

**NOTICE 625 OF 2009****INTERNATIONAL TRADE ADMINISTRATION COMMISSION****NOTICE OF INITIATION OF AN INVESTIGATION INTO THE ALLEGED CIRCUMVENTION OF THE PROVISIONAL DUTIES AGAINST IMPORTS OF TALL OIL FATTY ACID ORIGINATING IN OR IMPORTED FROM SWEDEN.**

The International Trade Administration Commission of South Africa (the Commission) received an application alleging that circumvention of the provisional duties against imports of tall oil fatty acid originating in or imported from Sweden, through importing from USA, is taking place in the form of country hopping. Section 60.8 of the Anti-Dumping Regulation (ADR 60.8) states that country hopping shall be deemed to take place if imports, following the imposition of anti-dumping duties or provisional payments or the initiation of an anti-dumping investigation, switch to a supplier related to the supplier against which an anti-dumping investigation has been or is being conducted and that is based in another country or customs territory.

**THE APPLICANT**

The Application was lodged by International Trade Services on behalf of Industrial Oleochemical Products (the Applicant), being the sole manufacture of the subject product under investigation in SACU. The Applicant alleged that subsequent to the imposition of the provisional payments against imports of the subject product from Sweden, importers identified as interested parties in the original investigation have shifted to sourcing the subject product from USA. The Applicant submitted sufficient *prima facie* evidence to indicate that country hopping, in terms of ADR 60.8, is taking place. The Commission, therefore, decided to initiate a country hopping investigation.

## THE PRODUCT

The product allegedly being circumvented is tall oil fatty acid originating or imported from Sweden, classifiable under tariff subheading 3823.13, and the product being dumped is tall oil fatty acid, classifiable under tariff subheading 3823.13, originating in or imported from USA. 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 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 that was verified at the exporter in Sweden in accordance with ADR 62.3, 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 they are suffering material injury in the form of price undercutting, price suppression, a decline in sales, profit margin, market share, productivity and capacity utilisation. It further indicated that there is a negative effect on cash flow, growth and ability to raise capital. It was also evident that the decrease in market share has been at the expenses 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, or threat of material injury, and causal link in the original investigation and that was considered for purposes of this application in line with ADR 62.2.

## PERIOD OF INVESTIGATION

The period of investigation for the purposes of determining the dumping margin in the exporting country will be from 1 June 2008 to 28 February 2009.

## 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](http://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 then a non-confidential version of the information must be submitted for the public file, simultaneously with the