying section of processing, where additional liquid is removed over series of heated drums. During this process, surface sizing is added to the paper to bond the surface fibres and increase the strength of the paper. In a second drying process the paper is brought to its correct final moisture content, after which the finished paper emerges from the paper machine and is wound onto larger rolls.

The final stage of processing is the winding of the paper onto smaller rolls and the paper is then ready for distribution. Alternatively, the paper on rolls is fed into sheeters, which cut the paper into larger sheets.

2.2 SACU PRODUCT

2.2.1 Description

The subject product is described as:

Uncoated woodfree paper in reels and sheets.

2.2.2 Application/end use

The SACU product is used for conforming paper, the scholastic market, kraft and printing.

2.2.3 Tariff classification

The SACU product is currently classifiable under tariff subheading 4802.55.

2.2.4 Production process

The subject products have the following production processes:

First stage:

The removal of bark from the wood and the reduction of the wood to small chips, which are then treated chemically at high temperatures and pressures to produce a liquified mixture of wood fibres (wood pulp). The pulp is then bleached to whiten the mixture.

Second stage:

This stage consists of refining and separation of fibres and the addition of fillers and chemicals, which impact on the appearance and physical properties of the final product.

The pulp slurry is then fed into paper machines where it is distributed evenly on endless screens of very fine mesh and gradually de-watered by suction/gravity. Once the fibres are capable of supporting their own weight, they have become paper. Additional liquid is then removed with pressure before the paper enters the first drying section of processing, where additional liquid is removed over series of heated drums. During this process, surface sizing is added to the paper to bond the surface fibres and increase the strength of the paper. In a second drying process the paper is brought to its correct final moisture content, after which the finished paper emerges from the paper machine and is wound onto larger rolls.

The final stage of processing is the winding of the paper onto smaller rolls and the paper is then ready for distribution. Alternatively, the paper on rolls is fed into sheeters, which cut the paper into larger sheets.

In the original investigation, the Board decided that the SACU product and the imported products are "like products", for purposes of comparison, in terms of Article 2.6 of the Anti-Dumping Agreement.

3. SACU INDUSTRY

3.1 INDUSTRY STANDING

Article 11.3 of the Anti-Dumping Agreement provides as follows:

"Notwithstanding the provisions of paragraphs 1 and 2, any definitive anti-dumping duty shall be terminated on a date not later than five years from its imposition (or from the date of the most recent review under paragraph 2 if that review has covered both dumping and injury, or under this paragraph), unless the authorities determine, in a review initiated before that date on their own initiative or upon a duly substantiated request made by or on behalf of the domestic industry within a reasonable period of time prior to that date, that the expiry of the duty would be likely to lead to continuation or recurrence of dumping and injury. The duty may remain in force pending the outcome of such a review.".

Article 5.4 of the Anti-Dumping Agreement, further provides as follows:

> "The application shall be considered to have been made 'by or on behalf of the domestic industry' if it is supported by those domestic producers whose collective output constitutes more than 50 per cent of the total production of the like product produced by that portion of the domestic industry expressing either support for or opposition to the application. However, no investigation shall be initiated when domestic producers expressly supporting the application account for less than 25 per cent of total production of the like product produced by the domestic industry.".

Mondi Paper and Sappi Paper are the only two manufacturers of the subject product under investigation. Both these manufacturers supported the petition, and submitted material injury information.

The Board decided that the petition could be regarded as being made "by or on behalf of the domestic industry" under the above provisions of the Anti-Dumping Agreement.

4. DUMPING

4.1 DUMPING

Chapter 1 of the ITA Act, provides a definition of the term "dumping". The Act provides as follows:

" "dumping" means the introduction of goods into the commerce of the Republic or the Common Customs Area at an export price contemplate in section 32(2)(a) that is less than the normal value, as defined in section (32)(2), of those goods; "

4.2 NORMAL VALUE

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

"normal value", in respect of any goods, means-
the comparable price paid or payable in the ordinary course of trade for like goods intended for consumption in the exporting country or country of origin; or
in the absence of information on a price contemplated in subparagraph (i), either-
the constructed cost of production of the goods in the country of origin when destined for domestic consumption, plus a reasonable addition for selling, general and administrative costs and for profit; or
the highest comparable price of the like product when exported to an appropriate third or surrogate country, as long as that price is representative;

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

> "If the Commission, when evaluating an application concerning dumping, concludes that the normal value of the goods in question is, as a result of government intervention in the exporting country or country of origin, not determined according to free market principles, the Commission may apply to those goods a normal value of the goods, established in respect of a third or surrogate country."

4.3 EXPORT PRICE

Export prices are determined in accordance with Section 32(2) of the ITA Act, which provides as follows:

" "export price", subject to subsections (3) and (5), means the price actually paid or payable for goods sold for export, net of all taxes, discounts and rebates actually granted and directly related to that sale; "

Section 32(5) and (6) ITA Act further provide as follows:

"(5) The Commission must, despite the definition of "export price" set out in subsection (2), when evaluating an application concerning dumping that meets the criteria set out in subsection (6), determine the export price for the goods in question on the basis of the price at which the imported goods are first resold to an independent buyer, if applicable, or on any reasonable basis.

(6) Subsection (5) applies to any investigation of dumping if, in respect of the goods concerned-
there is no export price as contemplated in the definition of dumping;
there appears to be an association or compensatory arrangement in respect of the export price between the exporter of foreign manufacturer concerned and the importer or the third party concerned; or
the export price actually paid or payable is unreliable for any other reason."

4.4 ADJUSTMENTS

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

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

Both the Anti-Dumping Agreement and the ITA Act provide that due allowance shall be made in each case for differences in conditions and terms of sale, in taxation and for differences affecting price comparability. The Commission considers that for an adjustment to be allowed, quantifiable and verified evidence has to be submitted, and it must further be demonstrated that these differences actually affected price comparability at the time of setting the prices.

4.5 COMPARISON OF EXPORT PRICE WITH NORMAL VALUE

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

4.6 METHODOLOGY IN THIS INVESTIGATION FOR POLAND

4.6.1 Normal Value

Type of economy

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

As the exporters in Poland did not cooperate, the best information available is the information provided by the Petitioner, used for purposes of initiation of the review.

The Petitioner used the ruling average net ex-factory prices (normal value) in the domestic markets of the countries petitioned (mid 2002) in R/kg basis and based on reel/sheet split of 80:20 and at an exchange rate of US$1,00 = R8,6031, and calculated the following ex-factory prices for purposes of initiation:

Table 4.6.1

Country	Normal value - Source 1 Rand/kg	Normal value - Source 2 Rand/kg
Poland	5,91	5,83

Normal value information from two independent sources in Poland was obtained. The normal values obtained by Sappi Fine Paper is referred to as Source 1 and the normal value information obtained by Mondi Paper is referred to as Source 2. The Petitioner stated that the information from these sources is regarded as the best available information.

The Petitioner stated that domestic prices for representative substances were obtained for the affected countries and where necessary calculated back to net ex-factory price using existing information concerning the industry/trade (e.g. by deducting delivery costs, applicable taxes, rebates/discounts, etc.)

For purposes of the final decision, the Commission decided to use the information as provided by the Petitioner.

4.6.2 Export price

Section 32(2) (a) of the ITA Act defines export price as the price actually paid or payable for goods sold for export, net of taxes, discounts and rebates actually granted and directly related to that sale.

The petitioner provided the following export price:

Table 4.6.2

Country	Export price Rand/kg
Poland	4.30

The Petitioner used only exports to certain third countries to determine the export price. In its calculations, the Directorate used all the exports to third countries to determine the export price. The Commission decided on 15 January 2003 to use the export price the Petitioner provided, that is exports to certain third countries. The Commission confirmed this decision for purposes of its final decision.

Comments by the Petitioner:

The Petitioner stated that its research also indicated that imports of products subject to anti-dumping duties are likely to be limited and that in anti-dumping review investigations it is common practice to use the subject country's export statistics of exports to various third countries (excluding exports to countries applying anti-dumping duties) to determine the representative export prices. The Petitioner stated that the premise being that in the absence of anti-dumping duties, the prices at which the product will be exported to SACU will be similar to the lower export prices to a range of third countries. The Petitioner stated that in view of the fact that the SARS statistics did not provide a reliable data source, it believes that the use of the subject country's export statistics is a valid, reliable and recognised methodology to determine the export price.

4.6.3 Dumping Margin

The following dumping margin was calculated for Poland:

Table 4.6.3

	Source 1	**Source 2**
Normal value	5,91	5,83
Export price	4,30	4,30
Dumping margin	1,61	1,53
DM as a % of EP	37.44%	35,58%

Source 1: Information provided by Sappi
Source 2: Information provided by Mondi

Comments by the Petitioner on the essential facts letter:

The Petitioner stated that the anti-dumping duties of 8,9%on Sheets, and 15,5% on Reels proposed on imports to the SACU from Poland of the subject products will provide a measure of protection from a recurrence of material injury arising from dumping by Polish exporters to the SACU.

4.7 METHODOLOGY IN THIS INVESTIGATION FOR BRAZIL

4.7.1 Normal Value

Type of economy

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

4.7.1.1 International Paper

International Paper changed its name from Champion Paper E Celulose LTDA, against which the duties were previously imposed.

Normal value definition

Like products to that exported to the SACU in the original investigation were sold in the domestic market in Brazil in the ordinary course of trade. In accordance with section 32 (2)(b)(i) of the ITA Act, invoiced sales values to distributors and wholesalers were used as the basis for determining the normal values.

The exporter provided an electronic version of all the domestic sales for the period of investigation.

Adjustments to normal values

The exporter claimed the following adjustments, which were verified and allowed by the Commission:

- ***Finance cost***

  Finance cost is negotiated for each customer and indicated on the order. On the spreadsheet the actual finance cost was deducted to arrive at the ex-factory selling price on a transaction-by-transaction basis.

- ***Taxes on domestic sales***

  <u>ICMS</u>

  This is similar to VAT and depends on the region where goods are moved to and can vary from 0% (for free trade zones) to 18% (São Paulo).

  <u>IPI (Excise Tax)</u>

  This tax is normally paid on an *ad valorem* basis according to the classification of the product. Rates range from 0% to a maximum of 365.63%, but the average is 10%. Luxury goods are at the high end of the tax scale. The IPI tax is passed on to the purchaser through an addition to the sales price. The amount included in the billing is reflected separately on the tax invoice.

COFINS

This tax is described as a "social contribution" and is raised for the funding of social welfare programs. The COFINS, charged on "gross receipts", includes income from financial investments, currency transactions, and financial transactions, but is not payable on export sales.

Employees profit participation scheme (PIS)

The PIS program was created to fund the unemployment insurance program. The fund is financed by an employer contribution of gross receipts. Export sales are exempted from payments under this scheme.

- ***Transport cost***

  Products sold on the domestic market are transported by truck and payable by the customer. Where it was negotiated that the company pays the transport, it was deducted from the selling price in order to calculate an ex-works price on a transaction by transaction basis.

Ex-factory Domestic Prices

The ex-factory prices were calculated taking the above adjustments into account.

4.7.1.2 Ripasa

Invoiced sales value to distributors was used as the basis for determining the normal values. From the financial statements, the gross sales for the domestic market were determined for the period of investigation.

Adjustments to normal values

The exporter claimed the following adjustments, which were verified and allowed by the Commission:

- ***Finance cost***

  Finance cost is negotiated for each customer and indicated on the order. The finance cost for domestic sales was calculated from the financial statements.

- ***Taxes on domestic sales***

  Taxes on domestic sales were determined using the financial statements.

No adjustment was made for transport, as all domestic sales were "payment on site".

The Commission decided not to allow the following adjustment for advertising:

- ***Advertising***

  An adjustment was claimed for advertising on the domestic market. A client uses Ripasa's name on the final products. This does not occur on all sales. The Commission decided not to take this adjustment into consideration as it was of the opinion that it did not affect the price at the time of setting the price.

The normal value after adjustments (excluding advertisement) was calculated.

<u>Comments by the Petitioner:</u>

The Petitioner stated that it is not clear, from the cost build-up furnished by Ripasa, whether selling costs are included. The domestic selling prices may, therefore, be understated (i.e. real domestic prices may be higher than indicated). The single example of export prices provided is to a country believed to be a non-paper produced country. The choice of exports to Nigeria as an example of export pricing is not regarded as representative, and may have been selected to indicate that, on the data submitted and on average, exports to that particular destination were not dumped. If domestic selling prices are understated, many of the exports, even to Nigeria, may have been dumped.

Furthermore, referred the Commission to the relevant information requested in the manufacturer/ exporter sunset review questionnaire, namely Section E.1 and E.2.
"E1.1 If you did not export the subject product to South Africa during this period, provide details of your exports of the subject products to all other foreign markets for this period, in order for the Board to determine whether the expiry of the dumping would be likely to lead to the recurrence of the dumping.
E1.2 Substantiate the details in E1.1 with documentary evidence."

In sunset reviews, the likelihood of injurious dumping recurring has to be determined (i.e. the behaviour of the country/manufacturer/exporter), placing extreme emphasis on exports and historical and current export behaviour to third countries, as well as the demand/supply situation in the country of origin, and internationally, in order to determine likely future behaviour. Information concerning this critical element in review investigation provided by Ripasa, in E1.1 and E1.2, is clearly and wholly deficient. Mondi Paper, therefore, requested that the Commission disregards the information submitted, that Ripasa be regarded as uncooperative and that the best available data be used instead, i.e. that submitted in Mondi Paper's submission.

It is Mondi Paper's view that in review investigations, to determine the likelihood of injurious dumping recurring, the export behaviour of firms/countries cited in petitions needs to be examined to determine whether there is a pattern or history of dumping. This implies that export pricing to a representative range of markets needs to be examined over time. Should ITAC, not withstanding the deficient response of Ripasa, decide to carry out a verification, Mondi Paper specifically request that ITAC carefully verifies the domestic selling prices and export pricing of the firm to all countries over a representative period to determine whether there is a tendency ("behaviour") to dump in any, or in particular markets. In review it appears appropriate to determine dumping margins on the basis of comparing normal value and export prices on an actual transaction-by-transaction basis. This is also in line with Mondi Paper's understanding of accepted practice in review investigations to establish an exporter's behaviour. Should an exporter dump in certain third countries, it is highly likely that dumping will resume in the event of the expiry of existing anti-dumping duties.

The Petitioner stated that comments submitted in previous submissions, concerning the worldwide over- supply and capacity situation, as well as those in Brazil, are also relevant to Ripasa and should be considered by ITAC during its evaluation.

The Commission considered these comments and decided that Ripasa provided the investigators with export sales for the period of investigation, to all third countries. Ripasa furnished a cost build-up during the verification, in the format required in the exporters' sunset review questionnaire. The domestic selling prices and export prices to all countries, over a representative period, were verified to determine whether the subject product was exported at dumped prices.

Comments by the Brazilian Government:

The Brazilian Government stated that in order to determine the normal value, the petitioning company (Mondi Paper, hereinafter referred to as the "petitioner"), supported by the company Sappi Fine Paper (Pty) Limited, alleges that it carried out a survey of prices, based on a simple telephone quotation, and has neither presented any formal evidence, nor specified the period during which this survey was carried out. They state that this is merely an allegation made by the petitioner and that it should be considered that, in Brazil, at least, the producing/exporting companies do not, as a norm, provide telephonic quotations, which would mean that the prices considered refer to prices applied by distributors, and hence not comparable to the considered exportation price.

Based on this survey, two normal values were arrived at, equal to a weighted average of 80% for reels and 20% for sheets. These values are hereinafter referred to as (NV1), the average presented by Sappi Fine Paper (PTY) Limited and (NV2), the average presented by the petitioner Mondi Paper (R5,91 per kg and R6,68, respectively), for the product sold in the Brazilian market (similar product).

With relation to the "normal values" found and accepted by the investigating authority for the determination of the dumping activities and the calculation of their margins, they state that the following considerations are relevant:

- in order to determine such values, a telephonic consultation, carried out on an unknown date, within one market only, and without the presentation of any document to sustain the furnished information, was taken as the basis;

- the normal value, even if taken as the cornerstone for the whole investigation, was not adjusted for:

    - Terms of credit
    - Taxes
    - Level of trade

Having made the relevant observations concerning disagreement with the "normal values", presented by the petitioner, and the methodology used to adjust them, and with a view to proceeding with their argument, they took the "normal values" presented and accepted by the investigating authority and considered them under the following aspects:

- Inexplicably, the components relating to taxes, financial and volume discounts, and the pertinent adjustments for different levels of trade, were not subtracted from the normal value in arriving at a normal value comparable to the exportation price presented. Taking into account that it is up to the investigating authority to proceed with the analysis of the proof of evidence presented in the petition, and considering further that the should be aware of the Brazilian tax structure - given that the same product already has been investigated - it is curious that during the course of the examination of the petition the petitioner was not asked to provide information relating to the taxes applicable to the investigated. Had, at least, the necessary adjustments regarding the IPI, ICMS and PIS/COFINS and other parameters adopted in other investigations (volume discounts and financial discounts) been made, it would have been deduced that the "normal values", appropriately adjusted, would have been the following:

TABLE 1 SOURCE 1

	Tax rate applied (%)	Reels Values in R$	Sheets Values in R$
NV1		1.990,00	2.120,00
IPI	12	213,21	227,14
ICMS	18	358,20	381,60
PIS/COFINS	3,65	64,85	69,09
Volume discount	3	59,70	63,60
Financial discount	2,5	49,75	53,00
ADJUSTED NV1		1.244,29	1.325,57

Based on Annexure 4 of the petition, Source 1

TABLE2 SOURCE 2

	Tax rate applied (%)	Reels Values in R$	Sheets Values in R$
NV2		2.045,00	2.175,00
IPI	12	219,11	233,04
ICMS	18	368,10	391,50
PIS/COFINS	3,65	66,65	70,88
Volume discount	3	61,35	65,25
Financial discount	2,5	51,13	54,38
ADJUSTED NV2		1.278,66	1.359,95

Values at 18/06/2002

Based on annexure 4 of the petition, Source 2

The Brazilian Government stressed that the adjusted normal values, are still under-estimated, since they should have been further adjusted with a view to bringing them to the same sales level as the export price considered.

- Currency conversion

Resorting to the "adjusted normal values" arrived at above, they then moved on to the currency conversion of values into US$ and Rand:

It should be stressed that with respect to source 1, the exchange rate of US$1,00 = R$2,90 was used by the petitioner; the period/date to which it refers has not been indicated. For source 2, meanwhile, the Real/US Dollar rate ruling as at 18 June 2002 was used.

TABLE 3 SOURCE 1

	Reels	**Sheets**
ADJUSTED NV1 in R$	1.244,29	1.325,57
Weighted average*	1.260,55	
US$ exchange rate**	2,90	
Value in US$	434,67	
Rand exchange rate	8,6031	
Value in Rand	3.739,52	
Rand/KG	3,74	

* Use of criterion 80:20 for Reels and Sheets, respectively.

** Same rate as used by the petitioner

TABLE 4 SOURCE 2

	Reels	**Sheets**
ADJUSTED NV2 in R$	1.278,66	1.359,95
Weighted Average*	1.294,92	
US$ exchange rate**	2,67	
Value in US$	484,99	
Rand exchange rate	8,6031	
Value in Rand	4.172,40	
Rand/KG	4,17	

* Use of criterion 80:20 for Reels and Sheets, respectively.

** Same rate as used by the petitioner

The Brazilian Government then argued further that, considering the appropriately adjusted "normal values" - and merely for purposes of discussion - accepting the exchange rates chosen by the petitioner, it can be shown that there was no dumping practiced with regard to the Brazilian exportation of the product investigated, and consequently, taking into account the criterion used by the petitioner itself, there is no proof of evidence relating to the continuation or resumption of the alleged dumping as a result of the cancellation of the right.

The "normal values" of R3.74 per kg and R4.17 per kg in 2001 are lower than the average export price of Brazil to other countries in 2001, namely R5.68 per kg. In 2001, the period in which, apparently, the petitioner has considered for the purpose of presenting his case about the possibility that dumping had been resumed and the damage emanating there from. This allowed them to dispute the allegation that Brazil had resumed dumping practices after the withdrawal of the right, since it would be practicing dumping with regard to its exports to third party markets. Moreover, they stated that it is seen that the price applied by the domestic South African industry is within the range of R4.30 per kg and R5.32 per kg, that is, greater than the above-mentioned normal value, which has been under-estimated in any event. This shows that the Brazilian exporters do not need to practice dumping in order to enter the South African market. In truth, the cancellation of the right in question will allow for the Brazilian exporters to export at non-dumping prices.

The Commission was of the opinion that there was *prima facie* evidence to initiate this investigation. The Commission further noted that it used the verified normal values as provided by the exporters.

4.7.2 Export prices

4.7.2.1 Definition of Export price

Section 32(2) (a) of the ITA Act defines export price as the price actually paid or payable for goods sold for export, net of taxes, discounts and rebates actually granted and directly related to that sale.

4.7.2.2 International Paper

Since International Paper did not export the product under investigation to the SACU Area, during the period of investigation, the export price was determined using all sales to third countries. This was provided on a transaction-by-transaction basis.

Adjustments to export prices

The Commission made the following adjustments to the export prices for purposes of the calculation of the ex-factory export prices:

- ***Sea freight***
  The sea freight was deducted on a transaction-by-transaction basis to get to an ex-factory price.

- ***Commission***
  The commission payable was deducted on a transaction - by-transaction basis to get to an ex-factory price.

- ***Credit costs (terms of sale)***
  Credit costs for exports sales were deducted on a transaction-by-transaction basis to get to an ex- factory price.

- ***Tax (PIS)***
  These taxes credits are given to exporting companies in order to reverse the PIS and COFINS effects on the goods to be exported. PIS and COFINS are included on the transaction prices of those goods. However, when the exporting company sells the goods, the taxes are not included in the export-selling prices because the Government has exempted the taxes for export transactions. Therefore, the tax credit was created in order to compensate the exporters of such taxes. The exporter receives a refund of the PIS and

COFINS on the goods exported. The exporter is granted a credit on the taxes payable on domestic transactions.

Comments by the Petitioner on the essential facts letter:

The Petitioner stated that an in depth knowledge of the working of the Brazilian internal market and the accounting practices of International Paper and Ripasa is required to be able to comment authoritatively on various issues that may affect the price adjustments claimed by them. The Petitioner stated that both the COFINS (social contribution) and PIS (employees profit participation scheme), which are refunded on exports, appear to constitute measures that may have the effect of export subsidies or bounties. As such, the Petitioner feels that these costs should not be allowed as a deduction from the domestic price in determining the normal value for either firm, and should also be excluded from the export price.

Comments by the Brazilian Government on the above mentioned comments:

The Government of Brazil stated the reimbursement of the PIS and COFINS taxes in export transactions would seem, at first, as a measure that could have a similar effect to an export subsidy, but such a statement does not proceed. The PIS as well as the COFINS rely on the company's turnover, thus they are indirect taxes whose reimbursement in exportations consists of a valid legal procedure in the Agreement on Subsidies and Compensatory Measures of the WTO. The Government of Brazil stated that the regarding the Anti-dumping Agreement, the nature of the PIS and COFINS allows them to be included in calculations of normal value adjustments in terms of Article 2.4. The Brazilian Government feels that the adjustment in the normal value should have been made for all the Brazilian exporting companies considered in the investigation and requests that the anti-dumping rights on Brazilian exports should not be renewed.

Ex-factory Export Price

Taking the above adjustments into account, the ex-factory export prices and a weighted average export price were calculated for the subject products concerned.

4.7.2.3 Ripasa

Since Ripasa did not export the product under investigation to the SACU Area during the period of investigation, Ripasa provided sales to third countries. This was provided by month, per region.

The Commission made a decision that, as investigators were able to verify the information provided by Ripasa, in the format provided by them, that Ripasa's information be taken into account for purposes of this investigation.

Adjustments to export prices

The Commission made the following adjustments to the export prices for purposes of the calculation of the ex-factory export prices:

- ***Freight***
  Freight was already deducted on the documentation provided to get to an ex-factory price, as it was done on a transaction-by-transaction basis.

- ***Credit costs (terms of sale)***
  Sales on the export markets are done mainly by letter of credit. In the some instances, part of the payment is done before shipment of the product.

A weighted average for export sales from Ripasa was calculated.

Comments by the Brazilian Government:

The Brazilian Government stated that for the purposes of determining the export price, the average exportation FOB value of the product investigated to third countries was used, as per annexure 5 of the petition. It is alleged that the official information of the countries affected by the measure is more adequate than the export prices to SACU. The petitioner did not show which methodology was adopted in order to arrive at the export price, presenting in its annexure 5 lists with Brazilian prices and export volumes for the periods 1998, 1999, 2000 and 2001. Therefore, believing the price of R4.47 per kg, presented as the export price adopted by Brazil to reflect the average of the above-mentioned years, we present the following considerations:

Firstly, Article 2.4 of the Anti-dumping Agreement establishes that:

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

The Brazilian Government stated that it did not make sense to compare the normal value corresponding to a specific year with an export price, which corresponds with the average price for four years. They stated that any Article of the Antidumping Agreement of the WTO does not support such a procedure.

Secondly, since the Petitioner believes that the official information of the countries affected by the measure is more adequate than the export prices to SACU, the Brazilian Government present the official average export price of Brazilian exports for the product considered by the petitioner in 2001:

TABLE 5

NCM Code	NCM Description	Net Kg	US$	Average price US$/Kg	Average price Rand/Kg
4802.52	OTHERS. PAPER/FIBRELESS CARDBOARD ...	264083146	174438452	0,66	5,68

Period : 01/2001 to12/2001

Source: SECEX – EXTERNAL COMMERCE SECRETARIAT

MINISTRY OF DEVELOPMENT, INDUSTRY AND EXTERNAL TRADE"

The Commission confirmed its preliminary decision to use the verified normal values as provided by the exporters.

<u>Comments by the Petitioner on the essential facts letter:</u>

Mondi and Sappi stated that they are not aware of the method used by ITAC to determine normal values and base export values in the review investigation. In this regard, the Petitioner submitted that it is regarded appropriate in review investigations to specifically examine lower price export transactions to specifically examine lower price export transactions of exporters to various countries over a number of years, and not random transactions of average export prices to determine likely export prices to the SACU in the absence of anti-dumping measures. The Petitioner stated that the reason for this view is that during the validity of anti-dumping duties, exports to the affected country, are likely to be minimal, non-existent, or otherwise not representative, and only by examining "dumped" export prices to other markets can indications of likely export prices to the SACU in the absence of anti-dumping measures be gained. Examining export transactions in the lower price (dumped) ranges is regarded as essential and a valid methodology as, in order to gain market share, it is likely that these lower order export prices will be representative of export prices to the SACU if anti-dumping duties are terminated. Also, only be examining lower export prices over a representative period does the behaviour of the affected exporters become transparent, i.e. do the exporters exhibit a tendency to engage in more severe dumping in any or specific markets. Should such a behavioral pattern be found, it is not unreasonable to conclude that they would behave similarly towards the SACU market in the absence of anti-dumping measures. Mondi and Sappi requested that ITAC consider applying the foregoing methodology to International Paper and Ripasa to determine whether, by this, method, the likelihood of injurious dumping causing material injury to SACU producers is significantly increased. Should this be the case, it is requested that the proposed anti-dumping duties applicable to International Paper and Ripasa be increased to at least the level proposed for other Brazilian exporters.

The Commission considered the domestic sales and exports during the period January 2002 – December 2002, as was specified in the Government Gazette. As there were no exports to the SACU Area during the period of investigation, exports to third countries was used to determine the export price. In view of the discovery of continued prevalence of dumping of the product to certain export markets, the current duties will remain in place in the case of a sunset review.

4.7.3 Margin of dumping

The following dumping margins were calculated for Brazil:

4.7.3.1 International Paper

The margin of dumping was weighted by using the export volume and then added together. The result of this is a negative dumping margin.

If the weighted average of all the products is calculated, the dumping margin for International Paper can also be calculated as follows:

Table 4.7.3.1(b)

	US$/MT
Dumping Margin	-17.99
Dumping margin as % of export price	-2.86

Comments by the Petitioner:

The Petitioner stated that neither the initial response, nor the "complementary information" contain any data that would allow Mondi to gain a reasonable understanding of whether or not International is engaging in dumping or would not again be dumping should the existing anti-dumping duties expire. Both responses appear not to meet the WTO (or the Board's) directives of providing the reader with a reasonable understanding of the case being made. No attempt has, for instance, been made to index data or to provide any reasonable understanding of the position of International. Under the circumstances Mondi believes the submissions are wholly deficient and should be rejected and that the best available information should be used in the current investigation. International Paper claims (no supporting data) that there are negative margins of dumping, while the data submitted in Mondi's petition indicate certain exports from Brazil at margins of dumping varying between 35% and 59%. It also goes without saying that while International "presently has no applicable anti-dumping duties in any market, except the measure under review in South Africa"; this does not mean that the firm is not engaged in dumping to certain countries that may be injurious.

The Petitioner further stated, in regard to International Paper's response to the deficiency letter, that it is noted that International uses consolidated and that they do not have separate accounting for pulp, rolls, flat sheets and cut sizes. The Petitioner requested that, if it is not possible to disaggregate the accounts in a manner that allows complete accuracy in determining the production cost, profit margins, domestic (normal) and export values of the subject products, the Board also construct prices, as a check on the "disaggregated" values.

They also stated that in sunset reviews the likelihood of injurious dumping recurring has to be determined, and the fact that no exports were made to the SACU is not decisive. It is, rather, the overall behaviour of the exporter that has to be determined and projected to the future. In this regard, Mondi believes it is necessary for the Board to verify exports to all countries over a representative period to determine whether there is a tendency to dump in any, or in particular markets. While Mondi has no insight into the export data submitted by the respondent, there seems to be some confusion concerning the confidential data submitted, as on page 7 the Board is, consequently, requested to correct data originally submitted. In view of the large apparent margins of dumping on product emanating from Brazil established when Mondi prepared its Review Petition, the Board is requested to pay particular attention to this matter during verification, as well as to compare the export values determined in verification with official Brazilian export data and source documents.

4.7.3.2 Ripasa

The dumping margin calculated for Ripasa is as follows:

Table 4.7.3.2

	US$/MT
Dumping Margin	34.83
Dumping margin as a Percentage of export price	5.23%

4.7.3.3 Residual duty

The Commission decided on 13 August 2003 that the information provided by Suzano be disregarded for purposes of this investigation and that they be informed accordingly. The Commission decided to remove the specific duty applicable to Suzano and that imports from them be subject to the residual duty.

The residual duty for Brazil was calculated using the highest normal value (in this case Ripasa's normal value) and the lowest export price (International Paper's export price). This amounted to:

Table 4.7.3.3

	US$/MT
Dumping margin	71.51
Dumping margin as a % of export price	11.36%

Comments by the Brazilian Government:

The Brazilian Government stated that by taking the average export price used by Brazilian exporters, as indicated before, and the normal adjusted values one can conclude that dumping was not practiced with regard to the Brazilian exports of the product in question, and as such there is no basis for the decision to initiate the "sunset review".

TABEL 6

NV 1	**3,74**
Export price	**5,68**
NV 1 – export price	- 1,94
Conclusion	There is no dumping

NV 2	**4,17**
Export price	**5,68**
NV 1 – export price	- 1,51
Conclusion	There is no dumping

They are therefore of the opinion that faced with the inexistence of a properly justified petition, capable of demonstrating the possibility of the resumption of dumping as a result of the withdrawal of the antidumping right, they request that this review be immediately closed and that right in force be removed.

Comments by the Petitioner on the essential facts letter:

The Petitioner stated that the anti-dumping duties of 13,2% on Sheets, and 26,4% on Reels proposed on imports to the SACU from Brazilian exporters of the subject products (excluding International Paper and Ripasa), will provide a measure of protection from a recurrence of material injury being suffered owing to dumping. Exempting International Paper from the proposed duties, and possibly imposing an anti-dumping duty of 9.9% on Sheets only from Ripasa, may, in the view of Mondi and Sappi, greatly increase the likelihood of renewed injurious dumping from both International Paper and Ripasa. The Petitioner urged the Commission to consider imposing at least the same anti-dumping duties on those firms as proposed for other exporters. The Petitioner pointed out that there is an existing global oversupply and overcapacity existing in the paper industry, that the international prices for paper is depressed and that there is generally slack trading conditions, especially in the USA and Europe, two of Brazil's major markets. The Petitioner stated that Brazil is a large producer of uncoated woodfree paper and an aggressive exporter. Brazilian producers installed substantial additional capacity in the 1990s in anticipation of rapid increasing world demand, which has not materialized. Current Brazilian annual production capacity for uncoated woodfree paper is estimated at 1,7 million tons (some 70% of total Brazilian graphic paper production). In 2002 exports were 44 times larger than imports and represented some 34% of total production. The Brazilian domestic market and major export markets, have been characterized in recent years by slack demand, inducing Brazilian exporters to aggressively seek other markets for the substantial output in excess of the slack domestic demand and that displaced from Brazil's prime export markets, the USA and Europe. The Petitioner further stated that this exploitation of any accessible market to place product at large margins of dumping in order to keep plants running at economic levels creates a major risk of a resumption of injurious dumping to the SACU, should the anti-dumping measures in place be discontinued.

Response by the Government of Brazil on these comments:

The Government of Brail stated that there is no base for the argument of the companies Mondi and Sappi, by which the application of differentiated anti-dumping rights – and the exclusion of the company "International Paper" of the application of the duties – would mean that the continuation of the dumping practices causing harm is most likely to happen. It has to be taken into consideration that the decision to apply anti-dumping duties relies on a previous determination of the individual margin of dumping for the companies under investigation. This principle must also be applied in the determinations for the sunset reviews. This means that the anti-dumping rights can only be maintained if it has been proven, company after company, that it is most likely that the dumping practices and their consequential damage will continue. The Government of Brazil feels that if the probability of dumping continuation for a certain company has not been proved, it should necessarily be excluded as a target for the measures to be applied, as it is being proposed for "International Papers".

The Commission considered these arguments and decided that in terms of the Article 11.2 of the Anti-Dumping Agreement a dumping duty can only be retained or imposed if it can be proven that the expiry of the duty would lead to the continuation or recurrence of material injury and dumping. In the case of International Paper, the information indicates that dumping did not take place and there is therefore no justification to retain the duties.

Comments by the Government of Brazil on the essential facts letter:

The Brazilian Government feels that the text of the essential facts does not comply with the requirements of Article 6.9 of the Anti-Dumping Agreement, in view that it only presents the normal value and the export price adjustments, besides the information that the Commission is considering that the elimination of the duty would lead to the continuation or resumption of the dumping and the alleged injury. The Brazilian Government stated that contrary to what is stated in Article 6.9 (applicable the review in Article11.4) the "..essential facts under consideration which form the basis for the decision.." which should base the decision to resume the anti-dumping rights in question are not being present. The Brazilian Government believes that the right of defense of the interested parties constitutes the fundamental principle, which should guide the anti-dumping investigations and reviews. In the present case, the lack of a details presentation of the essentials facts in the document prepared by the International Trade Commission (which only shows the conclusions to be achieved) defers, in practical terms, the interested parties from defending their interests and, consequently, conflicts with the obligations of South Africa within the WTO. The Brazilian Government requested that the South African investigating authority should proceed to the immediate correction of the aforementioned problem.

The Commission considered the arguments and comments and decided that in addition to the non-confidential essential facts letter send to all interested parties, exporters was provided with their own confidential information on which the dumping margins were calculated.

4.8 SUMMARY - DUMPING

On the information supplied, the Commission made a final determination that dumping of the subject product originating in Brazil (excluding that manufactured by International Paper) and Poland is taking place.

5. MATERIAL INJURY

Article 11.3 of the Anti-Dumping Agreement provides as follows:

"Notwithstanding the provisions of paragraphs 1 and 2, any definitive anti-dumping duty shall be terminated on a date not later than five years from its imposition (or from the date of the most recent review under paragraph 2 if that review has covered both dumping and injury, or under this paragraph), unless the authorities determine, in a review initiated before that date on their own initiative or upon a duly substantiated request made by or on behalf of the domestic industry within a reasonable period of time prior to that date, that the expiry of the duty would be likely to lead to continuation or recurrence of dumping and injury. The duty may remain in force pending the outcome of such a review.".

5.1 DOMESTIC INDUSTRY FOR PURPOSES OF DETERMINING MATERIAL INJURY

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

5.2 GENERAL

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

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

(a) the volume of the dumped imports and the effects of the dumped imports on the prices in the domestic market for the like products, and

(b) the consequent impact of these imports on domestic producers of such products".

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

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

The following injury analysis relates to Mondi Paper, the Petitioner and Sappi Fine Paper (Pty) Ltd (supporter of Mondi), which constitute 100% of the total SACU production of the subject product. The Commission decided that this constitutes "a major proportion" of the total domestic production, in accordance with Article 4.1 of the Anti-Dumping Agreement.

Information with regard to each of the injury indicators reflects the position of Mondi and Sappi subsequent to the imposition of the anti-dumping duties, as well as a substantiated estimate of what the effect of the expiry of the duties will have on the SACU industry.

5.3 IMPORT VOLUMES AND EFFECT ON PRICES

5.3.1 Import volumes

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

> "With regard to the volume of the dumped import, the investigating authorities shall consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in the importing Member.".

In 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 allegedly dumped imports of the subject product subsequent to the imposition of the current anti dumping duties (information from SARS statistics):

Table 5.3.1

('000 kg)	1998		1999		2000		2001	
ALLEGED DUMPED IMPORTS	VOLUME	%	VOLUME	%	VOLUME	%	VOLUME	%
BRAZIL	1 082	11%	1 319	15%	79	1%	1 686	25%
POLAND	--	--	--	--	--	--	--	--
SUB TOTAL	1 082	11%	1 319	15%	79	1%	1 686	25%
OTHER COUNTRIES	8 800	89%	7 643	85%	8 669	99%	4 953	75%
TOTAL	9 882	100	8 962	100	8 748	100	6 639	100

The statistics for 2002 are unavailable, as SARS has deleted the sub-headings in Feb. 2002.

The above table indicates imports from the subject countries after the imposition of anti-dumping duties. While the Petitioner concedes that these only comprised small quantities, it was ascertained during verification that no exports from the companies involved took place, and therefore this trickle of imports has been noted.

The Petitioner stated that since the imposition of anti-dumping duties on products emanating from the affected countries, only small quantities of imports have been recorded (none from Poland). The export statistics for the affected products exported from the countries petitioned have instead been used to determine the prices at which the petitioned countries are exporting to third countries.

Mondi stated that past experience concerning dumping has shown that when injurious dumping commences (or recommences) in the SACU market, import volumes rise significantly and price levels fall rapidly to the dumped levels as importers and domestic producers try to retain market share. Domestic or foreign suppliers unable to meet the depressed prices rapidly lose market share and/or are forced to exit the market, their share of the market being taken over by the dumped imports. If the domestic producers opt to “fight it out in the market” (considered the only viable option given the inflexible nature of the production process and the prohibitive cost of running up stocks excessively) the initial result is often that normally priced imports are displaced from the market altogether. If the injurious dumping is not checked there is a real danger that domestic producers will eventually be forced out of the particular market segment. In this regardit must be borne in mind that the domestic market is small in world terms and that relatively small quantities, in world terms, of product dumped in the SACU very severely disrupts this market.

Mondi stated that given the current world overcapacity (capacity some 49 million tons against demand of 42 million tons), the likelihood of greater imports into the SACU is great, as producers try to dispose of surplus production.

Mondi stated that given that suppliers in the petitioned countries previously practiced injurious dumping to the SACU and that export statistics from the petitioned countries clearly indicate that product is being exported to various markets at significant margins of dumping, it is highly likely that if the current SACU anti-dumping duties were to be removed, there would be a recurrence of injurious dumping from those sources. The volumes of imports from the affected countries are likely to rise dramatically if product is landed at the prices indicated, displacing normally priced imports and forcing prices down to the low dumped levels indicated.

Sappi stated that the estimated decline in profits is directly attributable to the prices that will be realised in the market should the anti-dumping duties in place against the petitioned countries be terminated. The calculations are based on the data set out in this section of the submission in which the dumping margins at which products are being exported to various third countries by suppliers in the petitioned countries were set out and from which the likely "dockside prices" of dumped exports from the petitioned countries to the SACU were derived. The normal margin on selling prices to realise satisfactory returns is 20%.

5.3.2 Effect on Domestic Prices

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

> "With regard to the effect of the dumped imports on the prices, the investigating authorities shall consider whether there has been a significant price undercutting by the dumped imports as compared with the price of a like product of the importing Member, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. No one or several of these factors can necessarily give decisive guidance.".

Price undercutting

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

The following table compares the ex-factory selling prices of both Mondi and Sappi with the landed costs of the imported subject product for the years since the duty was imposed, and an estimate for the next year,in the event of the duty expiring:

Table 5.3.2(a)

Rands/kg.	1998	1999	2000	2001	2002	2003 ESTIMATE IF DUTY EXPIRES
Mondi	100	100	100	100	100	100
Sappi	100	100	100	100	100	100
Landed cost:						
Brazil*	104	88	84	95	92	94
Poland	105	76	67	93	89	92
Price undercutting:						
Mondi:						
Brazil*	(4)	12	16	5	8	6
Poland	(5)	24	33	7	11	8
Sappi						
Brazil*	8	18	3	1	(1)	(1)
Poland	20	29	23	4	2	1

****Based on calculated "dockside prices" using affected country fob export statistics to certain third countries and Mondi's net ex-factory selling price.**
This table was indexed due to confidentiality using 1998 as the base year.

Notes:

1. 2002 Export statistics (and prices) for the affected countries not yet available, therefore, the "dockside" prices for 2002 and 2003 are estimates.

2. 2003 "Dockside" and Mondi's selling prices are estimates and are based on the expected lower (dumped) prices that will prevail in the market if the anti-dumping duties are discontinued.

The information above, provides a picture of consistency across the period examined. This supports the viewpoint of the Petitioner of the linking of the production prices to the prevailing international prices. While not necessarily indicative, it is noted that the margin of price undercutting reduces slightly over time.

It is important to note that the Petitioner used exports to only certain countries from the subject countries to determine the landed cost. The petitioner added 18% in 2001 to the export statistic prices for freight, insurance, port handling and duty to determine the landed cost.

Mondi stated that if you use this data and project exports at the dumped prices indicated, it indicates that "dockside prices" would undercut ruling SACU prices significantly and would allow suppliers from the petitioned countries to make significant inroads in the SACU market. Mondi (and other suppliers to the SACU) would have to respond by cutting prices. Mondi is, therefore, likely to lose market share in the SACU and the reduced volumes sold would also be at, or near the dumped price level, causing severe material injury in the form of, inter alia, depressed prices and reduced profitability, or even losses.

Both Mondi and Sappi stated that the removal of the anti-dumping duties will allow suppliers from the petitioned countries to very substantially undercut ruling SACU market prices by dumping product in the SACU market. The effect of such resumed dumping and the probable margins will cause renewed serious material injury to SACU producers as prices will have to be lowered to the dumped levels to maintain market share. In this regard there will also, inevitably, be some loss of market share to the dumped imports resulting in lower profits (or even losses) and some increased inventory costs, even if alternate markets can be found for the displaced product.

Mondi stated that in the absence of the anti-dumping duties (i.e., if they were, for instance, to be terminated in February 2003) it is likely that it could lose up to 10% market share to renewed dumped imports by the petitioned countries and that its prices would also have to be reduced by a similar percentage to retain its reduced market share. This would put huge pressure on profit margins and result in returns on net assets falling far below acceptable levels. In this regard the unsuppressed domestic net ex-factory selling price to yield a required profit margin of x% on selling price is around Rx/kg. The actual projected selling price of only Rx/kg in 2003, indicates a price disadvantage in the order of Ry /kg (x %). A price disadvantage of such order will result in very severe material injury to Mondi.

Mondi and Sappi further stated that in the petitioned countries previously practised injurious dumping to the SACU and that export statistics from the petitioned countries clearly indicate that product is being exported to various markets at significant margins of dumping, it is highly likely that if the current SACU anti-dumping duties were to be removed, there would be a recurrence of injurious dumping from those sources.

Price Depression

Price depression occurs when the domestic industry experiences a decrease in its selling prices over time. The table below shows the SACU industry's domestic selling prices since the duties were imposed, and an estimate for the next year, in the event of the expiry of the duties:

Table 5.3.2(b)

Selling prices	1998	1999	2000	2001	2002	2003 ESTIMATE IF DUTY EXPIRES
Mondi	100	115	148	151	187	168
Sappi	100	108	114	128	150	138

This table was indexed due to confidentiality using 1998 as the base year.

The above information indicates a gradual recovery of prices during the period that the anti-dumping duties were imposed. The Petitioner estimates a sharp decline in prices, should the duties be removed.

Mondi stated that the anticipated decline in selling prices in 2003 of x % is directly linked to the expected dumped price of imported product from the petitioned countries (should the anti-dumping duties expire/be terminated) as determined in the previous section of this submission. Owing to the homogenous nature of the product even small quantities of lowpriced imported product will tend to depress all prices in the market to the dumped level owing to the fiercely competitive conditions that characterise global trade in the subject products.

Sappi stated that selling prices are expected to decline by around x % in 2003 (based on the assumption that the anti-dumping duties terminate early in 2003) and the decline is directly linked to the expected dumped price of imported product from the petitioned countries. In this regard, even relatively small quantities of dumped imports tend to depress all prices in the market to the dumped level owing to the homogenous nature of the product and the fiercely competitive global trade in the subject products.

Mondi stated that since the introduction of the anti-dumping duties, prices in the SACU market have been in a process of gradual recovery to normal levels. As can be seen from the data provided, the removal of the anti-dumping duties will allow suppliers from the petitioned countries to very substantially undercut ruling SACU market prices by dumping product in the SACU market, forcing Mondi to lower prices to meet the dumped pricing levels in order to retain as much market share as possible and to limit, as far as possible, increases in stock.

Mondi stated that the effect of such resumed dumping and the probable margins will, however, cause renewed serious material injury to Mondi, by causing price depression in the domestic market, resulting in reduced income, lower profits, higher inventory costs to Mondi.

It further stated that suppliers in the petitioned countries previously practised injurious dumping to the SACU and that export statistics from the petitioned countries clearly indicate that product is being exported to various markets at significant margins of dumping, it is highly likely that if the current SACU anti-dumping duties were to be removed, there would almost certainly be a recurrence of injurious dumping from those sources.

Mondi stated that there is a situation of substantial excess supply of the subject products in the international market and producers are likely to seek all means to dispose of excess production. The most obvious "tool" available to re-enter the SACU market and gain (regain) market share is to undercut the ruling prices by dumping product.

Mondi stated that as the various tables in this section demonstrate, since the imposition of the anti-dumping duties against the affected countries, there has been a period of relative stability in the SACU market, allowing prices to recover somewhat. The removal of the anti-dumping duties, will, on the evidence available to it, almost certainly lead to significant price depression occurring in the domestic market, causing very serious injury, as actual profit levels have not yet returned to normal after the last round of dumping.

Mondi stated that the reason for this (renewed) injury is that it would have no choice but to meet the injurious dumped prices in order to maintain market share and plant throughput. As with many other industrial processes plant is only viable if kept operating at near full capacity. As massively increasing stockholding is not an economically viable option in meeting disruptive dumped competition, market share must be retained, even though is all but inevitable that it would lose some market share in the price of defending itself against renewed dumping.

Mondi stated that while some of the displaced output could, conceivably be switched to export, the cost of doing so, given the already highly competitive conditions in this market internationally, is likely to be prohibitive and also injurious. Profitability is certain to fall below acceptable levels, it will not be possible to recover unavoidable cost increases, or generate sufficient income to fund plant maintenance/upgrading.

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 average costs of production and average selling prices for both Mondi and Sappi for the subject product for he years since the duties were imposed, and an estimate for the next year, in the event of the duties expiring:

Table 5.3.2(c)

R/KG	1998	1999	2000	2001	2002	2003 ESTIMATE IF DUTY EXPIRES
Production Cost: Movement with 1998 as base year:						
Mondi	100	110	142	145	159	177
Sappi	100	107	120	121	128	148
Selling Prices: Movement with 1998 as the base year:						
Mondi	100	115	148	151	187	168
Sappi	100	108	114	128	150	138

This table was indexed due to confidentiality using 1998 as the base year.

The information in the table indicates that no price suppression occurred since 1998 and none is expected should the duties be removed.

Mondi stated that since 1998, there has been some recovery in domestic selling prices, but owing to competitive conditions in the market and the fact that the Rand has depreciated heavily against the US$ in which currency the major input, wood pulp, is priced, selling price adjustments have lagged production cost increases. The situation is expected to improve in 2002, with selling price rising somewhat more than production costs. This situation will be radically reversed in 2003 if the anti-dumping duties are terminated, as price depression of around 10% will occur, while input costs are expected to rise by around 11% from 2002 to 2003.

According to Sappi, the cost of production remained relatively static during 1998/99 with the ex factory selling prices following suite. In 2000 the price of pulp spiked worldwide and increased in Rand terms by some 55% year-on-year. Pulp costs make up a substantial proportion of Sappi's direct costs (excluding fixed overhead costs) resulting in the cost of production increasing. The net ex-factory selling price, however increased over the same period, squeezing margins. In 2001 the US$ price of pulp decreased but, owing to the depreciation of the Rand against the US$, the Rand price of pulp increased further.

Sappi stated that in 2001 the selling prices increased by recouping some of the previous year's shortfall. In 2002 net ex-factory selling prices have increased, owing to the increased raw material costs arising from the further depreciation of the Rand against the US$ (33% in late 2001). Sappi has been fortunate to postpone some input cost increases by buying forward and fixing some costs for a period of six months. These initiatives are temporary and indications are that variable costs will increase in 2003. Sappi stated that this in itself will significantly reduce margins as the propensity of the domestic market to accept further price increases is limited and that renewed dumping is expected to drive prices down to the levels indicated if the anti-dumping duties are terminated, with highly injurious consequences.

Both Mondi and Sappi stated that the severe price suppression and depression that will occur as a result of resumed dumping by suppliers from the petitioned countries will not allow unavoidable price increases to be recovered.

Mondi stated that the estimate for 2003, if the anti-dumping duties were to be removed indicates that severe price suppression will occur as input costs are forecast to rise by 11% while selling prices will decline by 10%. This price suppression will cause material injury in the form of reduced profitability. In this regard it must be noted that since the imposition of the anti-dumping duties profitability has been in a process of returning to normal levels required to meet stakeholder requirements and fund new investment. Erosion of the margins needed will have very serious negative implications for future development.

Sappi stated that past experience concerning dumping has shown that when injurious dumping commences (or recommences) in the SACU market, import volumes rise significantly and price levels fall rapidly to the dumped levels as importers and domestic producers try to retain market share. Domestic or foreign suppliers unable to meet the depressed prices, rapidly lose market share and/or are forced to exit the market, their share of the market being taken over by the dumped imports. If the domestic producers opt to counter the dumping aggressively by reducing selling prices (considered the only viable option given the inflexible nature of the production process and the prohibitive cost of running up stocks excessively) the initial result is often that normally priced imports are displaced from the market altogether. If the injurious dumping is not checked there is a real danger that domestic producers will eventually be forced out of the particular market segment. In this regard it must be borne in mind that the domestic market is small in world terms and that relatively small quantities, in world terms, of product dumped in the SACU very severely disrupts this market.

Sappi stated that given the current world overcapacity (capacity 48,7 million tons against demand of 41,9 million tons), plus new capacity being installed, the likelihood of greater imports into the SACU is great, as producers try to dispose of surplus production.

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

5.3.3.1 Actual and potential decline in sales

The following table shows the sales volume for Mondi and Sappi of the subject product combined for three years subsequent to the imposition of the anti-dumping duties, and an estimate in the event of the expiry ofthe duties:

Table 5.3.3.1

VOLUME ('000 TONNES)	1998	1999	2000	2001	2002	2003 ESTIMATE IF DUTY EXPIRES
Total SACU	100	95	103	93	85	77

This table was indexed due to confidentiality using 1998 as the base year.

This table indicates a decline in the Petitioners' sales volume.

Mondi stated that based on its own experience in previous cases of dumping, the most viable (though still highly injurious) option in the face of disruptive dumping is to "fight it out in the market" by meeting the dumped price levels until such time as remedial action can be instituted against the injurious dumping. For this reason it is not envisaged that sales in the SACU market will be allowed to decline excessively, but it is all but inevitable that some loss of market share will be experienced in the short term as dumped product enters the market.

Mondi stated that the expected loss of market share in the short term, should dumping recur, is estimated at 10% during 2003, but this figure could rise to 20% if the dumping is not rapidly checked.

Mondi stated that some displaced output could, conceivably, be switched to export markets in extremes. However, given the forecast difficult market conditions for the paper industry for the next few years, coupled to the possible slow global growth should the USA economy falter, the economic crises in South America, and the expected additional capacity expected to be created in China, substantially increased exports will be hard to achieve viably and even at best would also result in injury to Mondi, in comparison to the current situation in which the anti-dumping duties protect the domestic market from disruptive dumping from the petitioned countries.

According to Sappi, aggressive counter action against dumped imports may well result in substantial market share being retained, but at the cost of greatly reduced revenues and profits. Thus while market share may be largely maintained SACU producers will inevitably suffer severe material injury in the form of reduced profits or even incurring losses as a result of resumed dumping by suppliers from the petitioned countries.

Sappi further alleged that the fact that suppliers in the petitioned countries are currently dumping product in various markets, as well as their history of injurious dumping in the SACU market, make it highly likely that injurious dumping from those sources will resume if the anti-dumping duties are terminated.

Mondi stated that the demand for uncoated woodfree paper in reels and sheets moves very much in synchronisation with national and international business cycles and to a lesser extent in relation to price (while paper is fairly homogenous, paper itself is not easily replaceable/substitutable). The ultimate normal pricing of paper is determined largely by wood pulp prices, which themselves move (largely) in synchronisation with business cycles, through sporadic under/oversupply of wood for pulping can result from natural and other factors not related to business cycles.

Mondi stated that as a generalisation it can be said that the ultimate demand for paper is not exceptionally price elastic but that within the industry world-wide demand is very price elastic as demand can switch between various suppliers very quickly purely on price, as in the marketplace paper is homogenous and one source of supply can easily be switched for another by users.

5.3.3.2 Profit

The following table shows profit before interest and tax for both Mondi and Sappi since the imposition of the anti-dumping duties, and an estimate for the next year in the event of the expiry of the duties:

Table 5.3.3.2

DESCRIPTION	1998	1999	2000	2001	2002	2003 ESTIMATE IF THE DUTY EXPIRES
Profit(Rand/million): indexed						
Mondi	100	153	226	166	387	27
Sappi	100	120	81	211	356	44
Profit margin on selling price (%):						
Mondi	100	154	159	151	309	26
Sappi	100	107	64	143	209	48

This table was indexed due to confidentiality using 1998 as the base year.

The table indicates a continual and progressively improving recovery of profit margins, probably largely resultant of the anti-dumping duties imposed. This is expected to regress dramatically, far below satisfactory levels should dumping resume, as indicated by the Petitioner.

Mondi stated that since 1998 margins have risen slowly towards more normal levels and for the first time in 2002, it is expected that the unit will attain the profit margin which is required by stakeholders.

Mondi stated that should the anti-dumping duties be terminated in early 2003 it is estimated that margins and profits will decline precipitously as dumping resumes from the petitioned countries. The calculations are based on a decline in domestic selling prices of 10% and a loss of market share also of some 10% as well as increased inventory costs.

Mondi stated that the calculations are based on the data set out in this section of the submission in which the dumping margins at which products are being exported to various third countries by suppliers in the petitioned countries were set out and from which the likely "dockside prices" of dumped exports from the petitioned countries to the SACU were derived.

Mondi further stated that the projected decline in profits is the direct result of having to meet dumped pricing levels in the SACU market in order to retain market share. "Fighting it out in the market" may well result in substantial market share being retained, but at the cost of much reduced revenues and profits. Thus while market share may be largely maintained SACU producers will inevitably suffer severe material injury in the form of reduced sales revenues (lower prices on reduced volumes and increased inventory costs).

Mondi stated that the fact that suppliers in the petitioned countries are currently dumping product in various markets, as well as their history of injurious dumping in the SACU market, make it highly likely that injurious dumping from those sources will resume if the anti-dumping duties are terminated.

According to Sappi, the estimated decline in profits is directly attributable to the prices that will be realised in the market should the antidumping duties in place against the petitioned countries be terminated. The calculations are based on the data set out in this section of the submission in which the dumping margins at which products are being exported to various third countries by suppliers in the petitioned countries were set out and from which the likely "dockside prices" of dumped exports from the petitioned countries to the SACU were derived. The normal margin on selling prices to realise satisfactory returns is x %.

Sappi stated that profitability has been in a gradual process of recovery since the last round of dumping, and is expected to reach close to normal levels in 2002. The projected precipitous decline in profits in 2003 will be the direct result of having to meet dumped pricing levels in the SACU market in order to retain market share. SACU producers will inevitably suffer severe material injury in the form of reduced sales revenues (lower realised prices on lower volumes sold and higher inventory costs) as a result of resumed dumping by suppliers from the petitioned countries.

5.3.3.3 Output

The following table outlines the domestic production volume for both Mondi and Sappi of the subject product years since the duties were imposed and an estimate for the next year in the event of the expiry of the duty:

Table 5.3.3.3

VOLUME ('000 tonnes) Indexed	1998	1999	2000	2001	2002	2003 ESTIMATE IF DUTY EXPIRES
Mondi	100	97	92	90	90	90
Sappi	100	105	115	115	115	115

This table was indexed due to confidentiality using 1998 as the base year.

This table shows a fairly even level of production during the period examined. This must be understood in the light of maximising efficiencies by operating at production capacity of the plant.

According to Mondi, in order to increase its international competitiveness the Paper Division has been restructured over the past years to optimise production levels and to allow more emphasis on the higher valueadded segments of the paper production chain. This has resulted in a planned production of uncoated woodfree paper in reels/sheets of x tonnes per annum, the level at which it is envisaged to stabilise for the foreseeable future.

Mondi stated that as mentioned repeatedly in this submission, it is highly likely that injurious dumping will recur from the petitioned countries should the SACU anti-dumping duties be terminated. The extent of the expected dumping has also been demonstrated in preceding sections. As has also been stated it is not economically viable to reduce production/output significantly and the only viable option is to meet the competition until substantive action can be taken to eliminate the dumping by competing in the market. It follows from this that output should not decrease significantly in the short term if dumping resumes but that the revenues and profits will decline precipitously.

Mondi stated that there is excess production capacity internationally in the supply of uncoated woodfree paper in reels and sheets, which tends to make pricing in the international market very keen. Forecasts for 2002/2003 are for low demand growth which, coupled to structural overcapacity, are expected to result in little or no improvement in industry operating rates. It will, therefore, be very difficult to redirect surplus product, resulting from any market share lost in the domestic market as a result of renewed dumping, viably to international markets.

Mondi stated that it is, furthermore, anticipated that the economic slowdown of economies will have a negative effect on consumption of the subject product, increasing effective excess supply and placing further downward pressure on prices. In recent months there have been signs in various industries that South American exporters are apparently exporting at very low prices simply to earn foreign exchange. The effects of the current volatility in world financial markets and a possible global economic "slowdown" could add to the downward price pressure of dumped imports.

Mondi stated that while no significant decline in output is envisaged in the short term, grave material injury will result from a resumption of dumping as, at the very best the same volume of product will be moved for a substantially lower income, impacting very adversely on the various indicators such as cash flow, income per unit of output, labour revenue per unit of output, etc. The fact that suppliers in the petitioned countries are currently dumping product in various markets, as well as their history of injurious dumping in the SACU market, make it highly likely that dumping from those sources will resume if the anti-dumping duties are terminated.

Sappi stated that paper plants are viable only if operated at, or very near, design capacity. For this reason it is not envisaged that production will be decreased in the short term if dumping recurs from thepetitioned countries.

Sappi stated that it is highly likely that injurious dumping will recur from the petitioned countries should the SACU anti-dumping duties be terminated. The extent of the expected dumping has also been demonstrated in preceding sections. As has also been stated, it is not economically viable to reduce production/output significantly and the only viable option is to meet the competition until substantive action can be taken to eliminate the dumping, by competing in the market. It follows from this that output should not decrease significantly if dumping resumes but that the revenues and profits will decline precipitously. Should the dumping be prolonged it is likely that output will have to be reduced as the cost of excessive stockholding is prohibitive.

Sappi stated that concerning the viability of exporting product displaced from the domestic market, there is substantial excess production capacity internationally in the supply of uncoated woodfree paper in reels and sheets, which tends to make pricing in the international market very keen. Forecasts for 2002/2003 are for low demand growth which, coupled to structural over-capacity, are expected to result in little or no improvement in industry operating rates. It will, therefore, be very difficult to redirect surplus product, resulting from any market share lost in the domestic market as a result of renewed dumping, viably to international markets.

5.3.3.4 Market share

The following table shows the market share for the subject product for the for all years subsequent to the imposition of the anti-dumping duties, and an estimate for the next year in the event of the expiry of the duties:

Table 5.3.3.4

VOLUME (000' TONNES	1998	1999	2000	2001	2002*	2003 IF DUTY EXPIRES
Alleged imports Brazil: Poland	 - -	 - -	 - -	 - -	 - -	 100 -
Other imports:	100	100	80	80	60	40
Sales by SACU industry	100	107	107	109	124	104
Total market	100	95	102	92	79	84
% share held by:						
SACU industry	95	95	96	96	97	87
Other imports	5	5	4	4	3	2
Alleged imports: Brazil Poland	 - -	 - -	 - -	 - -	 - -	 100 (all dumped exports) .

*Figures for 2002 have been extrapolated since the data was only available until August 2002.
This table was indexed due to confidentiality using 1998 as the base year.

This table indicates an even and consistent market share by local producers for the duration of the period of the anti-dumping duties prevailing. The petitioner alleged that should dumping resume, there would be a dramatic loss of market to such imports.

Mondi stated that the most economically viable option should the anti-dumping duties against the petitioned countries be terminated will be to meet the dumped competition head on. The assumptions made in order to compile the above table are that the resumption of dumped imports from the petitioned countries will rapidly displace normally priced imports, driving them from the market. This is assumed to result in a substantial increase in total imports by volume and total value. In this scenario it is inevitable that domestic producers will forfeit market share in both terms of volume and sales revenues.

Mondi stated that a decline in market share is envisaged, and grave material injury will result from a resumption of dumping as lower volumes of product will be moved at substantially lower prices impacting very adversely on the various indicators such as cash flow, income per unit of output, labour revenue per unit of output, inventory costs etc. Even in a best-case scenario that the volume displaced from the domestic market can be exported (thus reducing inventory costs) the fact remains that domestic market share and overall income will be forfeited. Given the fact that conditions in the uncoated paper market worldwide are likely to remain extremely competitive and prices low, revenues will fall, causing material injury.

The envisaged decline in market share would result in grave material injury from a resumption of dumping as lesser volumes of product will be moved on the domestic market for a substantially lower price, impacting very adversely on the various indicators such as cash flow, income per unit of output, labour revenue per unit of output, profit etc. Should it be possible to redirect displaced domestic production to export markets, the tight conditions expected there wil also certainly result in very low prices being realised, itself resulting in injury vis-a` vis a situation in which the domestic market is not disputed by dumping.

Sappi stated that imports reduced from some x % of the total domestic market in 1997 when dumping was prevalent, to y % in 2001. The imposition of the anti-dumping duties against Brazil, Indonesia, Poland and Sweden have, therefore, been effective in eliminating for the larger part, the disruptive competition from the market since 1998. Should the duties be terminated and the dumping resume, it is likely that dumped imports will rapidly gain 10% of the domestic market. This will have a very adverse effect on domestic producers, not only from a volume perspective but also from a price perspective as the domestic producers will be faced with a double squeeze – reduced volumes of sales at reduced prices.

5.3.3.5 Productivity

Using the production and employment figures sourced from the Petitioner, its productivity in respect of the subject product was as follows for the years subsequent to the imposition of the anti-dumping duties, and an estimate is also provided for what the productivity would be in the event of the expiry of the duties:

Table 5.3.3.5

	1998	1999	2000	2001	2002	2003 ESTIMATE IF DUTY EXPIRES
Employee productivity (000'T / employee) Mondi	100	85	80	81	81	80
Employee productivity (000'T/ employee) Sappi	100	104	109	116	116	116

This table was indexed due to confidentiality using 1998 as the base year.

This table indicates a consistency of production levels across the period examined. The petitioner shows a gradual decline in employee productivity, while Sappi shows a small increase. However both local producers indicate a fall in the event of dumping resuming.

Mondi stated that while no physical further decline in output per employee is envisaged, now that the planned level of production of uncoated woodfree paper in reels/sheets has been reached. Should the injurious dumping be prolonged it is likely that some short time will have to be introduced or employee rationalisation may become unavoidable.

Both Mondi and Sappi stated that the lower value contribution per employee that will result even from selling the same volume of product at the price level of the dumped product, obviously impacts very negatively on all indicators as less revenue is generated per employee.

Sappi stated that through substantial investment and improvements in efficiencies, it has increased employee productivity substantially since 1998. Should injurious dumping recur from the petitioned countries it is expected that productivity would not decline in the first year, as plant has to be kept operating at optimal capacity and alternate markets will have to be sought for displaced domestic demand. Should the dumping persist, cutbacks in staffing levels would definitely be considered.

5.3.3.6 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 provides the Petitioner's profit before interest and tax (PBIT) and it's net value of assets for Mondi and Sappi for the years subsequent to the imposition of the anti-dumping duties, and an estimate for the next year in the event of the expiry of the duties:

Table 5.3.3.6

YEARS	1998	1999	2000	2001	2002 FORECAST	2003 ESTIMATE IF DUTY EXPIRES
Return on total net assets (RONA)						
Mondi	100	2750	3775	2125	3800	250
Sappi	100	93	57	179	242	29

This table was indexed due to confidentiality using 1998 as the base year.

This table indicates a good recovery of returns on investment since the imposition of the anti-dumping duties. However there is a dramatic reduction anticipated should dumping resume after removal of the duties.

Mondi stated that it has no share capital and thus, it is not possible to calculate return on equity.

Mondi stated that the data in the above table for 2003 is based on the expected price/volume of dumped product that is expected to be marketed in the SACU by suppliers from the petitioned countries should the anti-dumping duties be terminated. As can be seen from the table the expected returns which were in the process of returning to the expected requirement by Mondi, following the imposition of anti-dumping duties, will decline precipitously if the dumping resumes. Should the return on net assets fall to the unacceptably low level indicated for 2003 as a result of renewed dumping, current and planned investment may be placed in jeopady.

Sappi stated that the figures above represent the returns on net depreciated assets. The return on net assets required on depreciated net assets over the medium term to meet shareholder expectations is around x %. While this figure may be exceeded in 2002 in the absence of disruptive competition, the projection for 2003 indicates that the return on net assets, based on the data collected for this submission, will decline precipitously to levels well below any acceptable normal return.

Mondi and Sappi stated that owing to the severe and enduring injury caused by the previous round of dumping by suppliers from the petitioned countries, margins are only now (2002) starting to approach acceptable levels needed to generate new investment and justify upgrading when required to remain/enhance international competitiveness. The projected decline in return on net assets should dumping recur will drop returns well below the levels required by stakeholders, or to fund ongoing expenditures to remain a competitive global player in this segment of the paper market. An acceptable return on net assets, or the prospect thereof, is needed (and attainable in the absence of dumping) to ensure sufficient funding to fund further investment in enhanced efficiency and expansion.

5.3.3.7 Utilisation of production capacity

The following table provides the Petitioner's capacity and production for both Mondi and Sappi for the subject product for the years subsequent to the imposition of the anti-dumping duties, and an estimate for the next year in the event of the expiry of the duties:

Table 5.3.3.7

DESCRIPTION	1998	1999	2000	2001	2002	2003 ESTIMATE IF DUTY EXPIRES
PETITIONER'S PRODUCTION (TON 000's)						
Capacity Mondi Sappi	 100 100	 100 100	 100 100	 100 100	 100 100	 100 100
Actual production Mondi Sappi	 100 100	 100 100	 100 100	 100 100	 100 100	 100 100
Utilisation of capacity Mondi Sappi	 100 100	 100 100	 100 100	 100 100	 100 100	 100 100

This table was indexed due to confidentiality using 1998 as the base year.

This table shows a consistency and stability throughout the period of the imposition of the duties, with a drop in the event of dumping resuming.

Sappi stated that in order to be viable, paper plants needed to be operated at or near design capacity.

According to Mondi and Sappi, the estimate is based on the assumption the SACU industry will initially be able to meet the dumped competition that is expected to recur should the anti-dumping duties applicable to product from the petitioned countries being terminated. This, based on previous experience is the most economically viable option, as reducing output or running up inventories results in even greater injury.

They stated that should severely disruptive dumping recur from the petitioned countries resulting in large losses of domestic market share and switching such lost output to export markets prove non-viable, there will be little option but to reduce output.

5.3.3.8 Factors affecting domestic prices

Mondi stated that domestic demand in the SACU and other neighboring countries for the product is relatively stable, while international demand has been characterised by quite high volatility. The relative stability of the SACU market since the introduction of anti-dumping duties against the petitioned countries has allowed the domestic industry to partially recover from the injury the dumping inflicted. Further growth in the industry is dependent on the domestic/neighboring markets growing consistently, while the larger international market also offers opportunities should growth pick up.

It stated that in view of the very high probability of dumping from the petitioned countries resuming, and the expected injury such renewed dumping would occasion (as demonstrated in this petition) the renewed disruption of the domestic SACU market by injurious dumping would certainly deal a major blow to the domestic industry and could adversely affect the industry's future development in the region in the uncoated woodfree paper market segment. Shareholders are unlikely to be prepared to invest in a disrupted market segment. This approach could conceivably spread to other market segments, impacting adversely on the whole industry.

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

5.3.3.9 The magnitude of the margin of dumping

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

Table 5.3.3.9(a)

Dumping Margin Brazil	Dumping Margin %
International Paper	-2.86
Ripasa	5.23
Residual	11.36

Table 5.3.3.9(b)

Rand/kg	Source 1	Source 2
Dumping margin	2	2
Poland	49,66%	32,80%

Export price as determined by the Petitioner, using only exports to certain of the third countries.

5.3.3.10 Actual and potential negative effects on cash flow

According to Mondi and Sappi, the resumption of injurious dumping that is almost certain to occur should the existing duties in force against the petitioned countries be terminated will result in cash flow being reduced as a result of lower sales income, creating serious financing problems for the unit.

5.3.3.11 Inventories

Mondi provided its inventory level for the years prior subsequent to the imposition of the anti-dumping duties, and an estimate for the next year in the event of the expiry of the duties. These figures are listed in the table below:

Table 5.3.3.11

STOCKHOLDING	1998	1999	2000	2001	2002	2003 ESTIMATE IF DUTY EXPIRES
Volume '000 tonnes	100	103	88	69	27	36
Value R million	100	115	168	117	48	72

This table was indexed due to confidentiality using 1998 as the base year.

The inventories remained stable for the period of investigation.

Mondi stated that current stock levels are regarded as being optimised Should dumping recur stock levels are likely to increase significantly in the short term despite every effort being made to sell output, negatively impacting on working capital, cash flow and profitability.

5.3.3.12 Employment

The following table shows Mondi's employment level for the years subsequent to the imposition of the anti-dumping duties, and an estimate for 2003 in the event of the expiry of the duties:

Table 5.3.3.12

Number of employees	1998	1999	2000	2001	2002	2003 ESTIMATE IF DUTY EXPIRES
	100	113	115	112	112	112

This table was indexed due to confidentiality using 1998 as the base year.

Employment remained stable during 1998 to 2002 due to efforts made by Mondi and Sappi.

Mondi stated that its internal structure was radically restructured during the period 1998-2000 especially concerning management structures. Based on these reorganisations of structures, functions and responsibilities, the figures above represent only the "units" of employment directly involved in production of uncoated product in reels/sheets. As the output level has now reached the optimum level required, every effort will be made to maintain production levels and employment at these levels, even in the face of renewed dumping.

According to Sappi, through substantial investment and improvements in efficiencies, it has increased employee productivity substantially since 1998. Should injurious dumping recur from the petitioned countries it is expected that productivity would not decline in the first year, as plant has to be kept operating at optimal capacity and alternate markets will have to be sought for displaced domestic demand. Should the dumping persist, cutbacks in staffing levels will have to be considered.

Sappi stated further that a lower value contribution per employee that will result from selling lower volumes of product at lower prices and will impact very negatively on all indicators as less revenue is generated per employee.

Furthermore, Sappi stated that the output and employment levels are currently optimised. Every effort will be made to maintain employment levels and efficiencies in the face of recurring dumping from the affected countries. Should the expected dumping continue for an extended period, this scenario will have to be reviewed.

5.3.3.13 Wages

Mondi stated that the reduced profitability and/or losses that are likely to result from renewed dumping will obviously limit its ability to increase personnel expenditure. This decline in spending affects not only wages, but also other aspects relating to social upliftment, training, other service benefits, etc.

5.3.3.14 Growth

Mondi and Sappi stated that the relative stability of the SACU market since the imposition of anti-dumping duties against the petitioned countries has allowed Mondi to recover somewhat from the injury caused by the dumping. This recovery and that of profitability to better levels has strengthened the business and its prospects of enhanced investment to exploit growth in the domestic, regional and international markets as opportunities arise. The removal of the anti-dumping duties and the almost certain resumption of injurious dumping will seriously injure the business, placing a question mark over the ability to fund/raise the necessary capital for such investments in the SACU.

5.3.3.15 Ability to raise capital or investments

Mondi stated that being a division of Mondi Limited, which is in turn a division of Anglo American plc, it is able to raise capital internally. Without protection against disruptive competition (e.g. injurious dumping or the likelihood of renewed injurious dumping), it will not be able to generate the returns required to justify further capital investment by the Group.

It stated further that the relative stability in the SACU market since 1998 has made it easier to fund/access funding for renewals/expansions/upgrading as the need arises. Renewed disruptive competition will negatively affect this positive development.

Sappi stated that without effective protection against disruptive competition (ie dumping or the likelihood of dumping), it becomes increasingly difficult to justify new investment to shareholders. The SACU market, since the imposition of anti-dumping duties on exports from the petitioned countries, has been relatively stable. Disruption of this trend by the market has been relatively stable since the imposition of the anti-dumping duties on exports from petitioned countries.

Comments by the Brazilian Government:

The Brazilian Government stated that since there is no proof of evidence capable of showing the possibility that dumping has resumed, it does not make sense to proceed with any analysis concerning the possibility of the resumption of harm, since, in conformity with Article 11.3, the right of antidumping can only be extended, if it can be shown that the withdrawal of the right implies both the resumption of dumping and of harm to the domestic industry.

It stressed that the price applied by the Brazilian exporters in their sales to the international market has not been under-quoted in relation to the price used by the domestic industry during 2001, which shows that there would not be any possibility of the resumption of harm to the industry.

The Brazilian Government then once again, reiterated its request for the immediate closure of the "sunset review", as well as the withdrawal of the right in force, since there is no proof of evidence of the continuation or resumption of dumping and of the damage emanating from the withdrawal of such measure, under penalty of making bad use of the instruments designed for the defense of trade, which might even cast the South African investigative entities in a bad light before the eyes of the International Organisations.

It was also stated by them that the instruments designed for the defense of commerce, at least in the way in which they were conceived, written and signed by the Member Countries of the World Trade Organisation may not and should not be used as measures of protectionism, to conceal the inefficiency of any segment of the industry of any of the Member States and signatories of the WTO Agreements, and to transform its national markets into captive markets of the local producers. Such actions would represent a serious deviation of the written norms of the WTO texts, as well as of the "spirit" which guided legislators in preparing these texts.

Comments by the Petitioner:

The Petitioner stated that in view of the fact that review investigations are intended to determine likely future behaviour and injury, Mondi and Sappi believe that ample and substantive evidence of the expected injurious effects of the termination of the anti-dumping duties has been submitted, and that the extension of these duties is more than justified. The Commission's attention was once again drawn to the significant oversupply situation pertaining world wide in uncoated woodfree paper (as set out in the petition submitted by Mondi and the support petition of Sappi). This situation of oversupply in the order of 11 -14% is likely to continue for many years, and especially in the current depressed market conditions worldwide, is likely to keep downward pressure on paper prices and to encourage injurious dumping in the international market.

The SACU, given its relatively small size, and the openness of the market (eg. There are no non-tariff barriers to trade in uncoated woodfree paper, import tariffs are relatively low, and the Rand has strengthened against many currencies), is particularly vulnerable to rapid and major disruption of the market through dumping. Notwithstanding the fact that Mondi and Sappi are significant players in the global market, injury through the unfair practice of injurious dumping is extremely debilitating and hampers the development not only of SACU and regional African markets, but also the entire global operations of Mondi and Sappi.

Mondi and Sappi stated that they are able to deal with normal competition in the SACU and elsewhere. However, given the concerns of the Petitioner, concerning the review, an appeal was made to the Board to ensure that anti-dumping measures are fairly, but rigorously enforced –not to provide any "additional protection", but simply to ensure that regional jobs and economic development are afforded the support the are entitled to. A further reason for the appeal is that the rigorous enforcement of measures to combat unfair competition sends a very important message to business worldwide that they are welcome to compete on the SACU market, but that unfair practices will not be tolerated. This message in itself, once generally accepted, is likely to deter "chancers" and save the market from unnecessary disruption."

5.4 SUMMARY - MATERIAL INJURY

On the information supplied, the Commission made a final determination that material injury is likely to recur or continue, should the duties expire.

6. SUMMARY OF FINDINGS

6.1 Dumping

The Commission found that the expiry of the duties on the subject product originating in or exported from Poland and Brazil (excluding that manufactured by International Paper) would be likely to lead to the continuance or reoccurrence of dumping.

6.2 Material Injury

The Commission found that the expiry of the duties would be likely to lead to the continuation or reoccurrence of injury on Uncoated Woodfree Paper.

7. RECOMMENDATION

The Commission made a final determination that:

1. the expiry of the duty is likely to lead to continuation or recurrence of dumping of uncoated woodfree paper from Ripasa and the rest of Brazil;
2. the expiry of the duty is not likely to lead to continuation or recurrence of dumping of uncoated woodfree paper from International Paper;
3. the specific duty applicable to Suzano and Votorantim be removed, and imports from them be subject to the residual duty;
4. the expiry of the duty is likely to lead to the continuation or recurrence of dumping of uncoated woodfree paper from Poland; and
5. the expiry of the duty is likely to lead to continuation or recurrence of material injury.

The Commission, therefore, decided to recommend to theMinister of Trade and Industry that the existing anti-dumping duties be amended as follows:

Table 6

Country	Exporter	Type of paper	Dumping Margin
Poland	All exporters	Sheets	8,9%
		Rolls	15,5%
Brazil:	Ripasa	Sheets	9,9%
	Other exporters (excluding Ripasa and International Paper)	Sheets	13,2%
	Other exporters (excluding Ripasa and International Paper)	Rolls	26,4%