

NOTICE 1149 OF 2009**INTERNATIONAL TRADE ADMINISTRATION COMMISSION****NOTICE OF INITIATION OF AN INTERIM REVIEW INVESTIGATION OF THE ANTI-DUMPING DUTY ON FRESH OR CHILLED GARLIC ORIGINATING IN OR IMPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA (PRC)**

The International Trade Administration Commission of South Africa (the Commission) received an application for an interim review of the anti-dumping duty on fresh or chilled garlic originating in or imported from the People's Republic of China as a result of changed circumstances in respect of dumping and material injury since the last review.

THE APPLICANT

The application was lodged by Dumping Remedy Services CC on behalf of the South African Garlic Grower's Association (SAGGA), (the Applicant), being the farmer's representative organization for the subject product (Garlic) in the SACU. SAGGA members are producers of 100% of the SACU production by volume. The Applicant alleged that as a result of changed circumstances, the current anti-dumping duty is not sufficient to counter the injury caused to the SACU industry. The Applicant requests the Commission to consider increasing the current anti-dumping duty to a level that is adequate to enable the SACU industry to compete with imports from PRC at a profitable and sustainable level.

THE PRODUCT

The subject product is garlic, fresh or chilled classifiable under tariff subheading 0703.20, including dried garlic in the form of cloves or bulbs classifiable under tariff subheading 0712.90. The subject product is originating in or imported from the PRC. Dehydrated garlic and processed garlic are not included.

Based on the information submitted by the Applicant, the Commission decided that the Applicant submitted *prima facie* evidence to indicate 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 Anti-Dumping Regulations.

THE ALLEGATION OF CHANGED CIRCUMSTANCES

The Applicant alleges significant changed circumstances with reference to dumping and material injury. The Applicant further alleges that the current anti-dumping duty is not sufficient to counter the injury caused to the SACU industry from dumped imports originating from the PRC.

The Applicant alleges that there was a significant increase of imports from the PRC at decreasing prices to a level where the landed cost is significantly below the cost of production of the SACU industry.

The Commission considered that the Applicant submitted sufficient evidence of significantly changed circumstances as contemplated in Article 45.1 of the Anti- Dumping Regulations (ADR 45.1)

THE ALLEGATION OF DUMPING

The Applicant could not obtain domestic price information from the PRC and therefore nominated Mexico as a surrogate country. The normal value was based on published prices in Mexico, and the export price derived from the import statistics obtained from South African Revenue Services (SARS).

On this basis, the Commission found that there was *prima facie evidence* of dumping.

THE ALLEGATION OF MATERIAL INJURY

The applicant alleges and submitted sufficient evidence to show that it is suffering material injury in the form of price undercutting, price suppression, a decline in sales, profit margin, output, market share, productivity and capacity utilisation, employment and wages. It further indicated that there is a negative effect on its cash flow, growth, and the ability to raise capital. It was also evident that the decrease in market share has been at the expense of a corresponding increase in the market share of the allegedly dumped goods. On this basis, the Commission found that there was *prima facie* proof of material injury

PERIOD OF INVESTIGATION

The investigation period for dumping is from 1 March 2008 to 28 February 2009, and the injury investigation involves evaluation of data for the period 1 March 2006 to 28 February 2009.

PROCEDURAL FRAMEWORK

Having decided that there is a *prima facie* case to justify initiation of the interim review investigation, the Commission decided to initiate 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 the 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, 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;