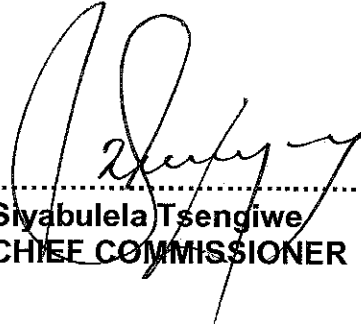


REPORT NO. 315

Creation of a rebate facility for dried or crushed or ground fruits of the genus *Capsicum* classifiable under tariff subheading 0904.20.30 used for the extraction of paprika oleoresin classifiable under tariff subheading 3301.90.80

The International Trade Administration Commission (ITAC) of South Africa herewith presents Report No. 315: **Creation of a rebate facility for dried or crushed or ground fruits of the genus Capsicum classifiable under tariff subheading 0904.20.30 and used for the extraction of paprika oleoresin classifiable under tariff subheading 3301.90.80.**



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Siyabulela Tsengiwe
CHIEF COMMISSIONER

PRETORIA

.....06/10/2009

REPUBLIC OF SOUTH AFRICA

INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF SOUTH AFRICA

REPORT NO. 315

Creation of a rebate facility for dried or crushed or ground fruits of the genus *Capsicum* classifiable under tariff subheading 0904.20.30 used for the extraction of paprika oleoresin classifiable under tariff subheading 3301.90.80

Synopsis

Papriex (Pty) Ltd applied for the creation of a rebate provision for dried or crushed or ground fruits of the genus *Capsicum* classifiable under tariff subheading 0904.20.30 with a rate of duty of 25 per cent *ad valorem*. The imported product is to be used for the extraction of paprika oleoresins used in the food industry.

The Commission recommended that a rebate facility be created for dried paprika with the following description for customs tariff purposes:-

“Dried or crushed or ground fruits of the genus *Capsicum* for extraction of oleoresins of a kind used in the food industry, in such quantities, at such times and subject to such conditions as the International Trade Administration Commission may allow by specific permit, provided the Commission is satisfied that the subject fruits are not available in the SACU region.”

INTRODUCTION

Papriex (Pty) Ltd applied for the creation of a rebate provision for dried or crushed or ground fruits of the genus *Capsicum* (specifically dried paprika) classifiable under tariff subheading 0904.20.30 with a rate of duty of 25 per cent *ad valorem*.

The imported product is to be used for the extraction of paprika oleoresins used in the food industry. Paprika oleoresin is an oil soluble reddish liquid that is primarily used as a colouring and/or flavouring agent in food products. Foods coloured with paprika oleoresin include cheese, orange juice, spice mixtures, sauces, sweets and emulsified processed meats.

As reason for the application the applicant stated that sufficient quantities at the required quality of the dried or crushed or ground fruits of the genus *Capsicum* (specifically dried paprika) are not available in the SACU.

Fruits of the genus *Capsicum* generally comprise two main groups, the chillies and the paprikas. However, *Capsicum* naming terminology is confusing due to the plethora of subspecies. Generally pepper, chilli, paprika and capsicum are used interchangeably for plants of the genus *Capsicum*.

The applicant manufactures and trades in paprika products that are used in the food, colouring, cosmetics and pharmaceuticals industries. The core processing site is located in Brits in the North West Province, South Africa.

TARIFF POSITION

The applicable tariff structure for dried paprika, is as set out in Table 1 below:

Table 1: Current tariff position for dried paprika

Tariff heading	Tariff subheading	Description	Statistical unit	Rate of duty			
				General	EU	EFTA	SADC
09.04		Pepper of the genus <i>PIPER</i> ; dried or crushed or ground fruits of the genus <i>CAPSICUM</i> or of the genus <i>PIMENTA</i> :					
	0904.1	Pepper:					
	0904.11	Neither crushed nor ground	kg	Free	Free	Free	Free
	0904.12	Crushed or ground	kg	Free	Free	Free	Free
	0904.20	Fruits of the genus <i>CAPSICUM</i> or of the genus <i>PIMENTA</i> , dried or crushed or ground:					
	0904.20.30	Fruits of the genus <i>CAPSICUM</i>	kg	25%	9,5%	25%	Free
	0904.20.50	Fruits of the genus <i>PIMENTA</i>	kg	Free	Free	Free	Free

As can be seen from table 1 above, dried paprika (classifiable as fruits of the genus *Capsicum*) is subject to a customs duty of 25 per cent *ad valorem* in the general and EFTA columns, 9.5 per cent *ad valorem* in the EU column and free of duty in the SADC column.

The dried paprika is used for the extraction of paprika oleoresin classifiable under tariff subheading 3301.90.80. The applicable tariff structure for paprika oleoresin is as set out in Table 2 below:

Table 2: Current tariff position for paprika oleoresin.

Tariff heading	Tariff subheading	Description	Statistical unit	Rate of duty			
				General	EU	EFTA	SADC
33.01	Extracted oleoresins						
	3301.90.80	Extracted oleoresins, of a kind used in the food industry, obtained from the extraction of fruits of the genus CAPSICUM	kg	15%	5.7%	9%	free

As can be seen from Table 2 above, paprika oleoresin is subject to a 15 per cent *ad valorem* duty in the general column, 5.7 per cent *ad valorem* in the EU column, 9% *ad valorem* in the EFTA column and free of duty in the SADC column.

The applicant requested that a rebate provision be introduced as follows:

“Dried or crushed or ground fruits of the genus Capsicum for extraction of oleoresins of a kind used in the food industry, in such quantities, at such times and subject to such conditions as the International Trade Administration Commission may allow by specific permit, provided the Commission is satisfied that the subject fruits are not available in the SACU region.”

The requested rebate facility will be exclusively for use by oleoresin extractors for the food industry. The applicant uses only paprika in the extraction of oleoresin, as other products that belong to the fruits of the genus Capsicum family such as chillies, have an undesirable bitter taste and low quality of colouring agents that make them unsuitable for the extraction of oleoresin for the food industry.

INDUSTRY AND MARKET

Paprika of superior quality is grown in large quantities in many countries around the world. It is a very labour intensive and high value crop. India, China, Peru and Afghanistan constitute the largest producers.

The SADC market for paprika is recovering after it decreased by approximately 60%-80% in countries such as Zambia, Malawi and Zimbabwe due to the attraction of more profitable crops. The quality of the product has also decreased but is still marginally sufficient for oleoresin extraction.

In the SACU market during the period from the mid 1990's to 2002, paprika was grown in very high quantities and qualities. However production declined severely and is now limited to a few farmers.

The investigation revealed that the South African market for paprika is divided into three groups:

Firstly, there are those that use the paprika in its raw form i.e. as a fresh produce. This use is limited, and hardly any of the crops grown in South Africa are used for this purpose.

Secondly, there are those that use paprika to manufacture for the spice market in the form of dried powders. This group is the largest user of ground paprika. They use dried paprika peppers of various qualities and often blend them together in various mixes and blends including de-oiled paprika.

The final group represents those (like the applicant) who use the product for purposes of oleoresin extraction.

The main difference between groups two and three is the quality of raw material (paprika) needed. Paprika is graded according to a Capsicum grading system established by the American Spice Trade Association (ASTA). The intensity of the colour of the paprika is reflected in what is commonly referred to as ASTA grades in the spice and capsicum oleoresin industry.

Whereas those that use paprika to manufacture for the spice market use predominately grades B and C, oleoresin extractors can only use A grade paprika peppers.

Currently, there is a lack of output of good quality paprika farmed in the SACU. The applicant, for example requires a minimum of 1 000 tons of dried A grade paprika a season. Last year the whole South African paprika crop (2008) was around an estimated 500-800 tons.

Various South African government departments or government agencies such as the Department of Agriculture Forestry and Fisheries, the Development Bank of South Africa, the IDC, and other Provincial Government Departments have in the past supported projects aimed at developing the paprika producing industry as paprika farming is labour intensive and hence has the potential to create employment, especially in the rural areas. However, to date none of these projects have been successful at producing paprika in meaningful quantities. Where paprika yields have been satisfactory, in most cases it were projects undertaken in conjunction with the big spice manufacturers who acquire the produce for the manufacture of spices.

The applicant is presently the only South African oleoresin extractor, while previously there used to be three South African oleoresin extractors as well as a further four in the SADC region.

The duty when expressed as a percentage of the ex-factory selling price of the end product constitutes approximately 20.7 per cent. The applicant is making a loss even though it recovers some of the extraction costs through the sale of by-product recoveries such as seeds and de-oiled paprika.

The applicant exports approximately 80% of the paprika oleoresin that it produces. However the seeds and the deoiled paprika are sold mainly in the domestic market.

COMMENTS ON THE APPLICATION

The application was published in the Government Gazette of 26 June 2009 for interested parties to comment.

Comments in support of the application were received from two paprika powder producers in SA. The powder producers however requested a reduction of the duty on all genus Capsicum products i.e. both paprika and chillies.

A comment was also received from a South African importer of extracted oleoresins who responded by objecting to the creation of the rebate facility but requested that the duty on the dried paprika as well as the duty on paprika oleoresin be reduced.

The Northwest Chilli Grower's Association responded by stating that they have no objection to the request for the creation of the rebate facility for ground paprika under the condition that chillies (which also form part of the genus Capsicum species) are excluded from the rebate.

The Department of Agriculture, Forestry and Fisheries (DAFF) and the National Agricultural Marketing Council (NAMC), supported the creation of a rebate facility for ground paprika used in the production of paprika oleoresin citing that there is indeed a current shortage of the product in the SACU market.

FINDINGS

The Commission found that paprika is not grown in sufficient quantities in the SACU and that this limits the availability of the product for the oleoresin extractor who manufactures for the food industry. The customs duty therefore has an unnecessary cost-raising effect downstream.

Analysis of the impact of the shortage in the value chain revealed that all the users of fruits of the genus Capsicum are to some degree affected negatively by the unavailability of locally grown paprika. The oleoresin extractor is especially disadvantaged not only through the unavailability of sufficient paprika, but also that the available locally produced paprika most often does not meet their quality requirements.

The Commission could not accede to the requests by the powder producers as the investigation revealed that chillies are produced in the SACU and the reduction or rebate of the customs duty on all fruits of the genus Capsicum would erode the encouragement afforded to the South African chilli growers.

The creation of a rebate facility exclusively for use by oleoresin extractors would also ensure that that the protection afforded to the paprika farmers is not unnecessarily eroded.

Powder manufacturers who supply the spice manufacturers can substitute paprika with chillies or can use de-oiled paprika in their manufacturing process. They also use lesser quality of paprika products and hence can use the locally available paprika. Spice manufacturing companies have also in the past engaged in negotiations with paprika growers to provide them directly and exclusively with their paprika requirements.

Paprika farming is labour intensive and hence has the potential to create employment especially in the rural areas. However, to date none of the projects aimed at increasing the South African production of the paprika crop have been successful at producing paprika in meaningful quantities.

The applicant is currently the only oleoresin extractor. However, the duty is an unnecessary cost burden on an input product that cannot be sourced locally by the applicant whose company is under financial strain.

The Commission also considered the negative rate of effective protection that the applicant is burdened with. The end product (extracted oleoresins) is classifiable at 15 per cent *ad valorem*, while the input product is classifiable at 25 per cent *ad valorem*. The Commission's recommendation will eliminate this anomaly.

The creation of a rebate facility, subject to a permit by ITAC as recommended, as opposed to a reduction of the duty would ensure that the oleoresin extractors can source ground paprika at internationally competitive prices but that the duty would remain in place in the event of the current or future paprika producing projects yielding enough paprika to satisfy local demand. The rebate permit will be issued in consultation with all relevant stakeholders.

RECOMMENDATION

In view of the above, the Commission decided to recommend that a rebate facility be created for ground paprika, with the following description for customs tariff administration purposes:-

“Dried or crushed or ground fruits of the genus Capsicum for extraction of oleoresins of a kind used in the food industry, in such quantities, at such times and subject to such conditions as the International Trade Administration Commission may allow by specific permit, provided the Commission is satisfied that the subject fruits are not available in the SACU region.”