

NOTICE 32 OF 2013**INTERNATIONAL TRADE ADMINISTRATION COMMISSION****NOTICE OF INITIATION OF AN INVESTIGATION INTO THE ALLEGED DUMPING OF COATED PAPER ORIGINATING IN OR IMPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA (PRC) AND KOREA**

The International Trade Administration Commission of South Africa (the Commission) accepted an application alleging that coated paper originating in or imported from the People's Republic of China (PRC) and Korea is being dumped on the South African Customs Union (SACU) market, causing material injury to the SACU industry concerned.

THE APPLICANT

The application was lodged by the Sappi Southern Africa (Proprietary Limited) (the Applicant). 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 paper and paperboard, coated on one or both sides with kaolin (China clay) or other inorganic substances, with or without a binder, and with no other coating, whether or not surface-colored, surface-decorated or printed, in rolls or rectangular (including square) sheets of any size of a kind used for writing, printing or other graphic purposes not containing fibers obtained by a mechanical or chemi-mechanical process or of which not more than 10 per cent by mass of the total fibre content consist of such fibres, with a mass of 70 g/m² or more but not exceeding

400g/m², classifiable under tariff subheading 4810.19.90 ("Coated Paper"), originating in or imported from the PRC and Korea.

THE ALLEGATION OF DUMPING: PRC

The allegation of dumping is based on the comparison between the normal value in the PRC and the export price from the PRC.

The normal value for the PRC was determined based on a quotation obtained from the RISI PPI Asia price watch publication which shows March 2012 selling prices for the PRC. An adjustment for the distribution margin was made to arrive at the net ex-factory normal value. The export price for the PRC was determined based on the official SARS statistics. An adjustment for delivery and handling cost was made to the average f.o.b import price to calculate the ex-factory export price. The dumping margin for the PRC was determined to be 14.37%. On this basis, the Commission found that there was *prima facie* proof of dumping.

THE ALLEGATION OF DUMPING: KOREA

The allegation of dumping is based on the comparison between the normal value in Korea and the export price from Korea.

The normal value for Korea was determined based on a quotation obtained from RISI PPI Asia price watch publication which shows 1st quarter 2012 selling prices in Korea. The export price for Korea was determined based on the official SARS statistics. An adjustment for delivery and handling cost was made to the average f.o.b import price to calculate the ex-factory export price. The dumping margin for Korea was determined to be 14.51%. On this basis, the Commission found that there was *prima facie* proof of dumping.

THE ALLEGATION OF MATERIAL INJURY, THREAT OF MATERIAL INJURY AND CAUSAL LINK

The Applicant submitted evidence to show that there is price undercutting and price suppression, decline in profits and cash flow. The Applicant's information further indicated that there is a decline in sales volumes, output, productivity, capacity utilisation and employment.

The Applicant further alleged that a threat of material injury exists. Evidence was submitted to indicate this by providing information on freely disposable capacity of the exporters, and the state of the economy of the country of origin.

The Applicant also provided evidence that there is causal link. It submitted prices and volumes not sold at dumped prices and contraction in demand of the subject product.

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

PERIOD OF INVESTIGATION

The period of investigation for purposes of determining the dumping margin in the exporting countries of origin will be from 1 April 2011 to 31 March 2012. The period of investigation for purposes of determining material injury will be from 1 October 2007 to 31 March 2012.

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, and the Commission's Anti-Dumping Regulations (ADR). The ITA Act, together with the ADR is 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:

- where confidential information has been omitted and the nature of such information;
- reasons for such confidentiality;
- a summary of the confidential information which permits a reasonable understanding of the substance of the confidential information; and
- 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 *otherwise 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.

Sections 2.3 of the ADR provide as follows:

"The following list indicates "information that is by nature confidential" as per section 33(1)(a) of the Main Act, read 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;*

provided 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 threat of material injury must be submitted in writing to the following address:

Physical address

The Senior Manager: Trade Remedies 1

The International Trade Administration
Commission of South Africa

Block E – Uuzaji Building

The DTI Campus

77 Meintjies Street

SUNNYSIDE

PRETORIA

SOUTH AFRICA

Postal address

The Senior Manager: Trade Remedies 1

The International Trade Administration
Commission of South Africa

Private Bag X753

Pretoria

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SOUTH AFRICA

PROCEDURES AND TIME LIMITS

All responses, including non-confidential copies of the responses, should be received by the Senior Manager: Trade Remedies I not later than 30 days from the date hereof, or from the date on which the letter accompanying the abovementioned questionnaire was received. The said letter shall be deemed to have been received seven days after the day of its dispatch.

Late submissions will not be accepted except with the prior written consent of the Commission. The Commission will give due consideration to written requests for an extension of not more than 14 days on good cause shown (properly motivated and substantiated), if received prior to the expiry of the original 30-day period. Merely citing

insufficient time is not an acceptable reason for an extension. Please note that the Commission will not consider requests for extension by Embassies on behalf of exporters.

The information submitted by any party may need to be verified by the Investigating Officers in order for the Commission to take such information into consideration. The Commission may verify the information at the premises of the party submitting the information, within a short period after the submission of the information to the Commission. Parties should therefore ensure that the information submitted will subsequently be available for verification. Specifically, it is planned to verify the information submitted by the exporters within three to five weeks subsequent to the submission of the information. This period will only be extended if it is not feasible for the Commission to do it within this time period or upon good cause shown, and with the prior written consent of the Commission, which should be requested at the time of the submission. It should be noted that unavailability of, or inconvenience to consultants, will not be considered to be good cause.

Parties should also ensure when they engage consultants that they will be available at the requisite times, to ensure compliance with the above time frames. Parties should also ensure that all the information requested in the applicable questionnaire is provided in the specified detail and format. The questionnaires are designed to ensure that the Commission is provided with all the information required to make a determination in accordance with the ITA Act and the ADR. 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 a 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 information 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 Sections 5 of the ADR, provided that the party indicates reasons for not relying on written submissions 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 must 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. If the required information is 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 Zuko Ntsangani at telephone +27 12 394-3662 or Mr Lufuno Munzhelele at telephone +27 12 394-3593 or at fax +27 12 394-0518.