

NOTICE 916 OF 2009**INTERNATIONAL TRADE ADMINISTRATION COMMISSION****RESUMPTION OF THE INVESTIGATION INTO THE ALLEGED DUMPING OF
DETONATING FUSES AND DELAY DETONATORS (COMMONLY KNOWN AS
SHOCKTUBES), ORIGINATING IN OR IMPORTED FROM THE PEOPLE'S REPUBLIC
OF CHINA.**

On 15 June 2005, the International Trade Administration Commission of South Africa (Commission) formally initiated an investigation into the alleged dumping of detonating fuses and delay detonators (commonly known as shock tubes) originating in or imported from the People's Republic of China (PRC). Notice of the initiation of the investigation was published in Notice No.1099 in *Government Gazette* No. 27735 dated 8 July 2005.

The investigation was initiated after the Commission decided that African Explosives Ltd (AEL) (the Applicant) submitted *prima facie* information that detonating fuses and delay detonators (commonly known as shock tubes) originating in or imported from the People's Republic of China (PRC) were imported into the Southern African Customs Union (SACU) at dumped prices, causing the SACU industry material injury.

In the application, the Applicant indicated that it is the sole producer of the subject product within SACU. It further alleged that domestic selling prices in the PRC were influenced by government intervention. It nominated Ghana as a surrogate country for the purposes of calculating the normal value for the PRC, and stated that Ghana had an industry on the same level of development as that in the PRC. It therefore based the normal value on the domestic selling price in Ghana and provided prices and a letter of co-operation from its sister company in Ghana.

Subsequent to initiation exporters questionnaires and importers questionnaires were sent to the various known interested parties for completion. All the parties that responded in the investigation questioned the suitability of Ghana as a surrogate country.

As a result of the above response, AEL was requested to provide cost build-ups for the models of subject product sold in Ghana. This was provided and it was confirmed that the company in Ghana assembles the shocktube products imported from South Africa and Sweden.

Based on the above information, the Commission found that Ghana does not have a shocktube industry as envisaged in the regulations and that the information provided with regard to normal value in Ghana, could not be used for purposes of the calculation of the dumping margin.

With regard to the Applicant's statement that it is the sole producer of the subject product in SACU, Sasol-Dyno Nobel (SDN) provided information, which was verified, indicating that they did indeed manufacture the product in South Africa.

At its meeting of 16 November 2005, the Commission made a preliminary determination to revoke its decision to initiate the investigation in terms of Section 26(6) of the ITA Act which provides *inter alia* as follows:

The Commission may amend or revoke a decision or recommendation concerning an application if-

- (a) the decision or recommendation was based on incorrect information and the applicant or supplier of the information-
 - (i) was responsible for the error in the information; and
 - (ii) benefited or could have benefited, from the decision or recommendation;

On 18 November 2005 this determination was conveyed to the Applicant who was given an opportunity to respond. Written and oral representations made to the Commission were considered by it in making its final decision. The Commission noted the arguments raised and accepted that the applicant based its application on information which was reasonably available to it.

The Commission considered that incorrect information that was submitted by the Applicant influenced its decision to initiate the investigation. It therefore made a final decision to invoke section 26(6) of the ITA Act and thus revoke its decision to initiate the investigation into the alleged dumping of detonating fuses and delay detonators (commonly known as shock tubes) originating in or imported from the PRC.

On 27 January 2006 this investigation was terminated through Government Gazette No 28438, notice NO 142 of 2006.

In May 2006 the Applicant applied to the High Court of South Africa (Transvaal Provincial Division) to review and set aside the decision of the Commission. The review application was heard in the Pretoria High Court and the Commission was directed by way of a judgment of the High Court to continue with the investigation.

In order to continue with the investigation as ordered by the High Court, the Applicant was requested to provide the Commission with updated material injury information.

The Applicant provided the Commission with its updated injury information and indicated that the other domestic producer, Sasol Dyno Nobel (SDN), will not cooperate with it in the investigation. SDN also responded to a request from the Commission to provide updated injury information but they indicated that they do not intend supplying updated information.