

REPORT NO. 175**SUNSET REVIEW OF THE ANTI-DUMPING DUTIES ON
SUSPENSION POLY VINYL CHLORIDE (PVC)
ORIGINATING IN OR IMPORTED FROM THE REPUBLIC
OF KOREA, THAILAND AND INDIA AND
COUNTERVAILING DUTIES ON PVC ORIGINATING IN
OR IMPORTED FROM INDIA**

The DTI Campus (Block E)
77 Meintjies Street
Sunnyside, Pretoria
0002

Private Bag X753
Pretoria
0001
South Africa

Tel : +27 12 394 3600
Fax: +27 12 394 0518
<http://www.itac.org.za>

Customer Contact Centre:
0861 843 384

The International Trade Administration Commission of South Africa herewith presents its Report No. 175: **SUNSET REVIEW OF THE ANTI-DUMPING DUTIES ON SUSPENSION POLY VINYL CHLORIDE (PVC) ORIGINATING IN OR IMPORTED FROM THE REPUBLIC OF KOREA, THAILAND AND INDIA AND COUNTERVAILING DUTIES ON PVC ORIGINATING IN OR IMPORTED FROM INDIA**



Ms N P Maimela
CHIEF COMMISSIONER

PRETORIA

23/05/2006

SUNSET REVIEW OF THE ANTI-DUMPING DUTIES ON SUSPENSION POLY VINYL CHLORIDE (PVC) ORIGINATING IN OR IMPORTED FROM THE REPUBLIC OF KOREA, THAILAND AND INDIA AND COUNTERVAILING DUTIES ON PVC ORIGINATING IN OR IMPORTED FROM INDIA

Background

On 15 June 2001, definitive anti-dumping duties were imposed on suspension poly (vinyl chloride) originating in or imported from India, Republic of Korea and Thailand and countervailing duties were imposed on the importation of originating in or imported from India. The then Board on Tariffs and Trade, predecessor of the International Trade Administration Commission of South Africa (the Commission) found that the products were dumped on the SACU market causing material injury to the SACU industry.

In accordance with the provisions of Article 11.3 of the World Trade Organisation Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade, any definitive anti-dumping duty shall be terminated on a date not later than five years from the date of imposition, unless the authorities determine, in a review initiated before that date on their own initiative or upon a duly substantiated request made by or on behalf of the domestic industry within a reasonable period of time prior to that date, that the expiry of the duty would be likely to lead to the continuation or recurrence of dumping and injury.

On 27 May 2005, the Commission notified all interested parties, through Notice No. 779 of Government Gazette No. 27599, that unless a request is made by or on behalf of the SACU industry for the duty to be reviewed prior to the expiry thereof, the anti-dumping duties on suspension poly vinyl chloride originating in or imported from India, Republic of Korea and Thailand and countervailing duties imposed on the importation of PVC originating in or imported from India, will expire on 15 June 2006.

1. APPLICATION AND PROCEDURE

- 1.1** The Application was lodged by Sasol Polymers Vinyls Business (Applicant), being the only manufacturer of the “like product” in the SACU.
- 1.2** The Applicant alleged that the expiry of the anti-dumping duty and countervailing duties would lead to the recurrence of dumping of the subject product, thereby causing material injury to the SACU industry in the form of:
- price undercutting
 - price depression
 - price suppression
 - decline in output
 - decline in domestic sales
 - decline in market share
 - decrease in profits
 - decline in utilization of production capacity
- 1.3** The investigation period for dumping would have been from 01 January 2005 to 31 December 2005. The injury investigation would have involved evaluation of data for the period 2003 to 2005 and an estimate should the duties expire.
- 1.4** The SACU industry consists of only one producer of the like product, namely, Sasol Polymers Vinyls Business who submitted information contained in this submission.

1.5 The following exporters/manufacturers were identified as interested parties:

South Korea

- Hanwha Chemical Corporation
Hanwha Building
1 Changgyo-dong
Chung-gu
100-797
Seoul Korea
- LG International Corporation
Donggwan 20 Yeouido-dong
Yeongdeungpo-gu
Seoul 150-D10
Korea (South)

Thailand

- Thai Plastic and Chemicals Public Company Limited
14th-15th Floor, Rajanakerm Building
183 South Sathorn Road
Yannawa
Sathorn
Bangkok
10120
Thailand
- Vinythai Public Company Ltd
Chanadda Hanphichanchai
PVC Export Sales Division Manager
Thailand

India

- Reliance Chemotex Industries
27 Jolly Maker Chambers
2 Nariman Point
Mumbai
India

1.6 The following SACU importers were identified as interested parties:

- Hanwha Group Southern Africa
- LG International
- Croxton Cape (Pty) Ltd
- MBT SA
- Cargo Trade Africa (Pty) Ltd
- Samchem Corporation
- Protean Polymers

2. PRODUCTS, TARIFF CLASSIFICATION AND DUTIES

2.1 IMPORTED PRODUCTS

2.1.1 Description

- (a) Detailed physical description of the subject product:

Suspension poly (vinyl chloride) is a free-flowing white powder consisting of regularly shaped, porous granules of approximately 120 µm in diameter. It is a low to medium molecular weight polymer of vinyl chloride monomer.

- *scientific name.*

suspension poly (vinyl chloride)

- *common name*

suspension PVC or generically referred to as PVC

- *trade name*

The respective manufacturers have their own trade names.

- (b) *Main raw materials/components/inputs used:*

Suspension poly (vinyl chloride) is manufactured from vinyl chloride monomers (VCM), with the major raw materials being ethylene and chlorine.

2.1.2 Tariff classification

The subject product is classifiable as follows:

Tariff subheading	Description	Statistical Unit	Rates of Duty		
			General	EU	SADC
39.04	Polymers of vinyl chloride or of other halogenated Olefins, in primary forms				
39.04.10	Polyvinyl chloride , not mixed with any other substances	Kg	10 %	8.8 %	Free
39.04.2	Other polyvinyl chloride				
39.04.21	- Non-plasticised	Kg	10 %	8.8 %	Free
39.04.22	- Plasticised	Kg	10 %	8.8 %	Free

2.1.3 Other applicable duties and rebates

According to the applicant most of the imports under the relevant tariff subheadings are paste and co-polymer PVC, ie not of suspension PVC.

The subject product is subject to the following anti-dumping duties:

Table 2.1.5

Tariff subheading	Description	Country	Rate of Anti-Dumping Duty
3904.10	Polyvinyl chloride , not mixed with any other substances, in the form of suspensions	United States of America	24% with a maximum of 55c/kg
3904.10	Polyvinyl chloride , not mixed with any other substances, in the form of suspensions	United Kingdom	66% with a maximum of 105c/kg
3904.10	Polyvinyl chloride , not mixed with any other substances, in the form of suspensions	France	46% with a maximum of 23c/kg
3904.10	Polyvinyl chloride , not mixed with any other substances, in the form of suspensions	Brazil	78% with a maximum of 65c/kg
3904.10	Polyvinyl chloride , not mixed with any other substances, in the form of suspensions	Republic of Korea	42.31%
3904.10	Polyvinyl chloride , not mixed with any other substances, in the form of suspensions	Thailand	34.59%

3904.10	Polyvinyl chloride , not mixed with any other substances, in the form of suspensions	India	32.07%
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The subject product is subject to the following countervailing duties:

Tariff subheading	Description	Country	Rate of Anti-Dumping Duty
3904.10	Polyvinyl chloride , not mixed with any other substances, in the form of suspensions, in primary forms	India	21.77%

2.1.4 Country of origin/export

The subject product originates in or is exported from India, Republic of Korea and Thailand.

2.1.5 Application/end use

The imported product is used in a wide range of applications, including pipes and fittings, packaging (bottles, film and rigid sheet), cables and wires, medical applications, flooring and footwear. The polymer's physical properties, primarily molecular weight or K-value and porosity determine its application. PVC's versatility as a material is achieved by its ability to be blended with a wide variety of additives.

2.1.6 Production process

Suspension poly vinyl chloride is produced by suspension polymerisation process that ensures high purity and consistent quality. It has a high molecular mass, highly porous homopolymer for plasticised applications requiring excellent optical and good mechanical properties.

2.1.7 Categories of users

The local market is categorised according to the following application/industry sectors:

- pipe
- rigid extrusion
- bottle
- film
- rigid sheet
- cable
- flooring
- footwear
- flexible sheet
- flexible extrusion

2.2 SACU PRODUCT

2.2.1 Description

(b) Detailed physical description of the subject product:

Suspension poly (vinyl chloride) is a free-flowing white powder consisting of regularly shaped, porous granules of approximately 120 µm in diameter. It is a low to medium molecular weight polymer of vinyl chloride monomer.

- *scientific name.*

suspension poly (vinyl chloride)

- *common name*

suspension PVC or generically referred to as PVC.

- *trade name*

The respective manufacturers would have their own trade names.

(b) Main raw materials/components/inputs used:

Suspension poly (vinyl chloride) is manufactured from vinyl chloride monomers (VCM), with the major raw materials being ethylene and chlorine.

2.2.2 Application/end use

The product is used in a wide range of applications, including pipes and fittings, packaging (bottles, film and rigid sheet), cables and wires, medical applications, flooring and footwear. The polymer's physical properties, primarily molecular weight or K-value and porosity determine the application. PVC's versatility as a material is achieved by its ability to be blended with a wide variety of additives.

2.2.3 Tariff classification

The SACU product is classifiable under tariff subheading 39.04.10.

2.2.4 Production process

Suspension poly vinyl chloride is produced by suspension polymerisation process that ensures high purity and consistent quality. It has a high molecular mass, highly porous homopolymer for plasticised applications requiring excellent optical and good mechanical properties.

2.3 LIKE PRODUCTS

2.3.1 General

In order to establish the existence and extent of injury to the SACU industry, it is necessary to determine at the outset whether the products produced by the SACU industry are like products to those originating in or imported from the Republic of Korea, Thailand and India.

2.3.2 Analysis

In determining the likeness of products, the following criteria are analyzed:

- (a) raw material used;
- (b) physical appearance and characteristics;
- (c) tariff classification;
- (d) method of manufacturing; and
- (e) customer demand and end use.

(a) Raw material

The raw materials used in both the imported and domestic products are likely to be the same.

(b) Physical appearance and characteristics

The physical appearance and characteristics of both the imported and domestic products are the same.

(c) Tariff classification

The tariff classification of the imported and domestic products is the same.

(d) Method of manufacturing

The method of manufacturing processes of both the imported and domestic products are likely to be the same.

(e) Customer demand and end-use

The customer demand and end use of both the imported and domestic products are the same namely;

The product is used in a wide range of applications, including pipes and fittings, packaging (bottles, film and rigid sheet), cables and wires, medical applications, flooring and footwear.

The Commission confirmed its decision of the original investigation, that the SACU product and the imported products were “like products”, for purposes of comparison, in terms of Article 2.6 of the Anti-Dumping Agreement.

3. SACU INDUSTRY

3.1 INDUSTRY STANDING

Sasol Polymers is the only manufacturer of the “like product” in SACU.

The Commission decided that the application can be regarded as being made “by or on behalf of the domestic industry” and, therefore, was eligible for initiation under the provisions of the Anti-Dumping Agreement.

4. DUMPING

General

The Applicant based the normal values and the export prices for the three countries and the export prices on information obtained from Harriman Chemsult in the United Kingdom.

The Commission noted that in terms of ADR 23.2, read together with ADR 23.1, an invoice indicating the price, quotes for domestic sales of the like product, price lists, international publications or any other reasonable proof of such domestic price should be considered, when evaluating *prima facie* information on normal value.

4.1 METHODOLOGY IN THIS INVESTIGATION FOR INDIA

4.1.1 Type of economy

India is considered to be a country with a free market economy and therefore section 32(2)(b) of the ITA Act (Act 71/2002) normally applies.

4.1.2 Normal Value

The Applicant based the normal value for India on information obtained from Harriman Chemsult Ltd in the United Kingdom, a well-recognized consulting firm within the PVC industry.

Based on the information a normal value was determined for India.

4.1.3 Export price

The applicant indicated that to the best of its knowledge there have been no imports of Suspension PVC from the countries concerned. It believes that the imports indicated on the import statistics are of other PVC types such as paste PVC.

The export price was, therefore, also based on information obtained from Harriman Chemsult.

The applicant also stated that it could not obtain specific information for India. The Applicant therefore based India's export price on the export price from Asia as it believes that India would have to compete with export prices from the Asian region should they wish to supply the SACU market.

The Applicant stated that the export price is based on exports from the Far East including exports from the People's Republic of China, Japan, South Korea, Chinese Taipei, Philippines, Malaysia, Thailand, Singapore, Indonesia and India.

Based on the information an export price for India was estimated.

4.1.4 Margin of dumping

Based on the information, a dumping margin of 199 per cent was calculated for India.

4.2 METHODOLOGY IN THIS INVESTIGATION FOR REPUBLIC OF KOREA

4.2.1 Type of economy

The Republic of Korea is considered to be a country operating under free market economy and therefore the definition of section 32(2)(b) of the ITA Act normally applies.

4.2.2 Normal Value

The Applicant based the normal value for the Republic of Korea on information obtained from Harriman Chemsult Ltd in the United Kingdom, a well-recognized consulting firm within the PVC industry.

4.2.3 Export price

The export price was also based on information obtained from Harriman Chemsult.

The Applicant stated that the export price is based on exports from the Far East including exports from the People's Republic of China, Japan, the Republic of Korea, Chinese Taipei, Philippines, Malaysia, Thailand, Singapore, Indonesia and India.

4.2.4 Margin of dumping

Based on the information, a dumping margin of 11 per cent was calculated for the Republic of Korea.

4.3 METHODOLOGY IN THIS INVESTIGATION FOR THAILAND

4.3.1 Type of economy

Thailand is considered to be a country operating under free market economy and therefore the definition of section 32(2)(b) of the ITA Act normally applies.

4.3.2 Normal value

The Applicant based the normal value for Thailand on information obtained from Harriman Chemsult Ltd in the United Kingdom, a well-recognized consulting firm within the PVC industry.

4.3.3 Export price

The export price was based on information obtained from Harriman Chemsult.

The Applicant stated that the export price is based on exports from the Far East including exports from the People's Republic of China, Japan, the Republic of Korea, Chinese Taipei, Philippines, Malaysia, Thailand, Singapore, Indonesia and India.

4.3.4 Margin of Dumping

Based on the information, dumping margin of 21 per cent was calculated for Thailand.

4.5 SUMMARY - DUMPING

Based on the information supplied, the Commission decided that there was *prima facie* information to indicate that the expiry of the anti-dumping duties would likely lead to continuation or recurrence of dumping of the subject product originating in the Republic of Korea, Thailand and India.

5. SUBSIDIZED EXPORTS

5.1 Country providing subsidy

The Applicant alleges that the Indian Government is still providing subsidies to its exporters.

5.2 Details of the assistance scheme

The Duty Exemption /Remission Scheme

The Applicant submitted an extract from the Indian Export Import Portal, which explains the Duty Exemption Scheme as a program that enables duty free import of inputs required for export production. An advance license is issued under the Duty exemption scheme. The duty Remission scheme enables post export replenishment/remission of duty on inputs used in the export product. The Duty remission scheme consists of *inter alia* Duty Entitlement Passbook.

Duty Entitlement Passbook Scheme (DEPB)

The Duty Entitlement Passbook Scheme is based on Standard input and Output Norms (SION) used to calculate the values of the inputs that can be imported duty free. It does not calculate the volume of inputs to be imported but is based on value. According to the applicant this is not a remission or drawback scheme as allowed under the General Agreement on Tariffs and Trade (GATT), since there is no mechanism in place to prevent the manufacturer from importing more than is required for the production of the exported product. On the post-export basis the duty free imports are not limited to the inputs required for the production of the exported product but can include any product, which can be sold on the domestic market.

The Income Tax exemption Scheme

According to the applicant, under the Income Tax exemption scheme the exporter does not pay tax on the profit generated by exports. The Applicant submitted an extract from the book Taxman, Students Guide to Income Tax including central sales tax, written by *Dr. Vonod K. Singhania and Monica Singhania*, 30th edition, for the

assessment year 2004-2005. The information submitted indicated that Section 80HHC grants a deduction in respect of profits derived by certain specified assesses from the export of specified goods and merchandise out of India, if certain conditions are met.

5.3 Amount of Countervailing duties

In terms of Countervailing Regulation 23.3, the Applicant shall provide the Commission with a reasonable calculation of the extent of each alleged subsidy, as well as the alleged total margin of subsidization.

The Applicant stated that in its original investigation it calculated total subsidies of 17.68% (under the Duty Entitlement Passbook Schemes) + 4.09% (under the Income Tax Exemption Scheme) = 21.77%. It concluded by stating that it believes that current rates would be in line with its calculations at the time.

Based on the information supplied, the Commission decided that *prima facie* information was submitted to indicate that the expiry of the countervailing duties would likely to lead to continuation or recurrence of subsidization of the subject product originating in or imported from India.

6. MATERIAL INJURY

6.1 DOMESTIC INDUSTRY FOR THE PURPOSE OF DETERMINING MATERIAL INJURY

6.2 GENERAL

Information with regard to each of the injury indicators reflects the applicant's position 3 years following the imposition of the current anti-dumping and countervailing duties, as well as an estimate of what the effect of the expiry of the duty would have on the applicant.

The following injury analysis was submitted by Sasol Polymers Vinyls Business, the Applicant, which constitutes 100 % of the total domestic production of the subject product.

	2003	2004	2005	Estimate if the duties expire
**Price undercutting				
Republic of Korea	100	7	107	29
Thailand	100	58	125	33
India	100	42	116	33
Price depression	100	91	104	90
Price suppression	100	92	80	70
Sales volume (tons)	100	105	101	115
Profit Margin on selling price	100	75	67	42
Output	100	111	95	97
Market share	100	102	95	101
Employee productivity (tons)	100	111	95	97
Return on total net assets as a	100	65	48	42
Utilization capacity	100	110	95	77
Dumping margins: South Korea India			11% 199%	

Thailand			21%	
Inventories	100	85	79	97

The table above was indexed due to confidentiality, using 2003 as a base

In analysing the injury indicators supplied by the Applicant, it was found that should the duty expire, recurrence or continuation of material injury to the SACU industry would be of a price nature and not of volume nature. This is supported by the estimates the Applicant provided which indicate *inter alia* that should the duties expire there would be price undercutting, its prices would be depressed and suppressed and this would lead to reduced profit margins and a lower return on investment. However, sales volumes, output, employee productivity, utilisation of production and market share would increase.

Comments submitted by the Applicant, in substantiation of the allegation that the expiry of the anti-dumping and countervailing duties would likely lead to a continuation or recurrence of material injury to the SACU industry were considered by the Commission. However, that the Commission was not convinced that a likelihood of material injury exists based on the following:

- declining price suppression
- profit margin and satisfactory return on investment
- no volume effect
- market share of 99 per cent, virtually no imports

The Commission also noted that there were several inconsistencies in the estimates provided by the Applicant.

The Commission, therefore, concluded that the Applicant did not submit *prima facie* evidence to indicate that the expiry of the duties would likely to lead to the continuation or recurrence of material injury.

7. DETERMINATION

The Commission determined that the applicant submitted *prima facie* case that:

- the expiry of the duty is likely to lead to continuation or recurrence of dumping and subsidization of the subject product.

However, the Commission decided that the Applicant did not submit *prima facie* evidence that the expiry of the duties is likely to lead to the continuation or recurrence of material injury.

The Commission, therefore, decided to recommend to the Minister of Trade and Industry that the anti-dumping duties on suspension poly vinyl chloride (PVC) originating in or imported from the Republic of Korea, Thailand and India and countervailing duty on suspension poly vinyl chloride (PVC) in originating in or imported from India be withdrawn.