

NOTICE 23 OF 2007**INTERNATIONAL TRADE ADMINISTRATION COMMISSION****NOTICE OF INITIATION OF A SUNSET REVIEW OF THE ANTI-DUMPING DUTIES ON WOVEN FABRIC OF POLYESTER STAPLE FIBRES MIXED MAINLY OR SOLELY WITH COTTON, UNBLEACHED OR BLEACHED, DYED, COLOUR WOVEN AND PRINTED ORIGINATING IN OR IMPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA**

In accordance with the provisions of Article 11.3 of the World Trade Organisation Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade (the Anti-Dumping Agreement), the Commission on 26 May 2006, notified the Southern African Customs Union (SACU) industry through Notice No.673 in Government Gazette No.28847, that unless a substantiated request is made by it indicating that the expiry of the anti-dumping duties on the subject product originating in or imported from the People's Republic of China (PRC) would likely lead to the continuation or recurrence of dumping and injury, the anti-dumping duties will expire on 22 February 2007. An application for the sunset review was submitted to the Commission on 30 August 2006.

THE APPLICANT

The application was lodged by Textile Federation ("Texfed"), on behalf of Frame Textiles and Da Gama Textiles, the producers of the subject product in the SACU. The Applicant alleges that the expiry of the duties would likely lead to the continuation or recurrence of dumping and material injury. The Applicant submitted sufficient evidence and established a *prima facie* case to enable the Commission to arrive at a reasonable conclusion that a sunset review investigation should be initiated.

THE PRODUCT

The subject product is described as poly/cotton, or sheeting or shirting. The Applicant indicated every factory has its own "trade name". The subject product is classifiable under tariff subheadings 5513.11, 5513.21, 5513.31 and 5513.41, originating in or imported from the PRC.

THE ALLEGATION OF THE CONTINUATION OR RECURRENCE OF DUMPING

The allegation of continuation or recurrence of dumping is based on the comparison between the normal values and the export prices. The normal values for the PRC were based on the invoices for the fabrics bought in Guangzhou, Guangdong in the PRC. The export price was obtained by deducting approximately 5% from the FOB price to compensate for movement expenses in the exporting country (based on assumptions). On this basis, the Commission found that there was *prima facie* proof of the likely recurrence of dumping if the duties expire.

THE ALLEGATION OF MATERIAL INJURY AND/OR THREAT OF MATERIAL INJURY

The Applicant alleges and submitted sufficient evidence to show that there is price undercutting and that the imports in question are depressing and suppressing its selling prices. The Applicant's information indicated that it will experience a decline in sales volumes, profit margins, output, market share, productivity and a negative return on total net assets, if the duties expire. It was also indicated that the Applicant's market share will decrease at the expense of a corresponding increase in the market share of the dumped goods, if the duties expire.

On this basis the Commission found that there was *prima facie* proof of the likely continuation and/or recurrence of material injury.

PERIOD OF INVESTIGATION

The period of investigation for purposes of determining the continuation or recurrence of dumping from the PRC will be from 1 July 2004 to 30 June 2005. The period of investigation for purposes of determining the continuation or recurrence of injury will be from 1 July 2003 to 30 June 2005. The Commission will also consider an estimate of what the situation will be if the duties expire.

PROCEDURAL FRAMEWORK

Having decided that there is sufficient evidence and a *prima facie* case to justify the initiation of a sunset review investigation, the Commission is initiating 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 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.

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.

Section 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".

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."

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.

VERIFICATION

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. Parties should therefore ensure that the information submitted would subsequently be available for verification.

It is planned to do the verification of the information submitted by the exporters within three to five weeks subsequent to 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.

INFORMATION SUBMISSION 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 rules of Anti-Dumping Agreement. The Commission may therefore decide not 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.

Parties, who experience difficulty in furnishing the information required, or submitting 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.

ORAL HEARINGS

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.

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.

PROCEDURES AND TIME LIMITS

The Senior Manager: Trade Remedies II, shall receive all responses, including non-confidential copies of the responses, 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 extension. Please note that the Commission will not consider requests for extension by the Embassy on behalf of exporters.

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 and/or threat of material injury must be submitted in writing to the following address:

Physical address

The Senior Manager: Trade Remedies II
International Trade Administration Commission
Block E – The DTI Campus
77 Meintjies Street
SUNNYSIDE, PRETORIA
SOUTH AFRICA

Postal address

The Senior Manager:
Trade Remedies II
Private Bag X753
PRETORIA
0001
SOUTH AFRICA

Enquiries may be directed to the investigating officers, Ms Kedibone Machlu at telephone number +27 12 394 3599, Ms Busi Gumede at telephone number +2712 394 3631 and Mr Thami Sithole at telephone number +27 12 394 3812, or at fax number +27 12 394 0518.