

NOTICE 24 OF 2004

INTERNATIONAL TRADE ADMINISTRATION COMMISSION

NOTICE OF INITIATION OF A NEW SHIPPER INVESTIGATION ON ALUMINIUM HOLLOWWARE ORIGINATING IN OR IMPORTED FROM EGYPT

On 5 February 1999, the South African Revenue Service (SARS) imposed the following anti-dumping duties:

Tariff Heading	Description	Imported from or originating in	Rate of Anti-dumping duty
7615.19.20	Hollowware for table or kitchen use (excluding buckets), of aluminium manufactured or exported by Sally Aluminium Industries	Egypt	22c/kg
	Hollowware for table or kitchen use (excluding buckets), of aluminium manufactured or exported by Atlas Aluminium Factory	Egypt	2952c/kg
	Hollowware for table or kitchen use (excluding buckets), of aluminium manufactured by any manufacturer in Egypt (excluding Atlas Aluminium Factory and Sally Aluminium Industries)	Egypt	252c/kg

The International Trade Administration Commission (the Commission) received a petition from El Amal Factory for Manufacturing House Tools Company (El Amal), a manufacturer/exporter of aluminium hollowware in Egypt, requesting to be considered as a new shipper, in terms of Article 9.5 of the Agreement on Implementation of Article VI of the GATT, 1994 (the Anti-Dumping Agreement), which provides as follows:

"If a product is subject to anti-dumping duties in an importing member, the authorities shall promptly carry out a review for the purpose of determining individual margins of dumping for any exporters or producers in the exporting country in question who have not exported the product to the importing Member during the period of investigation, provided that these exporters or producers can show that they are not related to any of the exporters or producers in the exporting country who are subject to the anti-dumping duties on the product.

Such a review shall be initiated and carried out on an accelerated basis, compared to normal duty assessment and review proceedings in the importing Member. No anti-dumping duties shall be levied on imports from such exporters or producers while the review is being carried out. The authorities may, however, withhold appraisement and/or request guarantees to ensure that, should such a review result in a determination of dumping in respect of such producers or exporters, anti-dumping duties can be levied retroactively to the date of the initiation of the review."

THE PETITIONER

The application was brought by El Amal, an Egyptian manufacturer/exporter of aluminium hollowware. The new shipper requested the Commission to consider awarding it new shipper status and provided the Commission with information indicating that it did not export aluminium hollowware during the previous investigation period; that it was not related in any way to the exporters involved in the dumping investigation on which duties are presently applicable and that it has not and will not export the subject products at dumped prices to the SACU.

The Commission decided that sufficient evidence was submitted to establish a *prima facie* case for it to initiate a new shipper investigation.

THE PRODUCT

The subject product is aluminium hollowware, classifiable under tariff subheading 7615.19.20, originating in or imported from Egypt.

INVESTIGATION PERIOD

The investigation period will be from 1 October 2002 to 30 September 2003.

THE PROCEDURAL FRAMEWORK

The Commission will conduct its investigation in accordance with the ITA Act, 2002 and the World Trade Organisation Agreement on Implementation of Article VI of the GATT, 1994 (the Anti-Dumping Agreement).

In accordance with Article 9.5 of the Anti-Dumping Agreement, the Commission recommended to the Minister of Trade and Industry that El Amal be exempted from the payment of the anti-dumping duty on the subject product originating in or imported from Egypt. The Commission's recommendation was approved by the Minister and the Commissioner for South African Revenue Service (SARS) was requested to exempt El Amal from the payment of the anti-dumping duty on the subject product originating in or imported from Egypt, for the duration of the review.

In accordance with Article 9.5 of the Anti-dumping Agreement, the Authority may withhold appraisement and/or request guarantees to ensure that should such a review result in a determination of dumping in respect of the exporter, anti-dumping duties can be levied retroactively to the date of initiation of the review. The Commission decided that the appropriate way to obtain such a guarantee, is to request the Commissioner for South African Revenue Service to impose in terms of Article 57 (A) of the Customs and Excise Act 1964, a provisional payment in the amount of 252c/kg on the same day the anti-dumping duty is withdrawn.

On publication of this notice, the Commission will notify the SACU producer of the subject product, Hendler & Hart and Prestige, of the review. The trade representative of the exporting country concerned will also be notified of the review. Representations, if so needed, must be made within the time limit set out below.

The Commission will send out "essential facts" letters containing the facts available and will allow parties to comment thereon, before the final determination and recommendation is made.

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 in each instance:

- 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 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 made available to other interested parties.

If the requirements regarding the submission of a non-confidential version of documents are not strictly adhered to, the Commission might disregard the information so submitted.

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 reasons why the party's rights are so affected must be submitted in writing forthwith (and at latest 14 days prior to the date on which the 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 party to meet the requirements.

ADDRESS

The response to this notice and any information regarding this matter and any arguments concerning the investigation thereof must be submitted in writing to the following address:

Physical address

The Director: Trade Remedies II
2nd Floor, SABS Building
1 Dr Lategan Street

Postal address

The Director: Trade Remedies II
Private Bag X753
PRETORIA

Groenkloof
PRETORIA
South Africa

South Africa 0001

PROCEDURES AND TIME LIMITS

All responses, *including non-confidential versions of the responses*, should be received by the Director: Trade Remedies II not later than 30 days following the date of publication of this notice or, in the case of parties known to be interested, 30 days following the date on which the letter was received. The said letter shall be deemed to have been received seven days after the date of its dispatch.

It should be noted that the new shipper review process is complex and the Commission is required to complete the review on an accelerated basis. Late submissions will therefore not be accepted except with the prior written consent of the Commission. The Commission will give due consideration to written requests for extension of not more than 14 days on good cause shown, if received prior to the expiry date of the original 30 day period. Merely citing insufficient time is not an acceptable reasons for extension.

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. The Commission may verify information at the premises of the party submitting the information, within a short period after the submission of the information to the Commission. Parties should therefore ensure that the information submitted will subsequently be available for verification.

Oral representations to the Commission by interested party may also be made on written request to the Commission at least seven days prior to the expiry date of the original 30 days period to respond and prior arrangements with the Directorate. Such oral representations must be made within the same period as written representations, unless prior written consent of the Commission has been obtained for oral representations to be made at a later date, which shall in any event not be later than 14 days after written representations have been submitted. Oral representations will be limited to one hour for SACU manufacturers and exporters and thirty minutes for importers.

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 such information and make provisional or final findings on the basis of the facts available to it.

Enquiries may be directed to the investigating officers, Mr J Heukelman at telephone (012) 428 7721 or Ms E Rakgole, at telephone (012) 428 7733 or at fax (012) 428 7736.