REPORT NO. 610

INCREASE IN THE RATE OF CUSTOMS DUTY ON POLYETHYLENE TEREPHTHALATE ("PET") CLASSIFIABLE UNDER TARIFF SUBHEADINGS 3907.61.10, 3907.69.10, 3907.61.90 AND 3907.69.90

The International Trade Administration Commission of South Africa herewith presents its Report No. 610: **Increase in the rate of customs duty on polyethylene terephthalate ("PET") classifiable under tariff subheadings 3907.61.10, 3907.69.10, 3907.61.90 and 3907.69.90**

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CHIEF COMMISSIONER

PRETORIA

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REPUBLIC OF SOUTH AFRICA

INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF SOUTH AFRICA

REPORT NO. 610

Increase in the rate of customs duty on polyethylene terephthalate ("PET") classifiable under tariff subheadings 3907.61.10, 3907.69.10, 3907.61.90 and 3907.69.90

Synopsis

The Commission considered an application from Webber Wentzel submitted on behalf of Safripol, a division of KAP Diversified Industrial (Pty) Ltd, for an increase in the rate of customs duty on PET classifiable under tariff subheadings 3907.61.10 and 3907.69.10 from free of duty and 3907.61.90 and 3907.69.90 from 10% *ad valorem*, to the bound rate level of 15% *ad valorem*.

During its deliberations and in arriving at its recommendation, the Commission considered the information at its disposal, including comments received during the publication period.

The Commission found that:

- The industry manufacturing the subject product is in a position to meet the full market requirements of PET as described in the tariff structure;
- Price disadvantages are experienced *vis-à-vis* foreign manufacturers exporting the product to SACU;
- The domestic industry is unable to compete with imported products, given the existing duty structure. This adversely affects domestic investment and employment opportunities; and
- Levels of profitability and capacity utilisation have declined.

On balance, the recommended duty increase to 15% *ad valorem* would enable the domestic industry manufacturing PET to fully utilise existing under-utilised production capacity thereby achieving cost advantages arising *inter alia* from increased output.

In the light of the foregoing, the Commission recommended an increase in the rate of customs duty on polyethylene terephthalate classifiable under tariff subheadings 3907.61.10 and 3907.69.10 from free of duty and 3907.61.90 and 3907.69.90 from 10% *ad valorem*, to 15% *ad valorem*. The Commission further recommended that the duty structure be reviewed to determine its impact on the industry value chain after three years from the date of implementation, or such other period as decided by the Commission.

1. APPLICATION AND TARIFF POSITION

1.1. Safripol, a division of KAP Diversified Industrial (Pty) Ltd, formerly known as Hosaf (Pty) Ltd (hereon referred to as "Safripol"), applied for an increase in the rate of customs duty on PET classifiable under tariff subheadings 3907.61.10 and 3907.69.10 from free of duty and 3907.61.90 and 3907.69.90 from 10% *ad valorem*, to the bound rate level of 15% *ad valorem*.

1.2. Subsequent to a structured acquisition, the manufacturing operations of Hosaf were, as of the 1st of July 2018, transferred to Safripol as an operating entity under KAP Diversified Chemicals. Safripol, being a division of KAP Diversified Industrial (Pty) has three branches i.e. Safripol Piet Retief, Safripol Sasolburg and Safripol Durban.

1.3. The Piet Retief and Sasolburg divisions of Safripol are involved in manufacturing different polymers and resins such as high-density polyethylene ("HDPE"), urea formaldehyde ("UF") and polypropylene ("PP"), which did not form part of the investigation. Safripol Durban ("the Applicant") is the only entity that manufacturers virgin PET in the Southern African Customs Union ("SACU"), and one of the largest producers of polymers in Sub-Saharan Africa. All information contained in this report relates solely to the Safripol Durban plant in KwaZulu Natal, which only produces the subject product.

1.4. As reasons for the application, Ferro stated, *inter alia*, that:

- *"Imports of PET which are a like product to the SACU product, have flooded the SACU market at very low prices;*
- *The flood of low-priced imports has resulted in a decline in Safripol's sales volumes and market share;*
- *The flood of imports has resulted in Safripol selling the product at a significant loss in 2018 as they were forced to lower prices to match the price of imports;*
- *Safripol has recently completed a significant expansion investment of R1.6 billion in order to increase its production capacity; the flood of low-priced imports has ensured that Safripol has not been able to achieve any returns on its investments".*

1.5. The application was published in the Government Gazette on 26 April 2019, for interested parties to comment.

1.6. According to the Applicant, the current tariff subheading descriptions are incorrect. The Applicant submitted that all imports under tariff subheadings 3907.61.10 and 3907.69.10, which describe PET as "liquids and pastes" are incorrect as the manufacturing process of PET includes a liquid and paste stage but it is not yet deemed PET. This investigation solely focused on the increase in the rate of customs duties on specific tariff subheadings not the amendment of product description. It must be borne in mind that the issues pertaining to the wording and description of products falls within the competence of SARS. This was discussed with, and understood by the Applicant.

1.7. The tariff structure for PET is reflected in Table 1 below.

Table 1: Current tariff position for PET

Heading	Sub-heading	Article Description		Stat. Unit	Rate of Duty				
					General	EU	EFTA	SADC	MERCOSUR
3907.6		Poly(ethylene Terephthalate):							
	3907.61	Having a viscosity number of 78 ml/g or higher:							
		3907.61.10	Liquids and pastes	Kg	free	fre	free	free	free
		3907.61.90	Other	Kg	10%	fre	free	free	10%
	3907.69	Other:							
		3907.69.10	Liquids and pastes	Kg	free	fre	free	free	free
		3907.69.90	Other	Kg	10%	fre	free	free	10%

1.8 The WTO bound rate for all the tariff subheadings concerned is 15% *ad valorem*.

2. DISCUSSION

2.1 The Applicant is a manufacturer of polyethylene terephthalate (commonly abbreviated as "PET"), which is considered the most common thermoplastic polymer resin of the polyester family. PET is used in the manufacturing of fibres used for manufacturing clothing, containers for the packaging of liquids and foods, thermoforming for manufacturing bottles and in combination with glass fibre, for manufacturing engineering resins.

2.2 The subject product is a highly flexible, colourless and semi-crystalline resin in its natural state. Depending on how it is processed, it can be semi-rigid and shows good dimensional stability, resistance to impact, moisture, alcohols and solvents.

2.3 Plastic bottles made from PET are mainly used for the bottling of mineral water and carbonated soft drinks, which is as shown in Figures 1 and 2 below.

Figure 1: PET (polyester chips)

Figure 2: Bottles made from PET

Source: Applicant

2.4 Figure 3 below shows the position of PET in the value chain of manufacturing of plastic bottles.

Figure 3: Value chain for the manufacturing of plastic packaging bottles

Source: Applicant

2.5 A large portion of the raw materials required for the manufacturing of PET are sourced from international markets. The majority of these raw materials are imported from China.

2.6 According to information at the Commission's disposal, the Applicant is the only SACU producer who produces virgin PET whilst other manufacturers are producing recycled PET. Other known manufacturers of recycled PET are as follows:

- PET Recycling Company NPC "PETCO"
- Extrupet Group (Pty) Ltd
- Mpact Polymers (Pty) Ltd

2.7 It must be borne in mind that though the manufacturing process of virgin and recycled PET is not the same, the final product is visually indistinguishable from each other and compete in the same market space.

2.8 The Applicant's production capacity significantly increased between 2016 and 2018, owing to recent investments in plant expansion and capital equipment. The Applicant submitted that it has sufficient capacity to supply the majority of the subject product in the SACU market should maximum capacity be utilised.

2.9 The Applicant's production volume decreased during the period of the investigation.

2.10 The Applicant's domestic sales of the product concerned declined during the period of the investigation, coupled with declining profit margins over the same period.

2.11 According to information at the Commission's disposal, the Applicant's selling price remained relatively static during the period under the investigation. In addition, the Applicant's ex-factory selling price experienced price disadvantages when compared to similar imported products.

2.12 Reciprocal commitments made by the Applicant were provided, particularly with respect to levels of production, investment and employment creation, as articulated in the New Growth Path ("NGP").

2.13 Comments in support of the application were received from Extrupet (Pty) Ltd and Printing South Africa. The support for the application centred on protecting the viability of the domestic industry, which is being threatened by low priced imports and that increasing import duties will be vital in ensuring continued manufacturing of PET in the SACU. It was also stated that import duties for the "liquids and pastes" tariff subheadings should also be increased as PET does not exist outside the production process, and these subheadings are used to circumvent the customs duty on PET, thereby having a negative impact on the local PET industry. As stated in paragraph 1.6 that the Applicant's concern regarding the current description of the subject product can be best dealt with by SARS and not by ITAC.

2.14 PETCO and Plastic SA submitted that, it would not be in the interest of all their members' to support or to object to the application. Therefore, PETCO and Plastic

SA opted to remain neutral on this application given that they both represent various stakeholders in the plastic and beverages value chain.

2.15 Comments objecting to the application were received, *inter alia*, from ALPLA Trading (Pty) Ltd, Beverage Association of South Africa, Coca-Cola Beverages South Africa, APS Plastic (Pty) Ltd, XA International Trade Advisors (on behalf of Nampak Limited, Kingsley Beverages (Pty) Ltd, Polyoak Packaging (Pty) Ltd and Tiger Brands Limited) and Trade Law Chambers on behalf of Global Grinders (Pty) Ltd. The majority of comments objecting to the application were, amongst others, based on the August – December 2017 period when the finalisation of Safripol's expansion project were delayed, which necessitated imports. Some parties stated that the Commission should take into account the fact that the Applicant, is by implication, a monopoly, being a single producer and supplier of virgin PET in the SACU; and this poses risk factors, which includes, among others, pricing, quality consistency, and or availability of supply.

2.16 The comments also cited that there seems to be a sharp contrast between the application submitted by Safripol to ITAC and the KAP Industrial Integrated Report submitted to shareholders. Some interested parties stated that the integrated report depicts that Safripol's revenue analysis and operating profit increased by 111% and 139%, respectively. As stated in paragraph 1.2 that Safripol Durban (formerly Hosaf) was transferred to KAP Industrial Holdings as of the 1st of July 2018 following a structured acquisition. It must be borne in mind that the integrated report concerned refers to the applicant as "Hosaf" and the said reports depicts that the revenue and operating profits of the Applicant declined by 6% and 81% respectively.

3. FINDINGS

3.1. The Commission found that:

- The industry manufacturing the subject product is in a position to meet the full market requirements of PET as described in the tariff structure;

- Price disadvantages are experienced *vis-à-vis* foreign manufacturers exporting the product to SACU;
- The domestic industry is unable to compete with imported products, given the existing duty structure. This adversely affects domestic investment and employment opportunities; and
- Levels of profitability and capacity utilisation have declined.

3.2 On balance, the recommended duty increase to 15% *ad valorem* would enable the domestic industry manufacturing PET to fully utilise existing under-utilised production capacity thereby achieving cost advantages arising *inter alia* from increased output.

4. RECOMMENDATION

4.1. In the light of the foregoing, the Commission recommended an increase in the rate of customs duty on polyethylene terephthalate classifiable under tariff subheadings 3907.61.10 and 3907.69.10 from free of duty and 3907.61.90 and 3907.69.90 from 10% *ad valorem*, to 15% *ad valorem*. The Commission further recommended that the duty structure be reviewed to determine its impact on the industry value chain after three years from the date of implementation, or such other period as decided by the Commission.