



NOTICE 1356 OF 2005

INTERNATIONAL TRADE ADMINISTRATION COMMISSION**NOTICE OF INITIATION OF AN INVESTIGATION INTO THE ALLEGED DUMPING OF MULTI-PLY PAPER AND PAPERBOARD WITH A MASS OF 180G/M² OR MORE, BUT NOT EXCEEDING 550G/M², COATED ON ONE SIDE WITH KAOLIN CLAY, COMMONLY KNOWN AS "WHITE LINER" OR "GREY BACK PAPERBOARD", ORIGINATING IN OR IMPORTED FROM THE REPUBLIC OF KOREA**

The International Trade Administration Commission of South Africa (the Commission) received an application alleging that multi-ply paper and paperboard with a mass of 180g/m² or more, but not exceeding 550g/m², coated on one side with kaolin clay (commonly known as white liner or grey back paper board), originating in or imported from the Republic of Korea, is being dumped on the Southern African Customs Union (SACU) market, causing material injury to the SACU industry concerned.

THE APPLICANT

The Application was lodged by the Mondi Paper Packaging South Africa (the Applicant), being the sole manufacturer of the product under investigation in the SACU. The Applicant alleges that it cannot compete with the low prices offered to the SACU importers by exporters from the Republic of Korea and that the allegedly dumped imports are causing material injury. The Applicant submitted sufficient evidence and established a prima facie case to enable the Commission to arrive at a reasonable conclusion that an investigation should be initiated on the basis of dumping, material injury and causality.

THE PRODUCT

The product allegedly being dumped is greyback paperboard, classifiable under tariff

subheading 4810.90, originating in or imported from the Republic of Korea. Based on the information submitted by the Applicant, the Commission decided that the Applicant submitted *prima facie* information that the imported product and the SACU product are "like products" in terms of Article 2.6 of the Anti-Dumping Agreement and Section 1 of the International Trade Administration Commission of South Africa Anti-Dumping Regulations (ADR 1).

THE ALLEGATION OF DUMPING

The allegation of dumping is based on the comparison between the normal value and the export price from the Republic of Korea. The normal value for the Republic of Korea is based on the price obtained from a Korean publication, namely Paperloop PPI Asia News. The export price was determined based on the official import statistics obtained from the South African Revenue Service (SARS). On this basis, the Commission found that there was *prima facie* proof of dumping.

THE ALLEGATION OF MATERIAL INJURY

The Applicant alleges and submitted sufficient evidence to show that there is a surge of imports, price undercutting, price depression, price suppression, decline in sales, profits, output, market share and capacity utilisation.

On this basis, the Commission found that there was *prima facie* proof of material injury and causal link.

PERIOD OF INVESTIGATION

~~The period of investigation for dumping will~~ be from 1 April 2004 to 31 March 2005. The period of investigation for purposes of determining injury will be from 1 January 2002 to 31 March 2005. If there are subsequent events that are relevant to injury, the Commission may later request and consider further, more recent information.

PROCEDURAL FRAMEWORK

Having decided that there is sufficient evidence and a *prima facie* case to justify the initiation of an investigation, the Commission has begun an investigation in terms of section 16 of the International Trade Administration Act, 2002 (the ITA Act). The Commission will conduct its investigation in accordance with the relevant sections of the ITA Act, the World Trade Organisation Agreement on Implementation of Article VI of the GATT 1994 (the Anti-Dumping Agreement) and the Anti-Dumping Regulations of the International Trade Administration Commission of South Africa (ADR). Both the ITA Act and the ADR are available on the Commission's website (www.itac.org.za) or from the Trade Remedies section, on request.

In order to obtain the information it deems necessary for its investigation, the Commission will send non-confidential versions of the application and questionnaires to all known importers and exporters, and known representative associations. The trade representative of the exporting country has also been notified. Importers and other interested parties are invited to contact the Commission as soon as possible in order to determine whether they have been listed and were furnished with the relevant documentation. If not, they should immediately ensure that they are sent copies. The questionnaire has to be completed and any other representations must be made within the time limit set out below.

CONFIDENTIAL INFORMATION

Please note that if any information is considered to be confidential then a non-confidential version of the information must be submitted for the public file, simultaneously with the confidential version. In submitting a non-confidential version the following rules are strictly applicable and parties must indicate:

- a) where confidential information has been omitted and the nature of such information;
- b) reasons for such confidentiality;

- c) a summary of the confidential information which permits a reasonable understanding of the substance of the confidential information; and
- d) in exceptional cases, where information is not susceptible to summary, reasons must be submitted to this effect.

This rule applies to all parties and to all correspondence with and submissions to the Commission, which unless indicated to be confidential and filed together with a non-confidential version, will be placed on the public file and be made available to other interested parties.

If a party considers that any document of another party, on which that party is submitting representations, does not comply with the above rules and that such deficiency affects that party's ability to make meaningful representations, the details of the deficiency and the reasons why that party's rights are so affected must be submitted to the Commission in writing forthwith (and at the latest 14 days prior to the date on which that party's submission is due). Failure to do so timeously, will seriously hamper the proper administration of the investigation, and such party will not be able to subsequently claim an inability to make meaningful representations on the basis of the failure of such other party to meet the requirements.

Subsection 33(1) of the ITA Act provides that any person claiming confidentiality of information should identify whether such information is *confidential by nature* or is *therwise confidential* and any such claims must be supported by a written statement, in each case, setting out how the information satisfies the requirements of the claim to confidentiality. In the alternative, a sworn statement should be made setting out reasons why it is impossible to comply with these requirements.

Section 2.3 of the ADR provides as follows:

The following list indicates "information that is by nature confidential" as per section 33(1) of the Main Act, with section 36 of the Promotion of Access to information Act (Act 2 of 2000):

- (a) management accounts;
- (b) financial accounts of a private company;
- (c) actual and individual sales prices;
- (d) actual costs, including cost of production and importation cost;
- (e) actual sales volumes;
- (f) individual sales prices;
- (g) information, the release of which could have serious consequences for the person that provided such information; and
- (h) information that would be of significant competitive advantage to a competitor;

Provide that a party submitting such information indicates it to be confidential

ADDRESS

The response to the questionnaire and any information regarding this matter and any arguments concerning the allegation of dumping and the resulting material injury must be submitted in writing to the following address:

Physical address

The Director : Trade Remedies
International Trade Administration Commission
Block E The DTI campus
77 Meintjies Street
Sunnyside
PRETORIA
SOUTH AFRICA

Postal address

The Director: Trade Remedies
Private Bag X753
PRETORIA
0001
SOUTH AFRICA

PROCEDURES AND TIME LIMITS

All responses, including non-confidential copies of the responses, should be received by

designed to ensure that the Commission is provided with all the information required to make a determination in accordance with the rules of the Anti-Dumping Agreement. The Commission may therefore refuse to verify information that is incomplete or does not comply with the format in the questionnaire, unless the Commission has agreed in writing to a deviation from the required format. A failure to submit an adequate non-confidential version of the response that complies with the rules set out above under the heading Confidential Information will be regarded as an incomplete submission.

Parties who experience difficulty in furnishing the information required, or submitting it in the format required, are therefore urged to make written applications to the Commission at an early stage for permission to deviate from the questionnaire or provide the information in an alternative format that can satisfy the Commission's requirements. The Commission will give due consideration to such a request on good cause shown.

Any interested party may request an oral hearing at any stage of the investigation in accordance with Section 5 of the ADR, provided that the party indicates reasons for not relying on written submission only. The Commission may refuse an oral hearing if granting such hearing will unduly delay the finalisation of a determination. Parties requesting an oral hearing shall provide the Commission with a detailed agenda for, and a detailed version, including a non-confidential version, of the information to be discussed at the oral hearing at the time of the request. Oral representations will be limited to one hour for SACU manufacturers and exporters and thirty minutes for importers.

If the required information and arguments are not received in a satisfactory form within the time limit specified above, or if verification of the information cannot take place, the Commission may disregard the information submitted and make a finding on the basis of the facts available to it.

Enquiries may be directed to the investigating officers, Mr J Maphagela at telephone (012) 394 3639, Mr J Heukelman at (012) 394 3635, Ms M Chakalane at (012) 394 3670 or at fax (012) 394 0518.
