

Report No. 655

**INVESTIGATION INTO THE ALLEGED DUMPING OF PASTA ORIGINATING IN OR
IMPORTED FROM EGYPT, LATVIA, LITHUANIA AND TURKEY: PRELIMINARY
DETERMINATION**

The International Trade Administration Commission of South Africa herewith presents
its **Report No. 655: INVESTIGATION INTO THE ALLEGED DUMPING OF PASTA
ORIGINATING IN OR IMPORTED FROM EGYPT, LATVIA, LITHUANIA AND
TURKEY: PRELIMINARY DETERMINATION**



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INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF SOUTH AFRICA

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INVESTIGATION INTO THE ALLEGED DUMPING OF PASTA ORIGINATING IN OR IMPORTED FROM EGYPT, LATVIA, LITHUANIA AND TURKEY: PRELIMINARY DETERMINATION

SYNOPSIS

Bolux Group (Pty) Ltd, Namib Mills (Pty) Ltd, Pioneer Foods (Pty) Ltd and Tiger Brands Ltd submitted an application to the Commission to investigate the alleged dumping of pasta originating in or imported from Egypt, Latvia, Lithuania and Turkey. The initiation notice for the investigation was published in the *Government Gazette* on 19 September 2020.

The investigation was initiated after the Commission considered that the Applicant submitted *prima facie* information to indicate that the subject product was being imported at dumped prices and causing material injury and a threat of material injury to the SACU industry.

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

The Commission took all comments received from interested parties into account in making its preliminary determination. All non-confidential submissions made by interested parties are contained in the Commission's public file for this investigation and are available for perusal. It should be noted that this report does not purport to

deal with each and every comment received and considered by the Commission. However, some of the salient comments received from interested parties and the Commission's consideration of these comments are specifically included in this report.

After considering all interested parties' comments, the Commission made a preliminary determination that the subject product originating in or imported from Egypt, Latvia, Lithuania and Turkey is being dumped onto the SACU market causing material injury and a threat of material injury to the SACU industry.

The Commission therefore decided to request the Commissioner for the South African Revenue Service ("SARS") to impose the following provisional measures on imports of the subject product for a period of 6 months:

Tariff heading and Tariff subheading	Description	Statistical unit	Provisional Payments					
			Egypt	Turkey	Latvia: Dobeles Dzirnavnieks	Other exporters from Latvia	Lithuania: Amber Pasta	Other exporters from Lithuania
19.02	Pasta, whether or not cooked or stuffed (with meat or other substances) or otherwise prepared, such as spaghetti, macaroni, noodles, lasagne, gnocchi, ravioli, cannelloni; couscous, whether or not prepared:							
1902.1	- Uncooked pasta, not stuffed or otherwise prepared:							
1902.11	---Containing eggs	kg	43.27%	367.25%	4%	4%	12%	12%
1902.19	---Other:	kg	43.27%	367.25%	4%	4%	12%	12%

1. APPLICATION AND PROCEDURE

1.1 LEGAL FRAMEWORK

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

1.2 APPLICANT

The application was lodged by Bolux Group (Pty) Ltd, Namib Mills (Pty) Ltd, Pioneer Foods (Pty) Ltd and Tiger Brands Ltd (the "Applicant") on behalf of the SACU industry.

1.3 ACCEPTANCE OF APPLICATION

The application was accepted by the Commission as being properly documented in accordance with ADR 21 on 9 September 2020.

1.4 ALLEGATIONS BY THE APPLICANT

The Applicant alleged that imports of the subject product, originating in or imported from Egypt, Latvia, Lithuania and Turkey was being dumped on the SACU market, thereby causing material injury and a threat of material injury to the SACU industry. The basis of the alleged dumping was that the goods are being exported to SACU at prices less than the normal value in the country of origin.

The Applicant further alleged that as a result of the dumping of the subject product from Egypt, Latvia, Lithuania and Turkey it was suffering material injury in the form of:

- (i) Price suppression;
- (ii) Price depression;

- (iii) Price undercutting;
- (iv) Declining market share;
- (v) Declining profits;
- (vi) Declining return on investment;
- (vii) Declining utilisation of production capacity;
- (viii) Negative impact on cash flow;
- (ix) Negative impact on inventory levels; and
- (x) Slowdown in growth.

1.5 INVESTIGATION PROCESS

A properly documented application was submitted by the Applicant on 07 July 2020. The information submitted by Bolux Group (Pty) Ltd was verified on 27 July 2020, Namib Mills (Pty) Ltd on 14 July 2020, Pioneer Foods (Pty) Ltd on 15 July 2020 and Tiger Brands Ltd on 21 July 2020. The verification report was sent to Bolux Group (Pty) Ltd on 27 July 2020 Tiger Brands Ltd on 22 July 2020, Namib Mills (Pty) Ltd and Pioneer Foods (Pty) Ltd was sent on 15 July 2020.

The information requested during verification visits were submitted on 29 July 2020 for Bolux Group (Pty) Ltd, 27 July 2020 for Namib Mills (Pty) Ltd, 24 July 2020 for Pioneer Foods (Pty) Ltd and 31 July 2020 for Tiger Brands Ltd.

The Commission initiated an investigation into the alleged dumping of pasta originating in or imported from Egypt, Latvia, Lithuania and Turkey, pursuant to Notice No. 508 of 2020, which was published in *Government Gazette* No. 43726 on 19 September 2020.

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 ADR 27.1. All known interested parties were informed and requested to respond to the questionnaires and the non-confidential version of the application.

1.6 INVESTIGATION PERIODS

The investigation period for dumping is from 1 January 2019 to 31 December 2019. The injury investigation involves evaluation of data for the period 1 January 2017 to 31 December 2019.

Comments by Arab Republic of Egypt Ministry of Trade and Industry Trade Remedies Sector

The Egyptian Ministry stated that in light of the recommendation adopted by the Committee on Anti-Dumping Practices on 5 May 2000. The period of data collection for dumping investigations should end as close to the date of initiation as is practicable. In accordance with the ITA Act, and the ADR 1 the "information with regard to dumping normally covers the twelve months prior to the lodging of the complaint and the injury normally covers the last three financial years prior to the lodging of the complaint plus the current financial year."

They further stated that it is mentioned in the complaint that "The petitioners propose the period of January, 2019 – December, 2019 as the period of investigation" which implies that there is a time lag of 9 months from the date of initiation.

Response by the Applicant

The Applicant indicated that Egyptian Ministry incorrectly presents an alleged quotation from the Anti-Dumping application concerning the period of investigation ("POI"), which is not contained in the Applicant's application document. As per the Notice No. 508 of 2020, the period of investigation for purposes of determining material injury will be from 1 January 2017 to 31 December 2019. The period of investigation for purposes of determining the dumping margins for the respective exporting countries of origin, will be from 1 January 2019 to 31 December 2019.

Regarding the Egyptian Ministry's reference to the Ad Hoc Group meeting of the

WTO Committee on Anti-Dumping Practices regarding Implementation WTO Committee, which recommendation guidelines were published on 16 May 2000 as document "G/ADP/6" WTO Guidelines, the Applicant stated that they wish to point out the following aspects:

"The Committee considers that guidelines for determining what period or periods of data collection may be appropriate for the examination of dumping and of injury would be useful. The Committee also recognizes, however, that such guidelines do not preclude investigating authorities from taking account of the particular circumstances of a given investigation in setting the periods of data collection for both dumping and injury, to ensure that they are appropriate in each case."

The WTO Guidelines state as a general rule that:

"(a) the period of data collection for dumping investigations normally should be twelve months, and in any case no less than six months, ending as close to the date of initiation as is practicable." The ADR state that the investigation period "shall normally be a period ending not more than 6 months before the initiation of the investigation." It is thus clear that the WTO and the ADR allows for the discretion of the responsible Investigating Authority regarding the date of initiation and the POI. The Applicant submitted the Anti-Dumping application to the Commission during May 2020 and complied with the criteria as set out in the ITA Act and Anti-Dumping Regulations. It is evident that the Commission used its discretion when it initiated the investigation and is thus in line with the WTO Guidelines and AD Regulations.

Commission's consideration

Regarding the investigation period, ADR 1 provides that: "Investigation period for dumping is the period for which it is assessed whether dumping took place. This period shall normally be 12 months, and may be more, but in no case less than 6 months, and shall normally be a period ending not more than 6 months before the initiation of the investigation". The investigation period for injury is the

period for which it is assessed whether the SACU industry experienced material injury. “This period shall normally cover a period of three years plus information available on the current financial year at the date that the application was submitted, but may be determined by the Commission as a different period provided that the period is sufficient to allow for fair investigation...”

This is therefore clearly an issue where the Commission has discretion and has chosen to use this discretion. Furthermore, it would have unduly place an additional burden on the Applicant (four manufacturers) to submit updated injury information as the country was under COVID-19 Lockdown Alert Level 4.

1.7 COMMENTS

The Commission considered comments received from interested parties with regard to the application and procedure. Non-confidential versions of these comments are available on the public file.

Comments by Mediterranean Exporters’ Association on the Applicants’ confidentiality claims

The exporters’ association stated that according to Article 6.5.1 of the WTO Anti-Dumping Agreement “authorities shall require interested parties providing confidential information to furnish non confidential summaries thereof. These summaries shall be in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence. In exceptional circumstances, such parties may indicate that such information is not susceptible of summary. In such exceptional circumstances, a statement of the reasons why summarization is not possible must be provided.”

The exporters’ association further stated that in other words, the domestic industry is required to submit a non-confidential version of an application, which includes sufficiently detailed information and data. According to the exporters’ association when the non- confidential version of the application at issue is examined, it is clear that this obligation is not properly realised. They further

stated that to be more precise, from the non-confidential summary of the application it is impossible to comprehend the share of domestic industry in the consumption. In fact, in Annexes E.4.1 and E.7.1, total sales volume of applicants and/or even total estimated sales volume of all SACU producers are not disclosed. As such, the information on applicants' share in the market and trend of this share during the investigation period as well as whether domestic producers are capable of meeting the demand in the domestic market are not provided.

The exporters' association stated that: "disclosing the total SACU production would not harm competitiveness of any producer after all, instead, this would only preclude interested parties from having a reasonable understanding of SACU domestic market. Likewise, in Annex E.10.1 of the Anti-Dumping application, applicant provide indexed figures of capacity utilization rates of domestic industry rather than actual figures. Applicant merely indicate at page 54 of the non-confidential version of the application that SACU industry's capacity utilization was below 50% of the installed capacity throughout the POI, which does not provide any clue on the trend of the capacity utilization rate during the POI."

Commission's consideration

The Commission is of the view that the Applicant conformed to the confidentiality criteria set out in the ITA Act and the ADR.

1.8 PARTIES CONCERNED

1.8.1 SACU industry

The SACU industry consists of four manufacturers of the subject product, Bolux Group (Pty) Ltd, Namib Mills (Pty) Ltd, Pioneer Foods (Pty) Ltd and Tiger Brands Ltd.

1.8.2 Responses by Foreign Manufacturers/Exporters/Importers

Interested Parties Responses

Importers	Deficient
Keriotic Investment Ltd	Yes
Shoprite Checkers	Yes
International Food Group	Yes

On 27 October 2020, Keriotic Investment Ltd (Keriotic Investment) submitted its questionnaire response and a deficiency letter was sent on 05 November 2020. A response was received on 11 November 2020 to the deficiency letter. Verification of Keriotic Investment information was done on 18 January 2020. The investigators decided not to continue with the verification. This was because at the beginning of the verification, the importer indicated that they only noticed while preparing documents for verification that the shipment transactions together with the supporting documents are for a different product classifiable under tariff subheading 1902.30. The importer did not import the product under investigation classifiable under tariff subheading 1902.19 during the period of investigation.

The Commission made a preliminary determination not to take the information submitted by Keriotic Investment's into account for purposes of its preliminary determination.

On 06 November 2020, Shoprite Checkers submitted its response to the Commission's importers questionnaire. A deficiency letter was sent on 27 November 2020. On 07 December 2020, Shoprite Checkers responded to the Commission's deficiency letter. The response from Shoprite Checkers was found to be deficient. The following deficiencies were identified:

- The details and copies of documentation relevant to each shipment of the subject product were not provided;
- There was no indication of the period of the cost and price build up and

the unit of measurement used;

- The information on detailed statement of sales of the subject product was not provided in the format requested in the questionnaire; and
- A signed sworn statement stating the reasons why the information claimed as confidential cannot be summarized and why such information is claimed as confidential was not provided.

On 14 December 2020, Shoprite Checkers was advised that the response was regarded as deficient and that the Commission might decide not to take its information into consideration for purposes of the preliminary determination.

The Commission made a preliminary determination not to consider Shoprite Checkers' information for purposes of its preliminary determination.

On 10 November 2020, International Food Group submitted its information and a deficiency letter was sent on 27 November 2020. A response was received on 04 December 2020 to the Commission's deficiency letter. Verification of International Food Group information was done on 18 January 2021. The cost build-up information could not be verified, as there was no information provided for the total landed cost. The importer refused to provide the investigators with management accounts, indicating that they do not see the reason why the investigators are requesting the management accounts and that there is confidential information which is not related to the investigation.

Furthermore, the importer acknowledged that it mistakenly omitted to submit information on the following cost elements: transport to warehouse, documentation fees, agency fees and total landed cost. The importer requested that they be granted an opportunity to submit this information. The investigation team did not accede as new information cannot be accepted during the process of verification and the importer was granted sufficient time to submit the correct information. Consequently, the investigating team decided to end the verification. The investigators highlighted that the importer's information lacks landed cost,

which is critical in the calculation of the cooperating exporter-dumping margin. The importer was also informed that the decision to end the verification will be presented to the Commission for its consideration and may decide not to take the response by the importer into consideration for the purposes of Commission's preliminary determination, as its response may be regarded as deficient.

The Commission made a preliminary determination not to consider International Food Group's information for purposes of its preliminary determination.

Exporters and other parties	Comments	Properly documented
Amber Pasta - Lithuania		Yes
Dobeles Dzirnavnieks - Latvia		Yes
Ministry of Trade Directorate General of Exports (Republic of Turkey)	Yes	
Mediterranean Exporters' Association	Yes	
Embassy of the Republic of Lithuania	Yes	
Arab Republic of Egypt Ministry of Trade and Industry	Yes	

On 10 November 2020, Amber Pasta submitted its response to the Commission's exporter's questionnaire. A deficiency letter was sent on 26 November 2020. A response was received on 03 December 2020, which was accepted as properly documented. Verification of Amber Pasta's information was done on 15 – 16 January 2021.

On 10 November 2020, Dobeles Dzirnavnieks submitted its response to the Commission's exporter's questionnaire. A deficiency letter was sent on 26 November 2020. A response was received on 03 December 2020, which was accepted as properly documented. Verification of Dobeles Dzirnavnieks' information was done on 19 - 21 January 2021.

On 11 November 2020, the Commission received a request for an extension from the Republic of Turkey Ministry of Trade on behalf of Turkey exporters. The deadline for comments by directly notified exporters was 27 October 2020 and for parties not directly notified 40 days from date of initiation (18 September

2020) was 28 October 2020. The Commission rejected this request. In its rejection letter, the Commission stated that the deadline for the interested parties to submit their responses for this investigation was 27 October 2020, which is 37 days after the date of initiation. In terms of the Anti-Dumping Regulations, the Commission cannot grant extension after the deadline. The Republic of Turkey Ministry of Trade was granted an extension of 14 days to submit its comments, as its request for extension was submitted to the Commission before the deadline and good cause was shown.

Furthermore, the Commission stated that footnote 15 of the WTO Anti-Dumping Agreement states that *“as a general rule, the time-limit for exporters shall be counted from the date of receipt of the questionnaire, which for this purpose shall be deemed to have been received one week from the date on which it was sent to the respondent or transmitted to the appropriate diplomatic representative of the exporting Member or, in the case of a separate customs territory Member of the WTO, an official representative of the exporting territory.”*

The Commission has adhered to the notification requirement, as the Government of Republic of Turkey was notified about this investigation on 21 September 2020 and requested to transmit the initiation documents to all manufacturers/exporters and/or associations known to it in Turkey. The fact that there were delays by the Government of Republic of Turkey in notifying the exporters is not a sufficient reason for the Commission to grant an extension.

1.9 PRELIMINARY DETERMINATION

The Commission made a preliminary determination that:

- the subject product originating in or imported from Egypt, Latvia, Lithuania and Turkey was being dumped onto the SACU market;
- the SACU industry experienced material injury and a threat of material injury during the POI;

The Commission therefore decided to request the Commissioner for SARS to impose the following provisional measures on imports of the subject product for a period of 6 months.

Tariff heading and Tariff subheading	Description	Statistical unit	Provisional Payments					
			Egypt	Turkey	Latvia: Dobeles Dzirnavnieks	Other exporters from Latvia	Lithuania: Amber Pasta	Other exporters from Lithuania
19.02	Pasta, whether or not cooked or stuffed (with meat or other substances) or otherwise prepared, such as spaghetti, macaroni, noodles, lasagne, gnocchi, ravioli, cannelloni; couscous, whether or not prepared:							
1902.1	- Uncooked pasta, not stuffed or otherwise prepared:							
1902.11	---Containing eggs	kg	43.27%	367.25%	4%	4%	12%	12%
1902.19	---Other:	kg	43.27%	367.25%	4%	4%	12%	12%

2. PRODUCTS, TARIFF CLASSIFICATION AND DUTIES

2.1 IMPORTED PRODUCTS

2.1.1 Description

The subject product of this application is pasta.

2.1.2 Country of origin/export

The subject product originates in and is exported from Egypt, Latvia, Lithuania and Turkey.

2.1.3 Possible tariff loopholes

The Applicant indicated that there is none that the SACU industry is aware of at present. However, there is a possibility that pasta products are incorrectly cleared as pasta containing eggs (classifiable under HS 1902.11), in order to avoid the payment of the applicable *ad valorem* duty. The subject product classifiable under tariff subheading 1902.19 is fully substitutable with the above-mentioned product classifiable under tariff subheading 1902.11.

Therefore, the Applicant requests that if anti-dumping duties are imposed on pasta classifiable under tariff subheading 1902.19, the same anti-dumping duties should also be imposed on pasta containing eggs (classifiable under tariff subheading HS 1902.11) as these products are like products.

Commission's consideration

The Commission made a preliminary determination that when imposing an anti-dumping duty on the subject product that the same duty will be imposed on uncooked pasta, not stuffed or otherwise prepared, containing eggs

classifiable under tariff subheading 1902.11, as these two products are like products.

2.1.4 Tariff classification

The subject product is currently classifiable as follows:

Table 2.1.4

Tariff headings and subheadings	Description	Statistical unit	Rate of duty				
			General	EU	EFTA	SADC	MERCUSOR
19.02	Pasta, whether or not cooked or stuffed (with meat or other substances) or otherwise prepared, such as spaghetti, macaroni, noodles, lasagne, gnocchi, ravioli, cannelloni; couscous, whether or not prepared:						
1902.1	- Uncooked pasta, not stuffed or otherwise prepared:						
1902.19	- - Other	kg	40%	free	free	Free	40%

2.1.5 Negligibility test

The following table shows the alleged dumped imports as a percentage of the total imports.

Table 2.1.5: Import Volumes

Dumped Import Volumes (KG)	Volumes	%	Volumes	%	Volumes	%
Country	2017	2017	2018	2018	2019	2019
Cumulative dumped Import Volumes	15 024 390	48.57	19 923 827	57.11	21 070 969	57.47
Other imports	15 908 436	51.43	14 962 937	42.89	15 594 017	42.53
Total	30 932 826	100%	34 886 764	100%	36 664 987	100%

The Commission made a preliminary determination that imports from Egypt, Latvia, Lithuania and Turkey are above the negligibility level.

2.2 SACU PRODUCT

The SACU product is described as pasta.

2.3 LIKE PRODUCT ANALYSIS

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

Table 2.3 like product determination

	Imported product	SACU product
Raw materials	Semolina flour, water, salt and electricity and gas. Herbs, spices and juices are optional.	Semolina flour, water, salt and electricity and gas. Herbs, spices and juices are optional.
Production process	<p><u>Flouring milling and transfer:</u> The wheat flour is milled, either by the pasta manufacturer or third party. The milled semolina flour is then transferred to and stored at the manufacturing facility.</p> <p><u>Mixing and kneading:</u> The semolina flour is stored in silos, from which pipes move the flour to mixing machines, equipped with rotating blades. Warm water is also piped into the mixing machine. The mixture is kneaded to a lumpy consistency.</p> <p><u>Flavouring and colouring:</u> Eggs are added to the mixture, if the product is an egg noodle or pasta. If pasta is to be flavoured then herbs, spices and juices are added here.</p> <p><u>Rolling:</u> The mixture moves to a laminator where it is pressed into sheets by large cylinders. A vacuum</p>	<p><u>Flouring milling and transfer:</u> The wheat flour is milled, either by the pasta manufacturer or third party. The milled semolina flour is then transferred to and stored at the manufacturing facility.</p> <p><u>Mixing and kneading:</u> The semolina flour is stored in silos, from which pipes move the flour to mixing machines, equipped with rotating blades. Warm water is also piped into the mixing machine. The mixture is kneaded to a lumpy consistency.</p> <p><u>Flavouring and colouring:</u> Eggs are added to the mixture, if the product is an egg noodle or pasta. If pasta is to be flavoured then herbs, spices and juices are added here.</p> <p><u>Rolling:</u> The mixture moves to a laminator where it is pressed into sheets by large cylinders.</p>

	<p>mixer-machine further flattens the dough while pressing air bubbles and excess water from the dough to reach the optimum water content.</p> <p><u>Pasteurization:</u> The roll of dough moves through a steamer, which heats the dough in order to kill any existing bacteria.</p> <p><u>Cutting:</u> Depending on the type of pasta that is produced, the dough is either cut or pushed through dies. Ribbon and string-style pasta - such as fettucine, linguine, spaghetti, and capellini (angel hair) - are cut by rotating blades. To make tube or shell-shaped pasta such as rigatoni, ziti, elbow pasta-macaroni, and fusilli, the dough is fed into an extruder which then pushes it through metal dies. The size and shape of the holes in the die determine the type of pasta. The cutting machine then cuts the pasta into lengths, after which shaping occurs, if applicable. Spaghetti pasta is left straight.</p> <p><u>Drying:</u> The pasta is placed in a drying tank in which heat, moisture, and drying time are strictly regulated. The drying period differs for the various types of pasta, which could range from three to twelve hours. The drying time is critical because if the pasta is dried too quickly it will break and if it is dried too slowly, the chance for spoilage increases. The oxygen level in the tank is also regulated, and lab technicians test frequently for salmonella and other bacteria. Careful handling of the pasta during the</p>	<p>A vacuum mixer-machine further flattens the dough while pressing air bubbles and excess water from the dough to reach the optimum water content.</p> <p><u>Pasteurization:</u> The roll of dough moves through a steamer, which heats the dough in order to kill any existing bacteria.</p> <p><u>Cutting:</u> Depending on the type of pasta that is produced, the dough is either cut or pushed through dies. Ribbon and string-style pasta - such as fettucine, linguine, spaghetti, and capellini (angel hair) - are cut by rotating blades. To make tube or shell-shaped pasta such as rigatoni, ziti, elbow pasta macaroni, and fusilli, the dough is fed into an extruder which then pushes it through metal dies. The size and shape of the holes in the die determine the type of pasta. The cutting machine then cuts the pasta into lengths, after which shaping occurs, if applicable. Spaghetti pasta is left straight.</p> <p><u>Drying:</u> The pasta is placed in a drying tank in which heat, moisture, and drying time are strictly regulated. The drying period differs for the various types of pasta, which could range from three to twelve hours. The drying time is critical because if the pasta is dried too quickly it will break and if it is dried too slowly, the chance for spoilage increases. The oxygen level in the tank is also regulated, and lab technicians test frequently for salmonella and other</p>
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	<p>drying period is also crucial. Spaghetti is the most fragile of the noodles and is therefore hung high above the floor.</p> <p><u>Packaging:</u> Fresh pasta is folded in pre-measured amounts into clear plastic containers. As the containers move along a conveyer belt, a plastic sheet covers each container and is sealed with a hot press. At the same time, a small tube sucks the air of the container and replaces it with a mixture of carbon dioxide and nitrogen to prolong the product's shelf-life. Labels listing the type of pasta, nutritional information, cooking instructions, and expiration date are attached to the containers. Workers at the floor-level stations monitor the packaging process. The mechanism allows for workers to package the pasta manually if necessary.</p>	<p>bacteria. Careful handling of the pasta during the drying period is also crucial. Spaghetti is the most fragile of the noodles and is therefore hung high above the floor.</p> <p><u>Packaging:</u> Fresh pasta is folded in pre-measured amounts into clear plastic containers. As the containers move along a conveyer belt, a plastic sheet covers each container and is sealed with a hot press. At the same time, a small tube sucks the air of the container and replaces it with a mixture of carbon dioxide and nitrogen to prolong the product's shelf-life. Labels listing the type of pasta, nutritional information, cooking instructions, and expiration date are attached to the containers. Workers at the floor-level stations monitor the packaging process. The mechanism allows for workers to package the pasta manually if necessary.</p>
Physical appearance	<p>Pasta is produced by a mixing, rolling, cutting and a variety of shaping process, depending on the type of pasta that is manufactured. The mixture of the ingredients and flavouring will also depend on the recipes used.</p> <p>The most basic form of Pasta, will have a composition of the following:</p> <p>Flour and water.</p>	<p>Pasta is produced by a mixing, rolling, cutting and a variety of shaping process, depending on the type of pasta that is manufactured. The mixture of the ingredients and flavouring will also depend on the recipes used.</p> <p>The most basic form of Pasta will have a composition of the following:</p> <p>Flour and water.</p>
Tariff classification	1902.19	1902.19
Application or end use	For human consumption	For human consumption
Substitutability	The SACU product is fully substitutable with the	The SACU product is fully substitutable with the

	imported product.	imported product. The SACU Pasta is fully substitutable with the subject product imported from Egypt, Latvia, Lithuania and Turkey.
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***Comments by Arab Republic of Egypt Ministry of Trade and Industry
Trade Remedies Sector***

The Egyptian Ministry stated that the definition of the like product plays a role in both the dumping and the injury determination because it is with respect to this product that dumping, and injury must be established. The term like product ('produit similaire') is defined in Article 2.6 of the ADA as a product, which is identical, i.e. alike in all respects, to the product under consideration, or in the absence of such a product, another product, which has characteristics closely resembling those of the product under consideration.

The term is relevant for both the dumping and injury determination. Therefore, within the like product, there will invariably be many types or models. While many variations are possible, the underlying principle is that the comparison must be as precise as possible. Consequently, a variation that has an appreciable impact on the price or the cost of a product would normally be treated as a different model or type. For calculation purposes, authorities will then normally compare identical or very similar models or types.

The Egyptian Ministry further stated that in the present case, the investigation is conducted into the product under HS Tariff code: 1902.19 including uncooked pasta, not stuffed or otherwise prepared and not containing eggs. Such like product is made from an expensive type of flour, which is semolina. However, it is worth mentioning that such like product is produced from different raw materials, namely the type of flour, that has a great influence on the price of the finished good. It is well known that semolina flour is more than double the cost of other common types of flour.

Since the Applicant does not distinguish between such types of pasta exported from Egypt and there is no mention of such types, Egypt has resorted to its official sources to verify such issue and has found that pasta exported from Egypt includes small portion of the type made from semolina while the greater portion exported is made from cheaper types of flour.

Thus, Egypt submits that more precise comparison should be made to compare identical types of the subject product and emphasizes that the greatest portion of the subject product exported from Egypt includes pasta made from cheap types of flour. Accordingly, Egypt kindly asks the Commission to verify the accuracy of data pertaining to the variation of types of the subject product imported from Egypt in order to exclude Egyptian imports from the scope of the subject product and consequently to exclude Egypt from the scope of the present investigation.

Response by the Applicant

The Applicant stated that “the subject product of the Commission’s investigation is uncooked pasta that does not contain eggs, classifiable under tariff subheading 1902.19 (“Subject Product”). The SACU Industry has brought the application against the importation of the products or goods classifiable under HS 1902.19 that compete against the domestic product. The ITA Act defines “goods” as including “in relation to any particular goods, any other goods that are reasonably capable of being substituted for them, taking into account ordinary commercial practice and geographical, technical and temporal constraints;” (own emphasis). The ITA Act defines “dumping” as meaning “the introduction of goods into the commerce of the Republic or the Common Customs Area at an export price contemplated in section 32(2)(a), that is less than the normal value, as defined in section 32(2)(b), of those goods;”

The Egyptian Ministry made the statement that semolina is an expensive type of flower. For the record, semolina is also used to designate coarse middling

from varieties of wheat. Thus, semolina refers to how the flour was milled, and it does not refer to price or quality of wheat used.

The SACU Industry confirmed that all uncooked pasta products, not containing eggs that are not stuffed that are exported from Egypt, are classifiable under tariff heading 1902.19 and do qualify as like products to the products manufactured in SACU. The physical characteristics of the imported products from Egypt and the domestic products are the same. There is also a direct competitive relationship between the imported and domestic products, with the end use also being the same, as the one can substitute the other and the production process is the same. The allegation that the pasta is made from “cheap flour” does not per se makes it not a like product. The accuracy of the data submitted as part of the Anti-Dumping Application is confirmed and there are no grounds for the exclusion of the subject product imports from Egypt as a subject country, from the Commission’s investigation, based on like product.

Comments by Dobeles Dzirnavnieks

*The exporter stated that there are different products under one tariff subheading. In this regard, it is also important to refer to the classification of the main ingredients used in the production of soft wheat pasta, durum wheat pasta and durum whole grain pasta. Firstly, they refer to the main ingredients and in the column below the tariff headings for wheat and durum is referred to **(Main raw materials and main ingredients for the different pasta products have also different tariff subheadings*)**:*

1. Soft wheat pasta:

- a. main raw material: wheat (*Triticum vulgare* (or *aestivum*));*
- b. ingredients and additives: soft wheat flour, turmeric (curcuma) and water.*

2. Durum wheat pasta:

- a. main raw material: durum wheat (*Triticum durum*);
- b. ingredients and additives: durum wheat semolina and water.

3. Durum whole grain pasta:

- a. main raw material: durum wheat (*Triticum durum*);
- b. ingredients and additives: durum whole grain semolina and water.

	<i>The South African Tariff book**</i>	<i>Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff***</i>
<i>Wheat</i>	<i>1001.99 – Wheat and meslin: Other: Other</i>	<i>1001 99 00 - Wheat and meslin: Other: Other</i>
<i>Durum wheat</i>	<i>1001.19 – Wheat and meslin: Durum wheat: Other****</i>	<i>1001 19 00 - Wheat and meslin: Durum wheat: Other</i>
<i>Wheat flour</i>	<i>1101.00 – Wheat or meslin flour</i>	<i>1101 00 15 - Wheat or meslin flour: Of common wheat and spelt</i>
<i>Durum wheat semolina</i>	<i>1103.11 - Cereal groats, meal and pellets: Groats and meal (including durum wheat meal)</i>	<i>1103 11 10 Cereal groats, meal and pellets: Of wheat: Durum wheat</i>

The exporter further stated that this demonstrates that the pasta, although currently classified under tariff heading 1902.19, covers the pasta made of the different ingredients referred to herein. They also stated that the soft wheat and durum pasta needs to be treated separately. The mere fact that the pastas fall under tariff heading 1902.19 does not allow the Commission to use information supplied in respect of durum pasta for any calculations relevant to soft wheat pasta.

Commission's consideration

The Commission considered that the product under investigation is "pasta" classifiable under tariff subheading 1902.19. In terms of the South African

tariff schedule soft and durum wheat pasta are classifiable under tariff subheading 1902.19. Furthermore, these products can be regarded as like products due to the following:

- the manufacturing process is similar. The only difference is with the raw material;*
- they are substitutable; and*
- the end use is the same.*

To differentiate between the soft and durum wheat pasta, the Commission has calculated the dumping margin on a weighted average basis as provided for in ADR 12.2.

After considering all the above factors, the Commission made a preliminary determination that the SACU product and the imported products are “like products”, for purposes of comparison in this investigation, in terms of the relevant provisions of the ADR.

3. SACU INDUSTRY

3.1 INDUSTRY STANDING

The application was submitted by Bolux Group (Pty) Ltd, Namib Mills (Pty) Ltd, Pioneer Foods (Pty) Ltd and Tiger Brands Ltd the manufacturers of the subject product in the SACU market.

Comments by Mediterranean Exporters' Association

The exporters association stated that: "under section B.2.1 the Applicant notes that SACU manufacturing participants do not produce pasta with eggs whereas pasta with eggs is manufactured by some other members within the SACU. Under Section C, the Applicant also claim that their production represents more than 55 % of the total domestic industry. The exporters association noted that according to Article 5.4 of the ADA a duly representative application is accepted to be made on behalf of domestic industry if the applicants' production account for at least 25 % of the total production of like product. 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.

It appears from the "product" definition of the initiation notice published by the Commission that scope of the like product also covers pasta with eggs in order to avoid a circumvention situation even if applicant companies do not produce this product (classified under tariff subheading HS 1902.11).

The exporter association is concerned on whether the Applicant provided production data of pasta with eggs produced by other SACU producers while calculating their share in the total production of the like product. Therefore, the exporters association kindly requests the Commission to clarify whether 25 % representation test was properly made in a sense of taking the pasta with eggs production volume into consideration.”

Comments by Turkey Ministry of Trade Directorate General for Exports

The Turkey Ministry stated that Article 4.1 of ADA defines “domestic industry” as “referring to the domestic producers as a whole of the like products or to those of them whose collective output of the products constitutes a major proportion of those products”. However, Article 4.1.(i) sets forth an exception for the definition of domestic industry by stating that “when producers...are themselves importers of the allegedly dumped product, the term “domestic industry” may be interpreted as referring to the rest of the producers.”

The Panel in Mexico — Corn Syrup stated that, “the definition of the domestic industry in an Anti-Dumping investigation has unavoidable consequences for the conduct of the investigation and the determination that must be made.” Likewise, the Panel in Argentina — Poultry Anti-Dumping Duties evaluated that “Article 4.1 provides that the term ‘domestic industry’ ‘shall’ be interpreted in a specific manner. In our view, this imposes an express obligation on Members to interpret the term ‘domestic industry’ in that specified manner. Thus, if a Member were to interpret the term differently in the context of an anti-dumping investigation, that Member would violate the obligation set forth in Article 4.1.”

The Turkey Ministry stated that according to G4.1 of the Anti-Dumping application “Tiger Brands imported of the subject product during the POI.” Given the relevant provisions of ADA, Turkey has serious concerns on the representativeness of Petitioners for the initiation of the ongoing anti-

dumping investigation and hence, we expect the ITAC to clarify whether the Tiger Brands is eligible to support the Petition and if not to drop Tiger Brands from the Petition. Should the support is less than 25 % of SACU producers after removing Tiger Brands from the Petition we expect ITAC to terminate the investigation without any measure in conformity with the overarching principles of ADA.

Commission's consideration

From the table above it is evident that the Applicant has industry standing as it represents more than 55 percent of the SACU industry production. The information provided by the Applicant on the industry standing is the information for the product under investigation.

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

4. DUMPING

4.1 METHODOLOGY IN THIS INVESTIGATION FOR EGYPT

4.1.1 Normal Value

As no properly documented responses were received from manufacturers in Egypt, the Commission decided to use the best information available, for calculating normal value, being the domestic price obtained by an independent and reputed market research company appointed by the SACU Industry.

4.1.2 Export price

As no properly documented responses were received from manufacturers in Egypt, the Commission decided to use the best information available, for calculating the export price, being the official SARS statistics to SACU submitted by the Applicant.

Adjustment

The Applicant stated that the export price used is the Free on Board ("FOB") price obtained from SARS' import statistics. The Applicant indicated that there is an inland transportation cost of 2 percent to adjust the FOB export price to the ex-factory export price.

The Commission made a preliminary determination to allow the inland transportation adjustment.

Commission's consideration

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

by the Applicant were verified against SARS audited statistics and found to be correct.

4.1.3 Dumping Margin

The margin of dumping calculated for Egypt is 43.27 percent.

Comments by Arab Republic of Egypt Ministry of Trade and Industry Trade Remedies Sector

The Egyptian Ministry indicated that in the present case, the Applicant have calculated the normal value for the subject product using the USD prices per kilogram (set out in Annexure D 5.1B), referred to in the table in (P. 30) at the ex-factory selling prices of the product classified under HS tariff code (1902.11.00), which is not the HS code of the subject product in the present investigation (1902.19.00). In this regard, the Egyptian Ministry considers that the determination of normal value was made inconsistently with Article 2.1 of the WTO Anti-Dumping Agreement for the purposes of initiation of the investigation as it was unsubstantiated by relevant evidence, and thus is not sufficient to meet requirements set out in the Appellate Body Report, US – Hot-Rolled Steel, para. 165. Furthermore, the Egyptian Ministry stated that keeping the normal value calculation methodology confidential will deprive Egypt from verifying such methodology.

The Egyptian Ministry further indicated that according to Article 2.1 of the WTO Anti-Dumping Agreement, the export price is the price at which the product is exported from one country to another. Such export price is normally indicated in export documentation, such as the commercial invoice. The Egyptian Ministry stated that according to the Applicant, "the Commission will normally use the official SARS import statistics to determine an export price except in instances where the statistics are unreliable because of other products that are not subject to investigation are also classifiable under the tariff subheading concerned or for any other reason".

They submit that the Commission should rely on more reliable sources, in order to differentiate between the products of pasta classified under the same tariff subheading which have different ingredients (semolina flour or cheap flour), and which affect the cost. Egypt argues that more accurate information could be obtained in the further proceedings to determine the accurate export price of the product and hence to determine the exact dumping margin, if any.

Response by Applicants

The Applicant stated that the Egyptian Ministry alleges that there is an absence of normal value information; such information is presented as per Annexure D 5.1B. The Applicant confirms that the Anti-Dumping Application is in line with the Article 5.2 (iii) of the WTO Anti-Dumping Agreement and that the Egyptian normal value as presented, conforms to section 32(2)(b)(i) of the ITA Act and Regulation 8 of the ADR. The Applicant stated that they wish to reiterate that confidentiality was correctly claimed on the Research Report (Annexure D 5.1) and that the Egyptian domestic ex-factory prices used for the normal value have been presented in Annexure D 5.1B. The Egyptian products identified, do not contain eggs and thus all are classifiable under tariff subheading 1902.19.

The Applicant further stated that the statistical import trade data as supplied by the SARS is the official source of data for the goods imported as per the respective HS classifications. There is no reason to question the reliability of the SARS data, as far as it relates to the importation of the subject product from Egypt. The Applicant states that there is serious doubt concerning the alleged existence of 'reliable resources' as claimed by the Egyptian Ministry, which sources would be more accurate than of the SARS data. The Applicant confirms that the Commission was provided with sufficient evidence as contained in the Anti-Dumping application, which indicates that a substantial dumping margin exists for the subject product imports from Egypt.

Commission's consideration

The Commission considered that the dumping information submitted by the Applicant was accepted by the Commission for initiation purposes as it conforms with the Article 5.2 (iii) of the WTO Anti-Dumping Agreement and section 32(2)(b)(i) of the ITA Act and regulation 8 of the ADR.

The normal value for Egypt was determined based on Research Report by an independent and reputable market research company appointed by the Applicant to obtain the domestic prices in Egypt on behalf of the SACU Industry. The export price was determined based on import statistics from the SARS. The Commission noted that the Egyptian manufacturers were invited to submit their domestic prices and export prices and there were no properly documented responses received from them. Therefore, the Commission decided to use the best information available, being that provided by the Applicant for purposes of its preliminary determination.

4.2 METHODOLOGY IN THIS INVESTIGATION FOR TURKEY

4.2.1 Normal Value

As no properly documented responses were received from manufacturers in Turkey, the Commission decided to use the best information available for calculating normal value, being the domestic price obtained by an independent and reputable market research company appointed by the SACU Industry.

4.2.2 Export price

As no properly documented responses were received from manufacturers in Turkey, the Commission decided to use the best information available for calculating the export price, being the official SARS statistics to SACU submitted by the Applicant.

Adjustment

The Applicant stated that the export price used is the FOB price obtained from SARS' import statistics. The Applicant indicated that there is an inland transportation cost of 2 percent to adjust the FOB export price to the ex-factory export price.

The Commission made a preliminary determination to allow the inland transportation adjustment.

Commission's consideration

In any dumping investigation, the Commission normally uses audited import statistics from SARS to determine the volume of the subject products entering the SACU from the countries under investigation and other countries as it considers these statistics to be most reliable. The import statistics provided by the Applicant were verified against SARS audited statistics and found to be correct.

4.2.3 Dumping Margin

The margin of dumping calculated for Turkey is 367.25 percent.

4.3 METHODOLOGY IN THIS INVESTIGATION FOR AMBER PASTA IN LITHUANIA

The Commission accepted information submitted by Amber Pasta in its response to the Commission's questionnaire for purposes of its preliminary determination. Amber Pasta produces soft wheat and durum pasta and sells it on the domestic market in Lithuania. The actual invoice sales were used to calculate the normal value. It was found that there were sales of the soft wheat pasta that were made at a loss in the domestic market. In calculating the normal value, sales that were found to be made at a loss were excluded from the calculation of the weighted average normal value. This consideration

was made in the instance where sales below cost were above 20 percent of all sales made in the relevant period of assessment.

All domestic sales made at a loss for soft pasta were disregarded when determining the normal value.

4.3.1 Calculation of normal value of the durum wheat pasta

In order for Amber Pasta domestic sales to be used for normal value calculation, a 5 percent threshold test was performed to determine whether the domestic sales constitute 5 percent or more of the volume of exports of the subject product sold to SACU.

It was found that durum pasta was sold to the SACU market but constituted less than 5 percent of export sales to SACU. Since the durum pasta did not pass the 5 percent threshold test, the normal value was calculated based on the verified export sales to other countries.

All domestic sales made at loss for durum pasta were disregarded when determining the normal value.

Adjustments to the normal value

The following adjustments were claimed to arrive at the ex-factory normal value:

(a) Adjustment for cost of payment terms

Amber Pasta indicated that the interest rate applied was based on the annual overdraft from the bank. The calculation of the cost of payment terms was determined with reference to the investigating period and bank interest rate from 1 January 2019 to 31 December 2019. The payment days used by Amber Pasta to calculate the cost of payment terms were displayed on customer's contracts and invoices.

Commission's consideration

It is the Commission's practice to consider adjustments to the normal value only if the adjustments affected price comparability at the time of setting prices. The payment days used by Amber Pasta to calculate the cost of payment terms were displayed on the invoices and customer's contracts. The adjustment was considered in the calculation of normal value as it was requested and substantiated in the exporter's response to the Commission's questionnaire and affected price comparability at the time of setting the prices.

The Commission made a preliminary determination to allow the cost of payment terms adjustment as it was demonstrated to have affected the price comparability at the time of the setting of prices.

(b) Adjustment for discounts and rebates

Amber Pasta indicated that the discounts are charged via credit invoices that are issued by Amber Pasta according to the agreements with respective customers. The value of the discount depends on the sales value to the respective customers during the month. The sales value, in turn, is the total of all sales invoices issued to the customer during the month.

Commission's consideration

It is the Commission's practice to consider adjustments to the normal value only if the adjustments affected price comparability at the time of setting prices. The calculation of the discount can only be made once the total sales have been made and therefore, the exporter could not have considered this at the time of setting its prices.

The Commission made a preliminary determination not to allow the adjustment for the discount, as it did not affect price comparability at the time of setting prices.

(c) Adjustment for delivery charges

Amber Pasta indicated that there is a local delivery charge from the plant to the customers in Lithuania.

Commission's consideration

It is the Commission's practice to consider adjustments to the normal value to bring the price back to the ex-factory level. The delivery charges adjustment was verified.

The Commission made a preliminary determination to allow the delivery charges adjustment as it affected price comparability at the time of setting the price.

(d) Adjustment for packaging cost

Amber Pasta indicated that the packaging for the domestic market and export market is different. Domestically they sell pasta in 400g and some 5kg pillow bags and for SACU market, they sell pasta in 500g, 1kg, and 3 kg pillow bags. They further indicated that for the pasta produced for the Lithuania market there is a second packaging, which is a plastic bag. For the export market, the second packaging is a carton box, because it is better for loading in containers.

Commission's consideration

The packaging for the domestic and export market is different. This was verified and found to be correct.

The Commission made a preliminary determination to allow the packaging cost adjustment as it affected price comparability at the time of setting the price.

(e) Adjustment for proportion of durum flour in durum product sales

Amber Pasta indicated that the recipes used for the domestic and export sales to SACU are different. They used a certain percentage of durum flour to produce pasta for domestic market and a certain percentage of soft flour and

a certain percentage of durum flour for the export sales to SACU. They further indicated that the price for pasta prepared from a certain percentage of durum recipe is more expensive than the price of pasta prepared from a certain percentage of soft wheat flour and a certain percentage of durum recipe.

Commission's consideration

It is the Commission's practice to allow adjustments if there's a difference in the raw material used in the production of the subject product to account for differences in the two products, which could affect comparability, but not with regard to the price paid for such raw material. The fact that it costs more to for durum recipe does not make it an allowable adjustment as the durum for the manufacturing of the domestically sold product is the same as the durum for SACU sales.

*In the Penicillin (India) investigation, the Commission's predecessor, the Board on Tariffs and Trade (the "Board") was faced with the situation that the exporter used domestically sourced raw material to manufacture for and supply the domestic market, while it used imported raw material to manufacture for and supply the South African and other export markets. The imported raw material was significantly cheaper than domestically sourced raw material owing to high tariff barriers in India. The Board refused to make an adjustment to the normal value to account for the difference in raw material prices, arguing that there was no difference between the raw materials used for domestic and export production. The Board's finding in this regard was referred to Court in *Ranbaxy v Chairman of the Board on Tariffs and Trade*, and the Supreme Court confirmed that the Board was correct in its assessment (*Ranbaxy v Chairman of the Board* (Case 659/98 T) in respect of *Penicillin (India)* (Board Report 3799)).*

The Commission made a preliminary determination not to allow the proportion of durum flour in durum product sales adjustment as there are no difference between the raw materials used for domestic and export production which affected the price comparability at the time of the setting of the prices.

4.3.2 Export price for Amber Pasta

The Commission accepted the information submitted by Amber Pasta in its response to the Commission's questionnaire for purposes of its preliminary determination.

Adjustments to the export price

The adjustments set out below were claimed in respect of export price in order to determine the ex-factory export price.

(a) Adjustment for cost of payment terms

Amber Pasta indicated that the interest rate applied was based on the annual overdraft from the bank. The calculation of the cost of payment terms was determined with reference to the investigating period and bank interest rate from 1 January 2019 to 31 December 2019. The payment days used by Amber Pasta to calculate the cost of payment terms were displayed on customers' contracts and invoices.

Commission's consideration

It is the Commission's practice to consider adjustments to the normal value only if the adjustments affected price comparability at the time of setting prices. The payment days used by Amber Pasta to calculate the cost of payment terms were displayed on the invoices and customer's contracts. The adjustment was considered in the calculation of normal value as it was requested and substantiated in the exporter's response to the Commission's questionnaire and affected price comparability at the time of setting the prices.

The Commission made a preliminary determination to allow the cost of payment terms adjustment as it was demonstrated to have affected the price comparability at the time of the setting of prices.

(b) Adjustment for delivery charges

Amber Pasta indicated that the delivery charges consist of a local delivery cost to move products from the plant to the port and shipping charges in Lithuania port.

Commission's consideration

It is the Commission's practice to consider adjustments to the normal value to bring the price back to the ex-factory level. The delivery charges adjustment was verified.

The Commission made a preliminary determination to allow the delivery charges adjustment as it affected price comparability at the time of setting the price.

(c) Adjustment for packaging cost

Amber Pasta indicated that the packaging for the domestic market and export market is different. Domestically they sell pasta in 400g and some 5kg pillow bags and for SACU market, they sell pasta in 500g, 1kg, and 3 kg pillow bags. They further indicated that for the pasta produced for the Lithuania market there is a second packaging, which is a plastic bag. For the export market, the second packaging is a carton box, because it is better for loading in containers.

Commission's consideration

The packaging for the domestic and export market is different. This was verified and found to be correct.

The Commission made a preliminary determination to allow the packaging cost adjustment as it affected price comparability at the time of setting the price.

(d) Adjustment for Proportion of durum flour in Durum product sales

Amber Pasta indicated that the recipes used for the domestic and export sales to SACU are different. They used a certain percentage of durum flour to produce pasta for domestic market and a certain percentage of soft flour and a certain percentage of durum flour for the export sales to SACU. They further indicated that the price for pasta prepared from a certain percentage of durum recipe is more expensive than the price of pasta prepared from a certain percentage of soft wheat flour and a certain percentage of durum recipe.

Commission's consideration

It is the Commission's practice to allow adjustments if there's a difference in the raw material used in the production of the subject product to account for differences in the two products, which could affect comparability, but not with regard to the price paid for such raw material. The fact that it costs more to for durum recipe does not make it an allowable adjustment as the durum for the manufacturing of the domestically sold product is the same as the durum for SACU sales.

*In the Penicillin (India) investigation, the Commission's predecessor, the Board on Tariffs and Trade (the "Board") was faced with the situation that the exporter used domestically sourced raw material to manufacture for and supply the domestic market, while it used imported raw material to manufacture for and supply the South African and other export markets. The imported raw material was significantly cheaper than domestically sourced raw material owing to high tariff barriers in India. The Board refused to make an adjustment to the normal value to account for the difference in raw material prices, arguing that there was no difference between the raw materials used for domestic and export production. The Board's finding in this regard was referred to Court in *Ranbaxy v Chairman of the Board on Tariffs and Trade*, and the Supreme Court confirmed that the Board was correct in its assessment (*Ranbaxy v Chairman of the Board* (Case 659/98 T) in respect of *Penicillin (India)* (Board Report 3799)).*

The Commission made a preliminary determination not to allow the proportion of durum flour in durum product sales adjustment as there are no difference between the raw materials used for domestic and export production which affected the price comparability at the time of the setting of the prices.

4.3.3 Dumping Margin

The dumping margin calculated for soft pasta and durum pasta were weighted with the export volumes to determine a weighted average dumping margin. A weighted average dumping margin of 12 percent was calculated for Amber Pasta.

Comments by the Embassy of Lithuania

The Embassy of Lithuania stated that the Lithuanian producer Amber Pasta exports pasta to South Africa. In 2019 during the period of investigation, the company exported only two types of pasta, soft wheat and blended, while it did not export the third type of pasta, durum wheat, to South Africa. However, they note that in the Anti-Dumping application the dumping margin for Lithuania was calculated taking into account prices of all types of pasta.

The Embassy of Lithuania further indicated that they believe that allegation of dumping of pasta concerning the republic of Lithuania are based on misleading calculations. Consequently, the dumping margin should be recalculated based on the prices of soft wheat and blended pasta types only.

Response by Applicants

The Applicant stated that the Embassy alleged that the allegation of dumping is based on “misleading calculations” as Amber Pasta allegedly did not export the “third type of pasta – durum wheat to South Africa”. The Applicant noted that the Embassy is silent on the exports to the SACU market. They further noted the application is not concerned with Amber Pasta only, but all pasta producers in Lithuania, as well as all types of pasta that are exported to SACU that are classifiable under tariff subheading HS 1902.19. They state that the SACU

Industry calculations are not incorrect as alleged by the Embassy.

Commission's consideration

The dumping margin was calculated based on the weighted average dumping margin of the subject product under investigation, which includes both soft pasta and durum pasta classifiable under tariff subheading 1902.19.

4.3.4 METHODOLOGY IN THIS INVESTIGATION FOR ALL OTHER MANUFACTURERS/EXPORTERS FROM LITHUANIA (RESIDUAL DUMPING MARGIN)

It is the general policy of the Commission to impose separate anti-dumping duties on specific exporters that responded to the questionnaire, and in addition, a residual duty against the country in question, to cater for other any manufactures of the subject product who might also have exported the subject product to the SACU, but did not participate in the investigation.

On this basis, the Commission made a preliminary determination to use the verified information from the cooperating exporter to calculate the residual duty for the Lithuania.

Normal value

The Commission made a preliminary determination to use the weighted average normal value of the verified exporter to calculate the residual dumping margin.

Adjustments

In order to obtain the ex-factory price, the Commission made a preliminary determination to make an adjustment for cost of payment, delivery charges and packaging cost to the normal value, based on the information submitted by Amber Pasta, as it was regarded as the best information available.

Export price

The Commission made a preliminary determination to use the weighted average export price of the verified exporter to calculate the residual dumping margin.

Dumping Margin

The residual dumping margin calculated for soft pasta and durum pasta were weighted with the export volumes to determine a weighted average residual dumping margin. A weighted average residual dumping margin of 12 percent was calculated for Lithuania.

4.4 METHODOLOGY IN THIS INVESTIGATION FOR DOBELES DZIRNAVNIKS IN LATVIA

Sales in the ordinary course of trade

If less than 20 percent (by volume) of all sales of a particular product type or model took place at less than the cost of production, such sales must be included in the determination of the normal value, and the normal value should be based on the weighted average price of all the sales.

The Commission accepted information submitted by Dobeles Dzirnavnieks in its response to the Commission's questionnaire for purposes of its preliminary determination. Dzirnavnieks produces soft pasta and durum pasta and sold it on the domestic market in Latvia. The actual invoiced sales were used to calculate the normal value. It was found that soft and durum pasta that were sold at a loss in the domestic market were less 20 percent in volume of the total volume of sales by the Dobeles Dzirnavnieks. In calculating the normal value, sales that were found to be at a loss were included in the calculation of the weighted average normal value.

Commission's consideration:

In light of the above, the Commission made a preliminary determination that where sales made below costs constitute less than 20 percent in volume of the total volume of sales by the interested party, all sales transactions were considered in the determination of the normal value.

4.4.1 Calculation of normal value for Dobeles Dzirnavnieks

The sales made at a loss for soft pasta were included in the database when determining the normal value.

All domestic sales made at a loss for durum pasta were included in the database when determining the normal value.

Adjustments to the normal value

The following adjustments were claimed to arrive at the ex-factory normal value:

(a) Adjustment for cost of payment terms

Dobeles Dzirnavnieks indicated that the interest rate applied in the calculation of the cost of payment terms was determined with reference to the investigating period and bank interest rate from 1 January 2019 to 31 December 2019. Cost of payment terms on domestic sales was established at the number of days of average credit period allowed to the customers. The payment days used by Dobeles Dzirnavnieks to calculate the cost of payment terms were displayed on the invoices.

Commission's consideration

It is the Commission's practice to consider adjustments to the normal value only if the adjustments affected price comparability at the time of setting prices. The payment days used by Dobeles Dzirnavnieks to calculate the cost of payment terms were displayed on the invoices. The adjustment was considered in the calculation of normal value as it was requested and substantiated in the

exporter's response to the Commission's questionnaire and affected price comparability at the time of setting the prices.

The Commission made a preliminary determination to allow the cost of payment terms adjustment as it was demonstrated to have affected the price comparability at the time of the setting of prices.

(b) Adjustment for discounts and rebates

Dobeles Dzirnavnieks gives the following two types of discounts and rebates to their customers:

Distribution service fee

Dobeles Dzirnavnieks indicated the distribution service fee is paid by the Dobeles Dzirnavnieks to customers, if they did not deliver the ordered goods to every delivery place of the customer's retail chain but only delivered to the customer's central warehouse. Payment of the distribution service fee is paid after the end of the respective period. The calculation is based on the concluded agreement as percentage of the actual delivered amount.

Turnover discount

Dobeles Dzirnavnieks indicated that this discount is calculated according to the concluded agreement, as percentage of volume of goods actually delivered, and is paid after the end of the respective period.

Commission's consideration

It is the Commission's practice to consider adjustments to the normal value only if the adjustments affected price comparability at the time of setting prices. The adjustment was not considered in the calculation of the normal value as at the time of setting the price Dobeles Dzirnavnieks did not know how much volume the customer will purchase during that period. Furthermore, this adjustment was not substantiated in the exporter's response to the Commission's questionnaire.

The Commission made a preliminary determination not to allow the adjustment for discount as it did not affect price comparability at the time of setting prices.

(c) Adjustment for delivery charges

Dobeles Dzirnavnieks indicated that there is a local delivery charge for moving products from the plant to the customers in Latvia.

Commission's consideration

It is the Commission's practice to consider adjustments to the normal value to bring the price back to the ex-factory level. The delivery charges adjustment was verified.

The Commission made a preliminary determination to allow the delivery charges adjustment as it did affect price comparability at the time of setting prices.

(d) Adjustment for marketing cost

Dobeles Dzirnavnieks indicated that in order to maintain the position in the pasta market, promote pasta market and increase sales volume, they perform a wide range of marketing and promotion activities for their branded pasta products. For example, product promotions in chain stores, advertising, regular communications on social networks.

Commission's consideration

Marketing, promotion and advertising are part of the selling, general and administrative expenses. It could not be established that Dobeles Dzirnavnieks knew the marketing costs at the time of setting the prices. Furthermore, this adjustment was not substantiated in the exporter's response to the Commission's questionnaire.

The Commission made a preliminary determination not to allow the marketing cost adjustment as it did not affect price comparability at the time of setting prices.

(e) Adjustment for sales cost

Dobeles Dzirnavnieks indicated that they incurred sales cost for domestic sales.

Commission's consideration

Sales costs are part of the selling, general and administrative expenses. It could not be established that Dobeles Dzirnavnieks knew the sales costs at the time of setting the prices. Furthermore, this adjustment was not substantiated in the exporter's response to the Commission's questionnaire.

The Commission made a preliminary determination not to allow the sale cost adjustment as it did not affect price comparability at the time of setting prices.

(f) Adjustment for profit

Dobeles Dzirnavnieks indicated the company's management defined planned average profit margin or target profit for a reasonably percentage expected for sales in domestic market.

Commission's consideration

In determining the normal value, the actual sales prices are used and not estimate sales values with a reasonable profit.

The Commission made a preliminary determination not to allow the profit adjustment as it did not affect price comparability at the time of setting prices.

4.4.2 Export price

The Commission accepted the information submitted by Dobeles Dzirnavnieks in its response to the Commission's questionnaire for purposes of its preliminary determination.

Adjustments to the export price

The adjustments set out below were claimed in respect of the export price to arrive at the ex-factory export price.

(a) Adjustment for cost of payment terms

Dobeles Dzirnavnieks indicated that the interest rate applied in the calculation of the cost of payment terms was determined with reference to the investigating period and bank interest rate from 1 January 2019 to 31 December 2019. Cost of payment terms on domestic sales was established at the number of days of average credit period allowed to the customers. The payment days used by Dobeles Dzirnavnieks to calculate the cost of payment terms were displayed on the invoices.

Commission's consideration

It is the Commission's practice to consider adjustments to the normal value only if the adjustments affected price comparability at the time of setting prices. The payment days used by Dobeles Dzirnavnieks to calculate the cost of payment terms were displayed on the invoices. The adjustment was considered in the calculation of normal value as it was requested and substantiated in the exporter's response to the Commission's questionnaire and affected price comparability at the time of setting the prices.

The Commission made a preliminary determination to allow the cost of payment terms adjustment as it was demonstrated to have affected the price comparability at the time of the setting of prices.

(b) Adjustment for delivery charges

Dobeles Dzirnavnieks indicated that the delivery charge consists of:

- Inland transport costs from Dobeles's factory to Riga sea port; and
- Freight costs from Riga sea port to Durban or Cape Town sea port in South Africa.

Commission's consideration

It is the Commission's practice to consider adjustments to the normal value to bring the price back to the ex-factory level. The delivery charges adjustment was verified.

The Commission made a preliminary determination to allow the delivery charges adjustment as it did affect price comparability at the time of setting prices.

(c) Adjustment for profit

Dobeles Dzirnavnieks indicated the company's management define planned average profit margin or target profit for reasonably percentage expected for sales to SACU.

Commission's consideration

In determining the export price, the actual sales prices are used and not estimated sales values with a reasonable profit.

The Commission made a preliminary determination not to allow the profit adjustment as it did not affect price comparability at the time of setting prices.

4.4.3 Dumping Margin

The dumping margin calculated for soft pasta and durum pasta were weighted with the export volumes to determine a weighted average dumping margin. A weighted average dumping margin of 4 percent was calculated for Dobeles Dzirnavnieks.

4.4.4 METHODOLOGY IN THIS INVESTIGATION FOR ALL OTHER MANUFACTURERS/EXPORTERS FROM LATVIA (RESIDUAL DUMPING MARGIN)

It is the general policy of the Commission to impose separate anti-dumping duties on specific exporters that responded to the questionnaire, and in addition, a residual duty against the country in question, to cater for other any manufactures of the subject product who might also have exported the subject product to the SACU, but did not participate in the investigation.

On the basis of the above, it is therefore proposed that the Commission makes a preliminary determination to use the verified information from the cooperating exporter to calculate the residual duty for the Latvia.

Normal value

The Commission made a preliminary determination to use the weighted average normal value of the verified exporter to calculate the residual dumping margin.

Adjustment

In order to obtain the ex-factory price, the Commission made a preliminary determination to make an adjustment for cost of payment and delivery charges to the normal value, based on the information submitted by Dobeles Dzirnavnieks, as it was regarded as the best information available.

Export price

The Commission made a preliminary determination to use the weighted average export price of the verified exporter to calculate the residual dumping margin.

Adjustments

In order to obtain the ex-factory price, the Commission made a preliminary determination to make an adjustment for cost of payment and delivery charges to the export price, based on the information submitted by Dobeles Dzirnavnieks, as it was regarded as the best information available.

4.3.7 Dumping Margin

The residual dumping margin calculated for soft pasta and durum pasta were weighted with the export volumes to determine a weighted average residual dumping margin. A weighted average residual dumping margin of 4% was calculated for Latvia.

4.5 SUMMARY – DUMPING

For the purpose of its preliminary determination, the Commission, after considering all the comments from interested parties, found that the subject product originating in or imported from Egypt, Turkey, Latvia and Lithuania is being dumped onto the SACU market as the following dumping margins were calculated:

Country	Dumping margin
Egypt	43.27%
Turkey	367.25%
Latvia	4%
Other exporters from Latvia	4%
Lithuania	12%
Other exporters from Lithuania	12%

5. MATERIAL INJURY

5.1 DOMESTIC INDUSTRY – MAJOR PROPORTION OF PRODUCTION

The following injury analysis relates to the Applicant who constitutes more than 50 percent of the total domestic production of the subject product.

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

5.2 CUMULATIVE ASSESSMENT

There are four countries involved in this investigation, Egypt, Latvia, Lithuania and Turkey. In terms of the ADR16.3, the Commission may cumulatively assess the effect of the dumped imports only if it finds that cumulating is appropriate in light of –

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

In considering whether cumulating is appropriate with regard to the imports from Egypt, Latvia, Lithuania and Turkey, the Commission must take note of the following:

Imports from the counties are not negligible	Imports from four countries are above negligibility, as contained in table 2.1.5 of this report.
The residual margin of dumping is above <i>de minimis</i> level	The dumping margins calculated are above two percent, as expressed as a percentage of the export price.
Competition between imports from different countries	They are like products for purposes of comparison, their end use and substitutability is similar. They are traded in the SACU market, and therefore part of the SACU market share analysis and the cumulative imports shows an increase throughout the period of investigation.
Competition between imported product and SACU like product	The imported product and the SACU product are like products for the purposes of comparison; they are fully substitutable and have a similar end use. They are traded in the SACU.

In light of the above the Commission made a preliminary determination to conduct a cumulative assessment of the effect of the alleged dumped imports on the SACU industry.

5.3 IMPORT VOLUMES AND EFFECT ON PRICES

5.3.1 Import volumes

The following table shows the volume of allegedly dumped imports in kg, for the subject product:

Table 5.3.1: Import volumes

Import Volume (kg)	Volumes	%	Volumes	%	Volumes	%
	2017	2017	2018	2018	2019	2019
Dumped imports	15 024 390	48,57%	19 923 827	57,11%	21 070 969	57%
Egypt	2 111 480	6,83%	4 235 320	12,14%	3 793 927	10,35
Latvia	5 220 173	16,88%	6 510 174	18,66%	8 073 728	22,02
Lithuania	7 253 252	23,45%	7 740 936	22,19%	7 645 467	20,85
Turkey	439 486	1,425	1 437 397	4,12%	1 557 848	4,25
Other imports	15 908 435	51,43%	14 962 937	42,89%	15 594 017	43%
Total	30 932 826	100%	34 886 764	100%	36 664 987	100%

The Applicant indicated that the market share of imports of the subject product (volume - kg) of Egypt, Latvia, Lithuania and Turkey each increased over the period 2017 to 2019. The four countries' combined import market

share (volume - kg) increased by 40.25 percent over the period 2017 to 2019.

**Comments by Arab Republic of Egypt Ministry of Trade and Industry
Trade Remedies Sector**

The Egyptian Ministry stated that: "by examining the total volume of the subject imports, according to table Annex G2.1, it was found that it increased by 8.6 percent in 2018 and 2019 compared to 2017, which indicates subject imports did not increase in 2019 compared to 2018, in addition, Egyptian imports also decreased by 2 percent during 2019 compared to 2018. In addition, the Egyptian Ministry indicated that the imports from the other countries cannot be considered insignificant, as they represented 51 percent in 2017, 42.8 percent in 2018, 42.6 percent in 2019, of the total SACU imports. Such imports fulfil a large part of the domestic demand. Therefore, it was necessary to examine the effect of those imports on the domestic industry as well.

They further indicated that they found that the largest increase of 8.6 percent in the volume of the subject imports reached its peak in 2018, which coincided with a decrease in the volume of other imports by 8.6 percent, the volume of both the subject imports and the other imports was stable in 2019 compared to 2018 which they contend clearly shows that the subject imports replaced the other imports in the SACU market, and the subject imports had no effect on the domestic industry situation.

The Egyptian Ministry also stated that this was also confirmed by the WTO Appellate Body In Guatemala – Cement. They state that Guatemalan authorities considered the type of cement under the not-scrutinised-imports as being "unlike" the cement under the imports subject to investigation, an assessment which Mexico considered erroneous:"....Mexico claimed that Guatemala's investigating authority had violated Articles 3.1 and 3.2 by not considering at all, in its investigation, certain other cement imports."

Response by the Applicant

The Applicant indicated that the submissions made by the Egyptian Ministry, do not present the correct interpretation of the data. The total import volume increase of the of the subject product in 2018 was 12.78 percent and in 2019 it was 18.53 percent, in relation to the 2017 volume, with the actual total import volume increase in 2019 from 2018 being 4.85 percent. Although the Egyptian imports decreased in 2019 from 2018, an overall increase of 79.68 percent was still experienced from 2017 to 2019.

Imports from other countries presented a decreasing trend of the total import volume market share over the POI, from 51.43 in 2017, to 42.53 percent in 2019. Whilst at the same time, imports from the four subject countries increased from 32.61 percent in 2017 to 40.25 percent in 2019. The Applicant state that the Egyptian Ministry's argument that the subject product imports had no impact on the domestic industry's situation, does not hold water, as the subject product total import volume increased year-on-year, whilst the domestic industry's market share volume decreased year-on-year, as is clearly indicated in Annexure E 7.1.

The Applicant further indicated that the Egyptian Ministry referred to the Panel Report: Guatemala - Definitive Anti-Dumping Measures on Grey Portland Cement from Mexico (WT/DS156/R) ("Panel Report, Guatemala – Cement II") as support for its argument that the Commission has violated Articles 3.1 and 3.2 of the WTO Anti-Dumping Agreement, by not considering "certain other ... [pasta] ... imports". The Applicant noted that the text refers to a footnote "8", but there is no footnote "8" indicted, but a footnote "9". The Applicant pointed out that in the Panel Report, Guatemala – Cement II, the "other imports" referred to that were not taken into consideration, were regarded as "not of the like product" which facts differ from the present investigation, where all of the imports from the "other countries" and the subject countries, are regarded as like products to the products produced in SACU. Accordingly, the Applicant is of the view that

the Egyptian Ministry's reference to the Panel Report, Guatemala – Cement II is out of context and is accordingly incorrect.

Commission's consideration

The table above indicates that the dumped imports increased by 40.25 percent over the period 2017 to 2019.

5.3.2 Effect on Domestic Prices

5.3.2.1 Price depression

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

The table below showed the Applicant industry's ex-factory selling price per kg:

Table 5.3.2.1: Price depression

Rand/kg	2017	2018	2019
Ex-factory selling price	100	92	96

*The information above was indexed using 2017 as base year, due to confidentiality

The Applicant stated that the selling price of the SACU participating manufacturers decreased from 2017 to 2019, which is clearly indicative that price depression was taking place over the period of investigation for injury ("POI"). In 2018 the SACU Industry had to depress its selling prices, in an attempt to capture lost market share that were brought about by the low-priced influx of dumped products from Egypt, Latvia, Lithuania and Turkey. Although there was no price depression in 2019 compared with 2018, the price increases were not in line with the cost increases, therefore the prices were still suppressed.

**Comments by Arab Republic of Egypt Ministry of Trade and Industry
Trade Remedies Sector**

The Egyptian Ministry stated that by reviewing the data of the concerned companies (the domestic industry), which claimed that the subject imports had led to price depression to the selling prices of the industry, they have found the following:

- Namib increased its prices by 7 percent and 1 percent in 2018 and 2019 respectively compared to 2017;*
- Bolux's prices remained stable during 2018 and increased by 5 percent during 2019 compared to 2017; and*
- Tiger declined its selling prices by 16 percent during 2018 and increased such prices by 8 percent during 2019 compared to 2017.*

The Egyptian Ministry stated that the Applicant mentioned that the fluctuations in the currency had a severe impact on the Applicant selling prices. Consequently, Egypt considers that there is a fluctuation in the selling prices of the domestic like product produced by each complaining company individually, which indicates that either price depression or price suppression suffered by the domestic industry cannot be attributed to the subject imports. Further, they argue that although there was increase in the volume of imports in 2019, there was an increase in the selling prices and sales volume of the domestic industry as well, which negates the alleged adverse impact of the increase in the subject imports on the selling prices of the domestic industry. The Egyptian Ministry argues the fact that both the increase and decrease in the selling prices of the domestic industry is based on the pricing and sales policy of each company shows that the price movements cannot be attributed to the subject imports.

The Egyptian Ministry noted that there was an increase in the value of the subject imports during the period from 2017 to 2019 by 56.3 percent, and contends that the imports from countries under investigation do not cause dumping as claimed by the complaining industry.

Response by the Applicant

The Applicant stated that the Egyptian Ministry must be reminded that there is just 'one applicant', which is the SACU Industry, with four individual Participating Manufacturers that supplied information in support. They state that even though the selling prices of Bolux Group and Namib Mills over the POI increased with 3 and 7 index points respectively, the selling prices of Pioneer Foods and Tiger Brands decreased over the POI with respectively 6 and 8 index points, whilst the SACU Industry selling prices experienced a 4 index point decrease over the Injury POI.

The Applicant further indicated that the SACU Industry's comment concerning the fluctuations in the currency more severely impacting the SACU Participating Manufacturers' selling prices, needs to be interpreted within the correct context, of customers favouring the imports of the subject product, which the Egyptian Ministry misinterpreted.

The Applicant also indicated that the Egyptian Ministry is incorrect in its submissions concerning the increase in 2019 of the sales volume and selling prices of the domestic industry. With the increase in the Subject Product import volumes from the subject countries in 2019, the domestic industry's sales volumes decreased from 2018, with the 2019 selling prices having slightly improved in 2019 from 2018, but still remained below the 2017 level. The Applicant concludes that there is no evidence that the domestic industry's selling prices have negated the increase in dumped imports over the POI, as alleged by the Egyptian Ministry. According to the Applicant, the allegation that the increase and decrease in the selling prices of the Applicant are based on the pricing and sales policies of the SACU Industry is incorrect and they confirm that the dumped subject product imports from the subject countries had a harmful impact.

The Applicant further indicated that the period of data collection for the dumping investigation is only 2019 and the value of the subject product over

the POI as presented by the Egyptian Ministry is of no significance and any arguments based on this submission has no relevance.

The Applicant also indicated that the comment by the Egyptian Ministry that “... the value of the subject imports is not less than the total average FOB price in 2019” is not clear and the Applicant is not in a position to respond.

Commission’s consideration

The Applicant experienced price depression over the period 2017 to 2019. The Applicant indicated that in 2018 the SACU Industry had to depress its selling prices, in an attempt to capture lost market share that were brought about by the low-priced influx of dumped products from Egypt, Latvia, Lithuania and Turkey.

5.3.2.2 Price undercutting

The following table compares the Applicant ex-factory prices with the landed cost of the imported product.

Table 5.3.2.2: Price undercutting

Rand/kg	2017	2018	2019
Domestic Selling Price (R/kg)	100	92	96
Alleged Dumped products:			
Import Price FOB (R/kg)			
Egypt	4.99	5.60	6.05
Latvia	6.46	6.94	7.60
Lithuania	7.74	8.43	9.33
Turkey	2.38	2.13	1.94
Import Price landed (R/kg)			
Egypt	7.31	8.21	8.88
Latvia	9.48	8.21	8.88
Lithuania	8.26	8.99	9.95
Turkey	2.54	2.27	2.07
Price undercutting (R/kg)			
Egypt	Yes	Yes	Yes
Latvia	Yes	Yes	Yes
Lithuania	Yes	Yes	Yes
Turkey	Yes	Yes	Yes
Price undercutting %			
Egypt	Yes	Yes	Yes
Latvia	Yes	Yes	Yes
Lithuania	Yes	Yes	Yes
Turkey	Yes	Yes	Yes

**The information above was indexed using 2017 as base year, due to confidentiality*

From the above table it is clear that the landed prices of the imported products from the Egypt, Latvia, Lithuania and Turkey undercut the SACU manufacturers' suppressed selling prices significantly in 2017, 2018 and 2019. The margin of undercutting of the SACU participating manufacturers' unsuppressed selling prices (the prices at which the SACU Industry ought to have sold, had it not been for the dumped imports forcing it to suppress prices in an attempt to compete) is even higher.

Commission's consideration

The information shows that the Applicant experienced price undercutting during the POI.

5.3.2.3 Price suppression

Price suppression is the extent to which increase in the cost of production of

the product concerned, cannot be recovered in selling prices.

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

Table 5.3.2.3: Price Suppression

Rand/kg	2017	2018	2019
Ex-factory price per unit R/kg	100	92	96
Production cost per unit	100	101	115
Gross profit per unit	100	69	43
Gross profit%	100	75	45
Production cost as a % of selling price	100	109	120

**The information above was indexed using 2017 as base year, due to confidentiality*

The Applicant stated that where the reasonable expected cost of production of the Applicant is depicted. This cost is based on the 2017 average cost of production, as a percentage of the selling price that the Applicant in 2017. The Applicant stated that it must be noted that the selling prices in 2017 were already suppressed. Therefore, the cost as a percentage of the selling price in 2017 is already a conservative percentage. The Applicant stated that it is thus clear that the Applicant is selling at suppressed selling prices to maintain market share and to drive sales over the Injury POI.

Commission's consideration

The price suppression experienced by the Applicant increased by 20 index points from 2017 to 2019. The table above indicates that production cost increased by 15 index points from 2017 to 2019 but the Applicant's price only increased by small amount, indicating that it could not recover the full increase in cost by increasing its prices.

5.4 Consequent Impact of the dumped imports on the Industry

5.4.1 Actual and potential decline in sales

The following table shows the Applicants' sales volume of the subject

product:

Table 5.4.1: Sales volume

Kg	2017	2018	2019
Sales value (R)	100	93	96
Sales volume (Kg)	100	101	100

*The information above was indexed using 2017 as base year, due to confidentiality

The Applicant states that the sales volumes for the subject product showed an increasing trend over the 2017 to 2019 period. Although the sales volume increased from 2017 to 2018 (as a result of price depression), this was followed with a volume decrease from 2018 to 2019. The increasing sales volume trend was seen over the last 12 months, but for the period March to September, sales volume showed a decreasing trend.

It is important to note that the sales value of the Applicant experienced a decreasing trend over the 2017 to 2019 period. Even though an increase in sales value occurred from 2018 to 2019, this was still below the 2017 sales value, which indicates that the depressed and suppressed selling prices caused the SACU industry to suffer material injury. The sales value over the last 12 months, followed the same trend as sales volume, with a similar decrease being experienced for the period March to September.

***Comments by Arab Republic of Egypt Ministry of Trade and Industry
Trade Remedies Sector***

The Egyptian Ministry stated that the domestic industry claimed that there was an increase in the volume of domestic sales during 2017 to 2018 due to the decrease in the value, and that, the sales volume decreased from 2018 to 2019 due to the increase in the sales value. However, according to the data of individual companies Egypt noted that Namib's sales volume and value increased by 6 percent and 7 percent respectively in 2018, and by 7 percent and 19 percent in 2019 respectively. The Egyptian Ministry noted that the volume and value of Pioneer sales increased by 12 percent and 6 percent in 2019 respectively. They further noted that on the contrary, the

volume and value of Bolux's sales decreased by 3 percent and 10 percent in 2018 respectively, and by 3 percent and 6 percent in 2019 respectively. The Egyptian Ministry noted that Pioneer's sales volume and value decreased by 5 percent and 9 percent in 2018 respectively and finally, the volume and value of Tiger's sales volume and value decreased by 13 percent and 20 percent in 2019 respectively.

They stated that from the above, it is clear to Egypt that the increase in the volume of sales coincided with an increase in the sales value; the decrease in the volume of sales coincided with the decrease in value thereof. The Egyptian Ministry concludes that the decrease in sales volume is not due to the increase in the value as the SACU Industry claimed.

The Egyptian Ministry stated that the SACU Industry also claimed that the value of the domestic sales in 2019 remained less than its level in 2017, which resulted in injury to the industry. They pointed out that Namib achieved an increase in sales value during 2019 compared to 2017 by 19 percent and Pioneer achieved an increase of 6 percent during the same period, which contradicts what the SACU Industry has claimed. During the Injury POI, Tiger and Pioneer companies witnessed an increase in both the volume and the value of sales during the months of March, April, May, July, October, November and December states the Egyptian Ministry. They also note that Bolux also achieved an improvement during the entire Injury POI, contrary to what is claimed by the Applicant in relation to the period March to September.

The Egyptian Ministry submits that although the volume of imports increased in 2019, there was an increase in the sales volume of the domestic industry and its selling prices, and this negates the alleged adverse impact of the increase in the subject imports on the domestic sales.

Response by the Applicant

The Applicant stated that the submissions made by the Egyptian Ministry as to what is stated in paragraph 4.1 of the Anti-Dumping Application are incorrect. What the Applicant specified is that because of price depression, the sales volume increased from 2017 to 2018. From Annexure E 4.1A, it is clear the sales volume did decrease in 2019 from 2018, to a level close to that of 2017 and even though the selling price did increase from 2018 to 2019, the selling price was still depressed against the 2017 price. Hence, it is clear that the assertions of the Egyptian Ministry have no merit.

The Applicant further stated that the SACU Industry experienced decreasing sales value over the 2017 to 2019 period, with the 2019 level being 4 index points lower than in 2017, as reflected in Annexure D 4.1C. The Egyptian Ministry is selective with its comments concerning Namib Mills and Pioneer Foods. Namib Mills experienced a sales value increase over the Injury POI of 12 index points, not “19 percent” as claimed by the Egyptian Ministry. Pioneer Foods experienced a sales value increase over the Injury POI of 6 index points. However, no mention is made of the decreases that were experienced by Namib Mills and Pioneer Foods in 2018 from 2017, of 6 and 9 index points respectively.

The Applicant stated that the Egyptian Ministry reached an incorrect ‘conclusion’ that it based on the Namib Mills and Pioneer Foods increases over the Injury POI, and that the SACU Industry experienced an increasing sales value trend over the POI.

Commission’s consideration

The Commission noted that the sales volume of the Applicant slightly increased over the injury period of investigation.

5.4.2 Profit

The following table shows the Applicants' profit margins for the subject products:

Table 5.4.2: Profit

		2017	2018	2019
Kg Sold	Kg	100	101	100
Total Gross profit	Rand	100	70	43
Total Net Profit	Rand	100	44	-2
Total Gross profit per kg	R/kg	100	69	43
Total Net Profit per kg	R/kg	100	44	-2

*The information above was indexed using 2017 as base year, due to confidentiality

The Applicant indicated that the SACU Industry did realise Rand/kg gross and net profits regarding the subject product over the period the Injury POI, but these profits declined year-on-year. The gross profit margin percentage decreased from 100 index points in 2017 to 45 index points in 2019, whilst the net profit margin (%) decreased from 100 index points in 2017 to an alarming -2 index points in 2019, which presents a decrease of 102 index points. These declining trends demonstrate that the SACU Industry suffering material injury.

Comments by Arab Republic of Egypt Ministry of Trade and Industry Trade Remedies Sector

The Egyptian Ministry of Trade stated that the SACU industry achieved the largest rate of profits in 2018, coinciding with the largest increase in imports, and in the light of the stability in imports volume in 2019, they incurred the largest rate of losses by -2 percent in spite of the increase in the volume and value of sales of, production and capacity utilisation.

In view of this, the Egyptian Ministry submits that the losses incurred by the domestic industry are not attributed to the subject imports.

Response by the Applicant

The Applicant stated that it is not clear on what information the Egyptian Ministry based its comments concerning profits and losses and are not able to comment.

They further stated that they wish to point out that concerning gross and net profits, year-on-year decreases were experienced over the Injury POI by the SACU Industry.

Commission's consideration

The Commission noted that the net profit of the Applicant declined by 102 index points over the period of investigation.

5.4.3 Output

The following table outlines the Applicants' domestic production volume of the subject product:

Table 5.4.3: Output

		2017	2018	2019
Subject Product - SACU only	kg	100	100	102

**The information above was indexed using 2017 as base year, due to confidentiality*

The Applicant stated that it is common cause that production cannot just be cut back without increasing costs. The Applicants' production of the subject product presented increasing trends over the period 2017 to 2019. However, there was a slight increase from 2017 to 2018 and over the Injury POI was an increase of 2 index points for subject product total and SACU only production, respectively.

The Applicant further stated that the dumped imports volumes from Egypt, Latvia, Lithuania and Turkey gained increased market share during the Injury POI. If this is not addressed, the output of the SACU Industry will be

adversely affected.

5.4.4 Market share

The following table shows the SACU Industry market share for the subject product.

Table 5.4.4: Market share

		2017	%	2018	%	2019	%
Applicant	kg	100	100	101	98	100	98
Estimate of other SACU Producers	kg	100	100	95	94	85	81
Total SACU producers Sales	kg	100	100	100	97	97	95
Market share: Imports							
Dumped Imports	kg	15 024 390	10,58%	19 923 827	14,03%	21 070 969	14,84%
Other Countries	kg	15 908 435	11,20%	14 962 937	10,26%	15 594 017	10,77%
Total Imports	kg	30 932 826	21,78%	34 886 764	23,92%	36 664 987	25,33%
Total Market	kg	100	100%	103	100%	102	100%

*The information above was indexed using 2017 as base year, due to confidentiality

The Applicant indicated that the market share of the Applicant showed a declining trend over the period 2017 to 2019, because of the dumped imports, causing SACU Industry to suffer material injury. The individual import volumes from Egypt, Latvia, Lithuania and Turkey all increased from 2017 to 2019. The combined import volumes from Egypt, Latvia, Lithuania and Turkey increased from 15,024,390 kg in 2017 to 21,070,969 kg in 2019, which amounted to a 40.25 percent increase over the Injury POI.

Commission's consideration

The Commission noted that the Applicant's market share declined by 2 index points, for the period 2017 to 2019.

5.4.5 Productivity

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

Table 5.4.5: Productivity

		2017	2018	2019
Total production volume	kg	100	99	101
Number of employees (Production)	No	100	101	87
Kg per employee	Kg	100	98	117

*The information above was indexed using 2017 as base year, due to confidentiality

The Applicant stated that productivity of the Applicant showed an increasing trend over the Injury POI, which was realised due to a reduction in employees from 2018 to 2019. However, should the influx of dumped imports from Egypt, Latvia, Lithuania and Turkey continue to increase, the sales volumes of the SACU Industry is likely to reduce and the SACU Industry will be under pressure to reduce production volumes, in an attempt to keep inventory levels from increasing, which would result in a decrease in productivity, unless employee numbers are further reduced. This demonstrates material injury to the SACU industry.

5.4.6 Return on investment

Return on investment is normally regarded by the Commission as being the profit before interest and tax as a percentage of the net value of assets. The following table provides the Applicants' profit after interest and tax expressed as a percentage of its net value of assets:

Table 5.4.6: Return on investment – Rand

	2017	2018	2019
Net profit	100	44	-2
Net assets (Book value)	100	105	104
Return on net assets (Book value)	100	42	-2

*The information above was indexed using 2017 as base year, due to confidentiality

The Applicant indicated that the return on investment is based on two calculations, namely the total profit of the subject product, expressed as a percentage of the total investment and then on the net assets. It is clear that the return on investment based on net asset book value, as well as the

insured replacement value (total investment), show decreasing trends over the period 2017 to 2019, indicating that the SACU Industry is suffering material injury.

Commission's consideration

The Commission noted from the above table the return on investment on the subject product decreased significantly from 2017 to 2019 by 102 index points.

5.4.7 Utilisation of production capacity

The following table provides the Applicants' capacity and production for the subject product.

Table 5.4.7: Utilisation of production capacity

Pasta	2017	2018	2019
Capacity kg	100	100	100
Actual Production kg	100	99	101
Capacity utilization %	100	99	101

*The information above was indexed using 2017 as base year, due to confidentiality

The Applicant indicated that the above table shows an increasing trend of capacity utilisation by the Applicant for the Injury POI is reflected, but this increase over the Injury POI represents 1 index point.

Should the dumped imports from Egypt, Latvia, Lithuania and Turkey continue to increase, the sales volumes of the Applicant is likely to reduce further and the Applicant would be under pressure to reduce production volumes, which would result in a further decrease in capacity utilisation.

5.4.8 Factors affecting domestic prices

The Applicant stated that there are no other known factors, which could affect the domestic prices negatively.

5.4.9 The magnitude of the margin of dumping

The following dumping margins were calculated:

Table 5.4.9: Dumping margins

Country	Dumping margin
Egypt	43.27%
Turkey	367.25%
Latvia - Dobeles	4%
Other exporters from Latvia	4%
Lithuania – Amber Pasta	12%
Other exporters from Lithuania	12%

5.4.10 Actual and potential negative effects on cash flow

The following table reflects the Applicant's cash flow situation with regard to the product under investigation.

Table 5.3.10: Cash flow situation

Rand	2017	2018	2019
Cash flow: incoming	100	95	99
Cash flow: outgoing	100	105	120
Net cash flow	100	46	3

*The information above was indexed using 2017 as base year, due to confidentiality

The Applicant stated that from the above table net cash flow indicate a year on-year declining trend over the period 2017 to 2019, mostly because of price depression and price suppression. The decrease from 2017 to 2018 amounted to 56 index points, followed by a large decrease of 43 index points for the period 2018 to 2019, which a clear indicating of the massive extent of injury being suffered by the SACU industry.

5.4.11 Inventories

Table 5.3.11: Inventories

		2017	2018	2019
Volume	kg	100	101	98
Value	R	100	111	119
Value per unit	R/kg	100	110	122

*The information above was indexed using 2017 as base year, due to confidentiality

The Applicant indicated that the inventory levels are subject to fluctuations, based on production levels and market demand, as well as the impact that dumped imports have on the of SACU market trading conditions. The SACU Industry tries to maintain constant inventory levels (volume) at constant level. However, it is evident that from February 2019 to April 2019, inventory levels did decline, but then showed an increasing trend up to October 2019, where after it declined to close to the same level as in April 2019. This while the cost of production showed an increasing trend over the period January 2019 to December 2019, causing the SACU Industry to suffer material injury.

The Applicant further indicated that the there is an increasing trend for inventory volume over the 12-month period of January to December 2019. There was a more prominent increase over the period April to October 2019. The inventory value over the 12-month period of January to December 2019, also reflect an increasing trend, which was more pronounced for the period June to October 2019.

These inventory volume and value increases is causing the SACU Industry to suffer material injury, which position is likely to further deteriorate, should dumped imports continue to increase.

5.4.12 Employment

The following table provides the Applicants' employment figures for the

subject product

Table 5.4.12: Employment

Pasta	2017	2018	2019
Direct labour (units): production	100	100	83
Indirect labour (units): production	100	103	93
Total labour (units): production	100	101	87

*The information above was indexed using 2017 as base year, due to confidentiality

The Applicant stated that the average employment was calculated based on the number of workers that were employed during the specific periods, inclusive of contract workers. The retrenching of production workers as result of dumping would be a last resort consideration for the Applicant, but if the dumping continues, the SACU Industry will be forced to reduce employee numbers. The production employment for the Injury POI shows a declining trend. This relates to labour reallocation due to the reduced proportion of subject product and not actual retrenchment at this stage.

5.4.13 Wages and salaries

The following table provides the Applicant's wages paid:

Table 5.4.13: Wages & Salaries

		2017	2018	2019
Direct Wages: Production	R	100	97	107
Indirect Wages: Production	R	100	101	103
Total wages: Production	R	100	100	104
Wages per employee	R	100	98	119

*The information above was indexed using 2017 as base year, due to confidentiality

The Applicant indicated that wages (production) showed an increasing trend over the period 2017 to 2019, as increased wages are negotiated with

Unions.

5.4.14 Growth

The following table indicates the growth of the SACU market as provided by the Applicant.

Table 5.4.14: Growth (kg)

Pasta					2017/2019 % Change
	kg	2017	2018	2019	
Applicant Sales		100	101	100	0%
Dumped imports		15 024 390	19 923 827	21 070 969	40.24%
Other imports		15 908 435	14 962 937	15 594 017	(1.97%)
Total imports		30 932 826	34 886 764	36 664 987	18.53%

*The information above was indexed using 2017 as base year, due to confidentiality

The Applicant stated that the SACU market showed growth in 2018 compared with 2017, but a negative rate in 2019, compared to 2018. If the SACU Industry's growth over the Injury POI is assessed, it was more or less stagnant. However, the total SACU Industry's market share decreased over the Injury POI, which shows material injury being suffered.

Egypt, Latvia, Lithuania and Turkey each experienced positive growth rates for the Injury POI. Their combined volume growth reflects a year-on-year growth, as well as a substantial growth rate for the 2017 to 2019 period of 40.25 percent. By contrast, the total SACU Industry sales volume contracted. This shows material injury was suffered by the SACU Industry.

5.4.15 Ability to raise capital or investments

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

Table 5.4.15: Ability to raise capital or investments

Rand	2017	2018	2019
Total capital/investment in subject product	100	105	107
Capital expenditure during year on subject product	100	87	62

***The information above was indexed using 2017 as base year, due to confidentiality**

5.4.16 SUMMARY – MATERIAL INJURY

From the information above, it is evident that the Applicant is suffering price injury, considering price undercutting, price depression and price suppression, decline in profits and cash flow.

Market share of the Applicant declined by 2 index points over the period 2017 to 2019. Cumulating imports over the period 2017 to 2019 indicates that the volume of dumped imports increased over the period 2017 to 2019.

The Commission made a preliminary determination that the SACU industry is experiencing material injury.

6. THREAT OF MATERIAL INJURY

6.1 Freely disposable capacity of the exporters

The Applicant provided the following information in substantiating the above:

- It was reported on 28 February 2020, on www.worldstopexports.com, that in 2018, Turkey was the fourth biggest global exporter of pasta with a value of USD 552.5 million.
- It was reported on 19 March 2020, that five of the top ten spaghetti manufacturers in Turkey had a combined annual pasta production capacity of the 599,040 tons.
- It was reported on in the website www.magazinebbm.com that in 2010, Turkey was already regarded as one of the largest pasta producer countries of the world with its installed capacity over 1,300 million tons. This capacity was estimated to increase up to 1,700 million tons with the plant and technology investments of the companies in the recent years. Since 1990, there has been a surplus production over the domestic demand and as a result an industrialization strategy for export was heavily applied and the production volumes and capacity usage rates of the companies with export potential increased its exports.
- The Turkish Ministry of Economy in its Food & Agriculture Pasta publication of 2018 stated that the Turkish pasta industry annually produced almost 1.2 million tons of pasta. Total pasta exports of Turkey totalled 1,055 thousand tons in 2017, which presented an increase of 26.98 percent from the 2016 and an increase of 57.07 percent from the 2015 volume.
- The Regina Company for Pasta and Food Industries, which regards itself as a pioneer in its field of operation in Egypt, on 25 September 2014, stated on their website (www.pastaregina.com/corporate/) that it had a production of 80,000 tons per year and indicated the addition of production.

- The Milano, which is the biggest pasta producer Egypt on 24 October 2017, stated on their website (www.milano-eg.com/our-story/) that it had a production volume per year of 119,250 ton of short pasta and 58,750 tons of long pasta. It was further indicated that it would be adding additional production lines for short and long pasta to increase its production capacity.
- The Macaroni Queen Company with its ninth Egyptian manufacturing facilities, states on its website (www.macaroniqueen.com/eng_ourfactories) that it has a production capacity of 147,500 tons per year.
- Dobeles Dzirnāvnieks in Latvia with its advanced production lines has a total production capacity of more than 150 tons per day, with an annual estimate of 37,950 tons.
- According to the Amber Pasta website (www.pasta.lt/en/sales-markets) it exports an estimated 70 percent of the is production, with the African region at present being the largest consumer of its pasta, where it has a number of important long-term partners.

The Applicant indicated that from the above, which does not include up to date detail of all the manufactures in Egypt, Latvia, Lithuania and Turkey, the existence of surplus production, the vast manufacturing volumes and production capacities, as well as recent increases production capacities, indicates that there is most likely free capacity available. The majority of pasta manufacturers operate from large premises with sufficient size and adequate storage facilities to keep larger inventory volumes, if required. With the dried pasta having a shelf life of up to 3 years under the correct and controlled conditions, the increase in export volumes to SACU can be easily achieved, especially as there are already existing relationships with SACU importers.

6.2 Significant increase of dumped imports

The Applicant stated the dumped imports increased by 40.25 percent during the period of investigation. Furthermore, the average prices of the products from Egypt, Latvia, Lithuania and Turkey, were each well below other importing countries' prices for the same period.

There exists the real threat that the imports of the subject product from Egypt, Latvia, Lithuania and Turkey will increase even further in 2020, if the dumping of the subject product in the SACU market is not addressed. Therefore, the SACU participating manufacturers that are already suffering as a result of the dumped imports, will lose even more sales to the dumped imports, this situation would hold a disastrous outcome for the SACU Industry, should the dumping not be addressed.

Commission's consideration

The Commission considered that it is evident from the information provided by the Applicant that there is a significant increase of the dumped imports over the Injury investigation period.

6.3 Prices of imports which will have a significant depressing or suppressing effect on domestic prices

The Applicant stated that because of the increased imports from Egypt, Latvia, Lithuania and Turkey, there already exists price suppression over the period 2017 to 2019, with regard to the subject product, as well as price depression. These are, and will be affecting the profitability of the Applicant, causing it to suffer further material injury. Therefore, there exists a real threat of the continuation of material injury to the SACU industry if the dumped imports are not addressed as a matter of urgency.

6.4 Exporter's inventories of the subject product

The Applicant indicated that it does not have any information available about the inventory levels in Egypt, Latvia, Lithuania and Turkey.

However, as the United States of America in 2019 has confirmed that, the existing Anti-Dumping duties against Turkey will be kept in place; manufacturers in Turkey will be forced to continue its exploration of viable markets for products such as SACU, to keep inventory levels under containment.

However, as there is an increasing demand for pasta as a primary food source, with a highly competitive global market, foreign manufacturers will constantly be seeking for markets to increase export volumes, such as to SACU.

6.5 State of the economy of the country of origin

The Applicant provided the following:

Egypt

Occupying the northeast corner of the African continent, Egypt is bisected by the highly fertile Nile valley where most economic activity takes place. Egypt's economy was highly centralized during the rule of former President Gamal Abdel Nasser, but opened up considerably under former Presidents Anwar EL-SADAT and Mohamed Hosni MUBARAK. Agriculture, hydrocarbons, manufacturing, tourism, and other service sectors drove the country's relatively diverse economic activity.

Despite Egypt's mixed record for attracting foreign investment over the past two decades, poor living conditions and limited job opportunities have contributed to public discontent. These socioeconomic pressures were a major factor leading to the January 2011 revolution that ousted Mubarak. The uncertain political, security, and policy environment since 2011 has restricted economic growth and failed to alleviate persistent unemployment, especially among the young.

In late 2016, persistent dollar shortages and waning aid from its Gulf allies led Cairo to turn to the International Monetary Fund (“IMF”) for a 3-year, \$12 billion loan program. To secure the deal, Cairo floated its currency, introduced new taxes, and cut energy subsidies - all of which pushed inflation above 30 percent for most of 2017, a high that had not been seen in a generation. Since the currency float, foreign investment in Egypt’s high interest treasury bills has risen exponentially, boosting both dollar availability and central bank reserves. Cairo will be challenged to obtain foreign and local investment in manufacturing and other sectors without a sustained effort to implement a range of business reforms.

The Government of Egypt successfully implemented a first wave of macro-economic and structural reforms that successfully addressed a number of deep-seated issues and helped to stabilize the economy, sustain growth and lay the groundwork for more dynamic private sector participation in the economy.

In the Financial Year (“FY”) 2019 (ending June 30th, 2019), real Gross Domestic Product (“GDP”) growth reached 5.6 percent, up from 5.3 percent in FY18. Data for the first nine months of FY19 show that this pickup is driven by net exports. Private investment is also picking up, although from a low base and with sluggish Foreign Direct Investment (“FDI”) mainly directed to hydrocarbons.

On the sectoral side, gas extractives, tourism, wholesale and retail trade, real estate and construction have been the main drivers of growth. Unemployment decreased to 7.5 percent in the fourth quarter of FY19 (from 9.9 percent a year earlier), although accompanied by shrinking labour force participation.

The Central Bank of Egypt cut policy rates by 150 basis points in August 2019, a move that should improve private sector cash flow via its impact on lending rates. The monetary easing was triggered by the remarkable decline in headline inflation in August 2019 to 7.5 percent, due to favourable base effects, as well as moderating food inflation; altogether diluting the inflationary impact of the July 2019 energy price hikes. The budget and primary balances have improved to an

estimated -8.3 percent and 1.9 percent of GDP, respectively in FY19, from -9.7 percent and 0.1 percent of GDP a year earlier.

This comes on the back of the containment of energy subsidies and civil servants' wages, in addition to increased revenues collection (notably from the VAT and income tax). In tandem, even though significant risks remain in terms of debt size, composition and contingent liabilities, government debt is estimated to have decreased to 90.5 percent of GDP in end-June 2019, from 97.3 percent of GDP in end-June 2018, with the decline mostly stemming from the domestic portion, which accounts for 80 percent of Egypt's debt. Egypt's external position has stabilized at broadly favorable levels, as foreign reserves reached US\$44.97 billion in end-August 2019 (covering around eight months of merchandise imports). The Egyptian pound strengthened against the US\$, reaching EGP/US\$16.4 by mid-September 2019; cumulatively appreciating by around 16 percent since the Pound's weakest point around mid-December 2016.

While macroeconomic environment has improved, social conditions remain difficult. Between 2016 and 2018, nominal wage growth fell below inflation. Official estimates reported that the share of the population living below the national poverty line in FY18 increased to 32.5 percent, from 27.8 in 2015, with the highest poverty rates still in rural Upper Egypt.

To alleviate the adverse effects of the economic reforms on the poor and vulnerable and increase investments in Egypt's human capital, the government has scaled up key short-term social protection mitigating measures, including through higher allocations of food smart cards and expanded targeted conditional and unconditional cash transfer programs.

Latvia

Latvia is a small, open economy with exports contributing more than half of GDP. Due to its geographical location, transit services are highly developed, along with timber and wood-processing, agriculture and food products, and manufacturing of

machinery and electronics industries. Corruption continues to be an impediment to attracting foreign direct investment and Latvia's low birth rate and decreasing population are major challenges to its long-term economic vitality.

Latvia's economy experienced GDP growth of more than 10 percent per year during 2006-07, but entered a severe recession in 2008 as a result of an unsustainable current account deficit and large debt exposure amid the slowing world economy. Triggered by the collapse of the second largest bank, GDP plunged by more than 14 percent in 2009 and, despite strong growth since 2011, the economy took until 2017 return to pre-crisis levels in real terms. Strong investment and consumption, the latter stoked by rising wages, helped the economy grow by more than 4 percent in 2017, while inflation rose to 3 percent. Continued gains in competitiveness and investment will be key to maintaining economic growth, especially in light of unfavourable demographic trends, including the emigration of skilled workers, and one of the highest levels of income inequality in the European Union ("EU").

In the wake of the 2008-09 crisis, the IMF, EU, and other international donors provided substantial financial assistance to Latvia as part of an agreement to defend the currency's peg to the euro in exchange for the government's commitment to stringent austerity measures. The IMF/EU program successfully concluded in December 2011, although, the austerity measures imposed large social costs. The majority of companies, banks, and real estate have been privatized, although the state still holds sizable stakes in a few large enterprises, including 80 percent ownership of the Latvian national airline. Latvia officially joined the World Trade Organization in February 1999 and the EU in May 2004. Latvia also joined the euro zone in 2014 and the Organisation for Economic Co-operation and Development ("OECD") in 2016.

The economy of Latvia is an open economy in Northern Europe and is part of the European Union's (EU) single market. Latvia is a member of the World Trade Organization ("WTO") since 1999, a member of the European Union since 2004, a

member of the Eurozone since 2014 and a member of the OECD since 2016. The Ease of Doing Business Index prepared by the World Bank Group ranks Latvia the 14th in the world. According to the Human Development Report 2011, Latvia belongs to the group of very high human development countries. Due to its geographical location, transit services are highly developed, along with timber and wood-processing, agriculture and food products, and manufacturing of machinery and electronic devices.

Latvia's economy has had rapid GDP growth of more than 10 percent per year during 2006–07, but entered a severe recession in 2009 as a result of an unsustainable current account deficit, collapse of the real estate market, and large debt exposure amid the softening world economy. Triggered by the collapse of Parex Bank, the second largest bank, GDP decreased by almost 18 percent in 2009, and the European Union, the International Monetary Fund, and other international donors provided substantial financial assistance to Latvia as part of an agreement to defend the currency's peg to the euro in exchange for the government's commitment to stringent austerity measures. In 2011, Latvia achieved GDP growth by 5.5 percent and thus Latvia again was among the fastest growing economies in the European Union. The IMF/EU program successfully concluded in December 2011.

The economic situation has since 2010 improved, and by 2012 Latvia was described as a success by IMF managing director Christine Lagarde showing strong growth forecasts. The Latvian economy grew by 5.5 percent in 2011 and by 5.6 percent in 2012 reaching the highest rate of growth in Europe. Unemployment, however, remains high, and GDP remains below the pre-crisis level.

Privatization is mostly complete, except for some of the large state-owned utilities. Export growth contributed to the economic recovery; however, the bulk of the country's economic activity is in the services sector.

Lithuania

After Lithuania declared independence from the Soviet Union in 1990, Lithuania faced an initial dislocation that is typical during transitions from a planned economy to a free-market economy. Macroeconomic stabilization policies, including privatization of most state-owned enterprises, and a strong commitment to a currency board arrangement led to an open and rapidly growing economy and rising consumer demand. Foreign investment and EU funding aided in the transition. Lithuania joined the WTO in May 2001, the EU in May 2004, and the euro zone in January 2015, and is now working to complete the OECD accession roadmap it received in July 2015. In 2017, joined the OECD Working Group on Bribery, an important step in the OECD accession process.

The Lithuanian economy was severely hit by the 2008-2009 global financial crisis, but it has rebounded and become one of the fastest growing in the EU. Increases in exports, investment, and wage growth that supported consumption helped the economy grow by 3.6 percent in 2017. In 2015, Russia was Lithuania's largest trading partner, followed by Poland, Germany, and Latvia; goods and services trade between the US and Lithuania totalled \$2.2 billion. Lithuania opened a self-financed liquefied natural gas terminal in January 2015, providing the first non-Russian supply of natural gas to the Baltic States and reducing Lithuania's dependence on Russian gas from 100 percent to approximately 30 percent in 2016.

Lithuania's ongoing recovery hinges on improving the business environment, especially by liberalizing labour laws, and improving competitiveness and export growth, the latter hampered by economic slowdowns in the EU and Russia. In addition, a steady outflow of young and highly educated people is causing a shortage of skilled labour, which, combined with a rapidly aging population, could stress public finances and constrain long-term growth.

The economy of Lithuania is the largest economy among the three Baltic States. Lithuania is a member of the European Union and its GDP per capita is the

highest in the Baltic States. Lithuania belongs to the group of very high human development countries and is a member of WTO and OECD.

Lithuania was the first country to declare independence from Soviet Union in 1990 and rapidly moved from centrally planned to a market economy, implementing numerous liberal reforms. It enjoyed high growth rates after joining the European Union along with the other Baltic States, leading to the notion of a Baltic Tiger. Lithuania's economy (GDP) grew more than 500 percent since regaining independence in 1990. Half of the workforce in the Baltic States – 3.3 million live in Lithuania – 1.4 million.

GDP growth reached its peak in 2008, and is approaching the same levels again in 2018. Similar to the other Baltic States; the Lithuanian economy suffered a deep recession in 2009, with GDP falling by almost 15 percent. After severe recession, the country's economy started to show signs of recovery already in 3rd quarter of 2009, returned to growth in 2010 with positive 1.3 outcome and with 6.6 per cent growth during the first half of 2011 country is one of the fastest growing economies in the EU. GDP growth has resumed in 2010, albeit at a slower pace than before the crisis. Success of the crisis taming is attributed to the austerity policy of the Lithuanian Government.

Lithuania has a sound fiscal position. The 2017 budget resulted in a 0.5 percent surplus, the gross debt is stabilising at around 40 percent of GDP. The budget remained positive in 2017 and is expected so in 2018.

Lithuania is ranked 11th in the world in the Ease of Doing Business Index prepared by the World Bank Group and 16th out of 178 countries in the Index of Economic Freedom, measured by The Heritage Foundation. On average, more than 95 percent of all foreign direct investment in Lithuania comes from European Union countries. Sweden is historically the largest investor with 20 percent – 30 percent of all FDI in Lithuania. FDI into Lithuania spiked in 2017, reaching its highest ever-recorded number of Greenfield investment projects. In 2017,

Lithuania was third country, after Ireland and Singapore by the average job value of investment projects.

Based on OECD data, Lithuania is among the top five countries in the world by postsecondary (tertiary) education attainment. Educated workforce attracted investments especially in ICT sector during the past years. The Lithuanian government and the Bank of Lithuania simplified procedures for obtaining licenses for the activities of e-money and payment institutions, positioning the country as one of the most attractive for the FinTech initiatives in EU.

Turkey

Turkey's largely free-market economy is driven by its industry and, increasingly, service sectors, although its traditional agriculture sector still accounts for about 25 percent of employment. The automotive, petrochemical, and electronics industries have risen in importance and surpassed the traditional textiles and clothing sectors within Turkey's export mix. However, the recent period of political stability and economic dynamism has given way to domestic uncertainty and security concerns, which are generating financial market volatility and weighing on Turkey's economic outlook.

Current government policies emphasize populist spending measures and credit breaks, while implementation of structural economic reforms has slowed. The government is playing a more active role in some strategic sectors and has used economic institutions and regulators to target political opponents, undermining private sector confidence in the judicial system. Between July 2016 and March 2017, three credit ratings agencies downgraded Turkey's sovereign credit ratings, citing concerns about the rule of law and the pace of economic reforms.

Turkey remains highly dependent on imported oil and gas but is pursuing energy relationships with a broader set of international partners and taking steps to increase use of domestic energy sources including renewables, nuclear, and coal. The joint Turkish-Azerbaijani Trans-Anatolian Natural Gas Pipeline is moving

forward to increase transport of Caspian gas to Turkey and Europe, and when completed will help diversify Turkey's sources of imported gas.

After Turkey experienced a severe financial crisis in 2001, Ankara adopted financial and fiscal reforms as part of an IMF program. The reforms strengthened the country's economic fundamentals and ushered in an era of strong growth, averaging more than 6 percent annually until 2008. An aggressive privatization program also reduced state involvement in basic industry, banking, transport, power generation, and communication. Global economic conditions and tighter fiscal policy caused GDP to contract in 2009, but Turkey's well-regulated financial markets and banking system helped the country weather the global financial crisis, and GDP growth rebounded to around 9 percent in 2010 and 2011, as exports and investment recovered following the crisis.

The growth of Turkish GDP since 2016 has revealed the persistent underlying imbalances in the Turkish economy. In particular, Turkey's large current account deficit means it must rely on external investment inflows to finance growth, leaving the economy vulnerable to destabilizing shifts in investor confidence. Other troublesome trends include rising unemployment and inflation, which increased in 2017, given the Turkish lira's continuing depreciation against the dollar. Although government debt remains low at about 30 percent of GDP, bank and corporate borrowing has almost tripled as a percent of GDP during the past decade, outpacing its emerging-market peers and prompting investor concerns about its long-term sustainability.

The economy of Turkey is an emerging market economy as defined by the International Monetary Fund. Turkey is among the world's developed countries according to the CIA World Factbook. Turkey is also defined by economists and political scientists as one of the world's newly industrialized countries. Turkey has the world's 19th-largest nominal GDP, and 13th-largest GDP by PPP. The country is among the world's leading producers of agricultural products; textiles; motor vehicles, transportation equipment; construction materials; consumer electronics

and home appliances (see the related chapters below).

In 2018, Turkey went through a currency and debt crisis, characterised by the Turkish lira (TRY) plunging in value, high inflation, rising borrowing costs, and correspondingly rising loan defaults. The crisis was caused by the Turkish economy's excessive current account deficit and foreign-currency debt, in combination with the ruling Justice and Development Party's increasing authoritarianism and President Erdoğan's unorthodox ideas about interest rate policy.

Turkey's economic and social development performance since 2000 has been impressive, leading to increased employment and incomes and making Turkey an upper middle-income country. However, growing economic vulnerabilities and a more challenging external environment are threatening to undermine those achievements.

For most of the period since 2000, Turkey has maintained a long-term focus on implementing ambitious reforms in many areas, and government programs have targeted vulnerable groups and disadvantaged regions. Poverty incidence more than halved over 2002-15, and extreme poverty fell even faster.

During this time, Turkey urbanized dramatically, maintained strong macroeconomic and fiscal policy frameworks, opened to foreign trade and finance, harmonized many laws and regulations with European Union (EU) standards, and greatly expanded access to public services. It also recovered well from the global crisis of 2008/09.

However, there has been a slowdown in reforms in several areas in recent years that, together with a number of economic vulnerabilities, risks reversing some of the progress made to date.

The economic outlook is subject to higher levels of uncertainty than usual, given rising inflation and unemployment, contracting investment, elevated corporate and financial sector vulnerabilities, and only patchy implementation of corrective policy actions and reforms.

There are also significant external headwinds due to weakening relationships with some key trading partners, ongoing geopolitical tensions in the sub region, global trade tensions, and concerns about a global recession.

6.7 Give any other information relevant to your allegation that the infliction of material injury is imminent.

The Applicant's submissions are set out below.

On 17 December 2019, it was reported by www.businesswire.com that Technavio has announced its latest market research report titled "Global Pasta Market 2019-2023". Technavio has been monitoring the global pasta market since 2017, stated that the market is poised to grow by USD 11.42 billion during 2019-2023, progressing at a Compound Annual Growth Rate ("CAGR") of over 5 percent during the forecast period. The market is driven by new product launches. In addition, the growing popularity of health and wellness pasta is anticipated to further boost the growth of the global market. The launch of new products will be one of the major drivers in the global pasta market. Pasta manufacturers are adopting innovative strategies to increase their market share. (Please refer to Annexure F 6A.)

On 06 March 2020, it was also reported by www.businesswire.com that the global pasta market is poised to grow by USD 12.23 billion during 2020-2024, progressing at a compound annual growth rate (CAGR) of almost 6 percent during the forecast period.

The market is driven by the increased demand for instant pasta. In addition, the rising demand for local flavours and varieties is anticipated to boost the growth of the pasta market.

The growing popularity and preference for convenience food products among individuals, especially the working population is increasing the demand and consumption of instant pasta. Some of the major factors propelling the sale of instant pasta is their longer shelf life, easy preparation, and shorter cooking time. This is encouraging many vendors to introduce new pre-cooked or instant pasta of different flavours with diverse sauces.

With a constant growing market, the number of international manufacturers is increasing and its production volumes are on the rise as well.

6.8 SUMMARY ON THREAT OF MATERIAL INJURY

The Commission considered that Turkey, Latvia and Egypt has increased their freely disposable capacity and that dumped imports increased by 40.25 percent over the Injury POI.

The Commission therefore made a preliminary determination that the SACU industry is experiencing a threat of material injury.

7. CAUSAL LINK

7.1 GENERAL

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

7.2 VOLUME OF IMPORTS AND MARKET SHARE

An indication of causality is the extent of the increase in the volume of the dumped subject imports from Egypt, Latvia, Lithuania, and Turkey relative to the extent to which the market share of the SACU Industry has decreased over the Injury POI.

The following table compares the market share of the SACU Industry with that of the alleged dumped imports:

Table 7.2.1: Market share

Percentage market share held by:	2017	2018	2019
	%	%	%
Applicant	100	98	98
Estimate of other SACU producers' market share (%)	100	94	81
Total dumped imports	21.78%	23.92%	25.33%
Total Market	100%	100%	100%

***The information above was indexed using 2017 as base year, due to confidentiality**

The Applicant indicated that the market share (volumes) of the Applicant showed a declining trend over the period 2017 to 2019, because of the dumped imports, causing SACU Industry to suffer material injury. The individual import volumes from Egypt, Latvia, Lithuania and Turkey all increased from 2017 to 2019. The combined import volumes from Egypt, Latvia, Lithuania and Turkey increased from 15,024,390 kg in 2017 to

21,070,969 kg in 2019, which amounted to a 40.25 percent increase over the POI.

Commission's consideration

The Commission noted that the Applicant's market share declined by 2 index points, for the period 2017 to 2019. By contrast, the market share of dumped imports increased as shown below.

The following table shows the volume of imports:

Table 7.2.2: Import volumes

Import Volume (kg)	Volumes	%	Volumes	%	Volumes	%
	2017	2017	2018	2018	2019	2019
Dumped imports	15 024 390	48,57%	19 923 827	57,11%	21 070 969	57,47%
Egypt	2 111 480	6,83%	4 235 320	12,14%	3 793 927	10,35
Latvia	5 220 173	16,88%	6 510 174	18,66%	8 073 728	22,02
Lithuania	7 253 252	23,45%	7 740 936	22,19%	7 645 467	20,85
Turkey	439 486	1,425	1 437 397	4,12%	1 557 848	4,25
Other imports	15 908 435	51,43%	14 962 937	42,89%	15 594 017	43%
Total	30 932 826	100%	34 886 764	100%	36 664 987	100%

The Applicant indicated that the subject product import market share (volume - kg) of Egypt, Latvia, Lithuania and Turkey each increased over the period 2017 to 2019. The four countries' combined import market share (volume - kg) increased over the period 2017 to 2019, an increase of 40.25 percent.

Commission's consideration

The Commission is of the view that the information in the table above indicates that the volume of dumped imports increased over the period 2017 to 2019.

7.3 EFFECT OF DUMPED IMPORTS ON PRICES

The following table shows the price effects of the Applicant:

Table 7.3.1: Price depression, price suppression and Price undercutting

Rand	2017	2018	2019
Ex-factory selling price in SACU (Price depression)	100	92	96
Cost of production % selling price(suppression)	100	109	120
Price Undercutting			
Egypt	100	70	68
Latvia	100	104	101
Lithuania	100	68	60
Turkey	100	33	99

*The information above was indexed using 2017 as base year, due to confidentiality

7.4 CONSEQUENT IMPACT OF DUMPED IMPORTS

Material injury indicator	Analysis (2017– 2019)
Price suppression	Increased
Price depression	Decrease
Sales volume	Increased
Market share	Decreased
Profit	Decreased
Production	Increased
Productivity	Increased
Return on investment	Decreased
Utilisation of production capacity	Increased
Cash flow	Decreased
Inventory levels	Decreased
Growth	Increased
Wages	Increased

7.5 FACTORS OTHER THAN THE DUMPING CAUSING INJURY

7.5.1 Examination of Egypt, Latvia, Lithuania and Turkey under Article 3.5

Variable	Year			Change (%)
	2017	2018	2019	2017-2019
Prices of imports not sold at dumped prices (fob price) (R/kg)	11.79	15.19	14.37	21.88
Volume of imports not sold at dumping (Kg)	15 908 435	14 962 937	15 594 017	(1.97%)
Contraction in demand:				
Growth rate for the subject product industry (kg)	88 767 590	89 745 765	89 049 605	(8.74%)

Changes in the patterns of consumptions	The Applicant stated that there is nothing that the SACU Pasta Industry is aware of.
Trade-restrictive practices of foreign and domestic producers	The Applicant stated that there are no trade restrictive practices in place except for normal customs duties on imports.
Developments in technology	The Applicant stated that there are no known recent developments in technology that would place the Applicant at a disadvantage.
Export performance of the domestic industry	The Applicant stated that it is primarily focusing on supplying the domestic market, but do have limited exports to African countries outside SACU. However, it should be noted that the injury data as supplied relates only to the sales in the SACU market.
Productivity of the domestic industry	The Applicant stated that it believes that its productivity is comparing favorably with its competitors. However, as a result of the continuing of dumping the SACU Industry's productivity will be affected as these imports impact on the production of the SACU Participating Manufacturers.

The Applicant stated that the exchange rate does impact on the SACU industry, with fluctuations in the currency more severely impacting the Applicants' selling prices than the Applicants' production costs. This is currently the case due to the dumped imports, as maintaining market share is critical for the sustainability of the Applicant.

Comments by the Egyptian Ministry

The Egyptian Ministry stated that the demonstration of the causal link must be based on an examination of all relevant evidence before the authorities

which must also examine any known factors other than the dumped imports, which are also injuring the domestic industry and the injury as a result of such other known factors must not be attributed to the dumped imports. Article 3.5 of the WTO Anti-Dumping Agreement provides a non-exhaustive list of other factors which may be relevant depending on the facts of the case..."the volume and prices of imports not sold at dumped prices, contraction in demand or changes in the patterns of consumption, trade-restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and productivity of the domestic industry."

The Egyptian Ministry referred to the WTO case of China – X - Ray Equipment as follows: The Panel in China - X- Ray Equipment, stated that in its view, the causation question is not resolved by such a general finding of coincidence. Rather, we consider that MOFCOM was required to conduct a more detailed analysis.

The Egyptian Ministry is of the view that the Applicant did not mention any known factors of injury other than the dumped imports to enable the Commission to examine the causation matter between the injury suffered by the SACU Industry and the alleged dumped imports. The Egyptian Ministry indicated that there was an increase in the imports from the countries under investigation in 2019 compared to 2017 coinciding with an improvement in most of the economic indicators of the SACU Industry as appears from the following:

- *Increase in the domestic prices in 2019 compared to 2018, and this period represents the Injury POI;*
- *Increase in sales volume;*
- *Increase in production and the rate of capacity utilisation;*
- *Increase in productivity and wages; and*
- *Decrease in inventory in 2019 compared to the previous years.*

They further stated that in the light of the above-mentioned information, many of the domestic industry indicators improved during the Injury POI although there was an increase in the volume of products imported from the countries under investigation, which is considered insufficient evidence to demonstrate the existence of a causal link between the increase in the subject imports and the injury suffered by the domestic industry.

They also stated that in accordance with Article 3.5 of the WTO Anti-Dumping Agreement, the Applicant submitted insufficient examination of the following issues:

- The limited export performance of the SACU Industry, which may have had a negative impact on the performance of the industry resulting in the failure of the domestic industry to utilize the full production capacity; and*
- The competition among the subject producers and between them, other producers, and the domestic industry, which may have negatively affected the performance of the domestic industry.*

They further stated that the Applicant did not examine other causes of injury set forth in Article 3.5 of the WTO Anti-Dumping Agreement which may have caused the injury suffered by the domestic industry, including:

- Exemption of preferential SACU imports from the customs duties such as EU, SADC, and EFTA;*
- High cost of raw material of the domestic industry would definitely lead to the high costs of production burdened by the domestic industry and consequently high selling prices of the domestic like product, the fact that raises the demand for the subject imports;*
- The tasteful nature affecting the pattern of consumption may lead to a competition with other similar and more favorable products such as noodles; and*
- Productivity of the domestic industry relaying on the same production*

lines of the subject product to produce other products.

The Egyptian Ministry concludes that alleged injury suffered by the domestic industry is due to factors other than the dumped imports.

Response by the Applicant

The Applicant stated that the facts concerning the Panel Report: China - Definitive Anti-Dumping Duties on X-ray security inspection equipment from the European Union (WT/DS425/R) ("Panel Report: China - X-Ray Equipment") differs considerably from this investigation of the Commission, two of which are the following:

<i>Panel Report: China - X-ray Equipment</i>	<i>Pasta Anti-Dumping Application</i>
<i>The prices of dumped imports were above the prices of the domestic industry in a single year</i>	<i>The SACU Industry prices were undercut by the subject product imports from the subject countries throughout the POI.</i>
<i>The import volume of the subject imports was characterised as "large" or "great" was not considered in relation to total domestic production, which was exhibiting a "skyrocket trend"</i>	<i>The subject product imports from the subject countries was clearly defined and an increasing trend was presented, whilst the SACU industry production did not skyrocket, but in 2017 and 2018 were the same at 100 index points each, with 2019 reflecting a marginal increase to 101 index points.</i>

The Applicant submits that the referral to the Panel Report: China - X-Ray Equipment is irrelevant in the context of this investigation. The Applicant further submits that based on the increasing trend of the subject product imports from the subject countries throughout the Injury POI and the dumped prices of such imports, as presented in the Pasta Anti-Dumping Application, that such imports had a serious negative effect on the production and operations of domestic industry, giving cause to price suppression and price depression.

The Applicant further stated that the Egyptian Ministry is criticising them for not mentioning any known factors, other than the dumped imports, but the they submit that there are no other factors that warrant required specific mention, which caused the domestic industry to suffer injury. They state that

the cause of the material injury was clearly demonstrated to be linked to the dumped imports.

The Applicant stated that they have already addressed and denied the Egyptian Ministry's assertions that the SACU industry had shown a considerable improvement in most of its economic indicators during the Injury POI. The Applicant draw attention to the following:

- The domestic selling price in 2019 did increase to 96 index points from the 92 index points in 2018 but was still 4 index points below the price of 100 index points in 2017;*
- Sales volume in 2018 did increase marginally to 101 index point from the 100 index points 2017, but in 2019 decreased to the same level as in 2017 of 100 index points;*
- SACU production and capacity utilisation in 2017 and 2018 were the same at 100 index points, with 2019 reflecting a marginal increase to 101 index points;*
- Productivity in 2018 decreased to 99 index points from the 100 index points in 2017 and in 2019 increased to 117 index points, with wages for total production in 2017 and 2018 basically the same at 100 index points, with 2019 reflecting an increase to 104 index points. These changes should be interpreted in context, by recognizing that they occurred when production and employment in 2018 increased marginally to 101 index points from the 100 index points in 2017, followed by decrease in 2019 to 87 index points; and*
- Inventory in 2018 increased to 112 index points from the 100 index points in 2017, followed a decrease to 105 index points in 2019, which still presented an increasing trend for the POI.*

The Applicant denies that insufficient evidence was provided in the Anti-Dumping Application concerning the causality between the increased subject product imports from the subject countries and the injury that was suffered

by the SACU Industry.

The Applicant stated that in the Anti-Dumping Application that the SACU Industry is primarily focusing on supplying the SACU market, with limited exports to African countries outside SACU. The injury data supplied relates only to the sales in the SACU market as required, therefore exports cannot be causally linked to the injury. They state that the SACU Industry believe that their productivity is compares favourably with its competitors. Annexures E 7.1 and E 15.1 to the Anti-Dumping Application present and indication of the competition between the SACU Industry and other SACU producers, from which it is clear that the competition from the other SACU producers could not have had a negative impact on the SACU Industry.

The Applicant stated that in paragraph G8.1 and with Annexure G 8.1 of the Anti-Dumping Application provided evidence concerning the prices of ‘un-dumped’ products available in the market and the effect thereof on SACU Industry prices. In paragraph G9 of the Anti-Dumping Application, the SACU Industry did comment on the aspects of a contraction in demand or changes in the patterns of consumption, trade restrictive practices and developments in technology and the export performance and productivity of the domestic industry.

The Applicant further stated that it noted that the Egyptian Ministry opportunistically listed 4 issues that “may have caused the injury” – but failed to substantiate its allegations for each of them in detail. The Applicant submits that there is no foundation for the Egyptian Ministry’s allegation that other factors have caused the SACU Industry material injury and has provided no substantiation to the effect but merely made loose and speculative comments concerning aspects for which it had no proof.

Commission’s consideration

The Commission noted that:

- *Over the Injury POI the dumped imports from Egypt, Turkey, Latvia and Lithuania increased from 15 024 390 kg to 21 070 969 increasing by 40.25%;*
- *During the Injury POI dumped imports as a total % of total imports grew from 46.57% to 57.47%;*
- *The proportion of dumped imports has increased relative to imports from other countries; and*
- *Dumped imports are priced significantly lower than other imports.*

Although there are factors other than the dumping that contributed to the injury such as increasing production cost of the domestic industry and the competition within the domestic industry, these factors did not sufficiently detract from the causal link between the dumping of the subject product and the material injury.

7.6 SUMMARY ON CAUSAL LINK

The Commission made a preliminary determination that there is sufficient information to indicate that there is a causal link between the alleged dumping of the subject product, the material injury and a threat of material injury suffered by the SACU industry.

8. SUMMARY OF FINDINGS

8.1 DUMPING

The Commission found that the subject product originating in or manufactured by Amber Pasta from Lithuania, Dobeles Dzirnāvieks from Latvia, Turkey, and Egypt, was exported at dumped prices to the SACU. The following dumping margins were calculated:

The following dumping margins were calculated:

Country	Dumping margin
Egypt	43.27%
Turkey	367.25%
Latvia (Dobeles Dzirnāvieks)	4%
Other exporters from Latvia	4%
Lithuania (Amber Pasta)	12%
Other exporters from Lithuania	12%

The Commission made a preliminary determination that dumping of the subject product originating in or imported from Egypt, Latvia, Lithuania and Turkey is taking place.

8.2 MATERIAL INJURY

The Commission made a preliminary determination that the SACU industry is experiencing material injury in the form of:

- Price Suppression
- Price Depression
- Decline in Market share
- Decline in profit
- Decline in Return on investment

- Decline in Cash flow
- Decline in Employment

8.3 THREAT OF MATERIAL INJURY

The Commission noted that Egypt, Latvia, Lithuania and Turkey increased its freely disposable capacity; the imports from these countries have increased; the average prices of the products from these countries were each well below other importing countries' prices for the same period. This indicates that a threat of material injury to the SACU industry exists.

The Commission therefore made a preliminary determination that a threat of material injury to the SACU industry exists.

8.4 CAUSAL LINK

The Commission made a preliminary determination that although there are factors other than the dumping that contributed to the injury such as increasing production cost of the domestic industry and the competition within the domestic industry, these factors did not sufficiently detract from the causal link between the dumping of the subject products and the material injury.

9. PROVISIONAL PAYMENTS

9.1 Amount of provisional payments

The amount of provisional payments is the amount required to prevent further material injury experienced by the SACU industry as a result of further imports of the subject product originating in or imported from Egypt, Latvia, Lithuania and Turkey at dumped prices during the course of the investigation before the Commission makes its final determination.

The “lesser duty” is the provisional payment to be imposed at the lesser of the margin of dumping and the margin of injury, which is deemed sufficient to remove the injury caused by the dumped imports.

The Commission decided not to apply the lesser of the duty rule, as no properly documented responses were received from correlating importers in SACU, and the lesser duty rule is only applied in instances where both the exporter and importer responded fully.

The Commission therefore determined the provisional payments to be the following:

Tariff heading and Tariff subheading	Description	Statistical unit	Provisional Payments					
			Egypt	Turkey	Latvia: Dobeles Dzirnavnieks	Other exporters from Latvia	Lithuania: Amber Pasta	Other exporters from Lithuania
19.02	Pasta, whether or not cooked or stuffed (with meat or other substances) or otherwise prepared, such as spaghetti, macaroni, noodles, lasagne, gnocchi, ravioli, cannelloni; couscous, whether or not prepared:							
1902.1	- Uncooked pasta, not stuffed or otherwise prepared:							
1902.11	---Containing eggs	kg	43.27%	367.25%	4%	4%	12%	12%
1902.19	---Other:	kg	43.27%	367.25%	4%	4%	12%	12%

10. PRELIMINARY DETERMINATION

The Commission made a preliminary determination that there is sufficient information to indicate that:

- dumping of the subject product originating in or imported from Egypt, Latvia, Lithuania and Turkey is taking place;
- the SACU industry is experiencing material injury and a threat of material injury, caused by the alleged dumped imports of the subject product originating in or imported from Egypt, Latvia, Lithuania and Turkey.

Furthermore, the Commission made a preliminary determination that when imposing provisional measures on the subject product that the same measures be imposed on uncooked pasta, not stuffed or otherwise prepared, containing eggs classifiable under tariff subheading (HS 1902.11), as these two products are like products.

The Commission therefore decided to request the Commissioner of SARS to impose the following provisional measures for a period of 6 months on pasta classifiable under tariff subheadings 1902.11 and 1902.19 originating or imported from Egypt, Turkey, Latvia and Lithuania:

Tariff heading and Tariff subheading	Description	Statistical unit	Provisional Payments					
			Egypt	Turkey	Latvia: Dobeles Dzirnavnieks	Other exporters from Latvia	Lithuania: Amber Pasta	Other exporters from Lithuania
19.02	Pasta, whether or not cooked or stuffed (with meat or other substances) or otherwise prepared, such as spaghetti, macaroni, noodles, lasagne, gnocchi, ravioli, cannelloni; couscous, whether or not prepared:							
1902.1	- Uncooked pasta, not stuffed or otherwise prepared:							
1902.11	---Containing eggs	kg	43.27%	367.25%	4%	4%	12%	12%
1902.19	---Other:	kg	43.27%	367.25%	4%	4%	12%	12%

