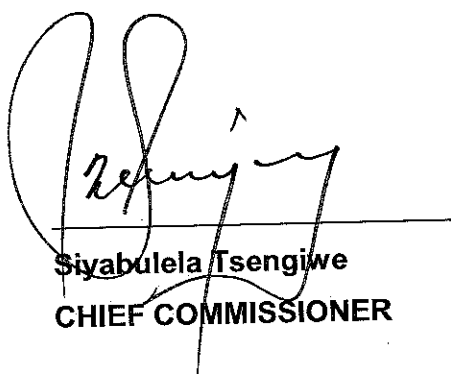


REPORT NO. 298

**INVESTIGATION INTO THE ALLEGED DUMPING OF TALL OIL
FATTY ACID ORIGINATING IN OR IMPORTED FROM SWEDEN:
FINAL DETERMINATION**

The International Trade Administration Commission of South Africa herewith presents its **Report No. 298: INVESTIGATION INTO THE ALLEGED DUMPING OF TALL OIL FATTY ACID ORIGINATING IN OR IMPORTED FROM SWEDEN: FINAL DETERMINATION.**



Siyabulela Tsengiwe
CHIEF COMMISSIONER

PRETORIA
16 / 03 / 2009

1. APPLICATION AND PROCEDURE

- 1.1 This investigation was conducted in accordance with the International Trade Administration Commission Act, 2002, (the ITA Act), the World Trade Organisation Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade, 1994 (the Anti-Dumping Agreement) and the International Trade Administration Commission of South Africa Anti-Dumping Regulations (ADR).
- 1.2 The application was lodged by ITS Trade (the Applicant) on behalf of Industrial Oleochemical Products (Pty) Ltd, being the sole manufacturer of the product under investigation in SACU.
- 1.3 The application was accepted by the Commission as being properly documented in accordance with Article 5.2 of the Anti-Dumping Agreement on 6 May 2008. The trade representative of the country concerned was advised accordingly.
- 1.4 The Commission initiated an investigation into the alleged dumping of tall oil fatty acid originating in or imported from Sweden, pursuant to Notice No. 762 which was published in *Government Gazette* No. 31145 on 20 June 2008.
- 1.5 The investigation period for dumping is from 1 January 2007 to 31 December 2007. The injury investigation involved evaluation of data for the period 1 January 2005 to 31 December 2007.
- 1.6 The SACU industry consists of only one producer of the subject product, namely Oleochemical Products (Pty) Ltd, who submitted the information contained in this report.
- 1.7 The foreign manufacturer of the subject product in Sweden is Arizona Chemicals, who cooperated in this investigation.

1.8 The following SACU importers responded to the Commission's importers questionnaires:

- (a) Cray Valley Resins SA (Pty) Ltd
- (b) Hobart Trading, being an importing agent for Rolfes Chemicals

1.9 After considering all information and comments submitted by all parties, the Commission made a preliminary determination that the subject product was being dumped on the SACU market, and causing material injury to the SACU industry.

1.10 The Commission requested the Commissioner for South African Revenue Services to impose provisional duties on imports of tall oil fatty acid originating in or imported from Sweden as follows:

Country: Sweden	Rate of provisional payment
Arizona Chemicals	19.1%
All other exporters	27%

The Commission's preliminary findings were published through Notice No. 1371 of Government Gazette No. 31727 dated 12 December 2008. The Commission invited all interested parties to comment on its preliminary report.

1.11 After considering all comments received on its preliminary report, the Commission made a final determination that tall oil fatty acid originating in or imported from Sweden was being dumped on the SACU market, and causing material injury to the SACU industry.

1.12 The Commission sent out letters to all interested parties, informing them in terms of Section 37 of the International Trade Administration Anti-Dumping Regulations (ADR 37) and Article 6.9 of the Anti-Dumping Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade of the "essential facts" which were being considered by the Commission, and

invited comments.

1.13 After considering all parties' comments in respect of the "essential facts" letters, the Commission made a final determination that tall oil fatty acid originating in or imported from Sweden was being dumped on the SACU market, and causing material injury to the SACU industry.

1.14 The Commission, therefore, decided to recommended to the Minister of Trade and Industry that definitive anti-dumping duties be imposed on tall oil fatty acid originating in or imported from Sweden at the following margins:

Sweden	Rate of anti-dumping duty
-Arizona Chemicals	19.1%
-All other exporters	27%

2. PRODUCTS, TARIFF CLASSIFICATION AND DUTIES

2.1 IMPORTED PRODUCTS

2.1.1 Description

The imported product is described as tall oil fatty acid. It is sold under the name Sylfat 2.

2.1.2 Tariff classification, other applicable duties and rebates

Table 2.1.2:

Tariff subheading	Description		Rates of duty			
			General	EU	EFTA	SADC
3823.13	Tall oil fatty acids	Kg	10%	5%	8.8%	Free

2.1.3 Import Statistics

The import statistics indicated that the volume of alleged dumped imports from Sweden accounted for 84.16 per cent of the total imports of the like product during the period of investigation for dumping.

2.1.4 Country of origin/export

The subject product originates in and is imported from Sweden.

2.1.5 Application/end use

The imported product is used amongst other things, for the manufacture of alkyd resins, rubber paper, paint, soaps and detergents. Typical uses are in dimmer acids, surfactants, cleaners, oil field chemicals and other chemical derivatives industries.

2.1.6 Production process

Sylfat 2 is produced from crude tall oil, of which the majority is obtained from pulp plants. Sylfat 2 is produced by the distillation and fractionation of selected crude tall oil.

2.2 SACU PRODUCT

2.2.1 Description

The SACU product is described as tall oil fatty acid. It is sold under the name BR4-4.

2.2.2 Application/end use

The SACU product is used amongst other things, for the manufacture of alkyd resins, rubber paper, paint, soaps and detergents. Typical uses are in dimmer acids, surfactants, cleaners, oil field chemicals and other chemical derivatives industries.

2.2.3 Tariff classification

The SACU product is classified under tariff sub-heading 3823.13.

2.2.4 Production process

BR4-4 is produced from crude tall oil and vegetable acid oils. It is produced by the distillation and fractionation of crude tall oil and blended with vegetable acid oils.

2.3 LIKE PRODUCTS

2.3.1 General

In order to determine dumping and establish the existence and extent of injury to the SACU industry, it is necessary to determine at the outset whether the product produced by the SACU industry is a "like product" to that originating in or imported from Sweden.

Table 2.3.1 Like product determination

	Imported product	SACU product
Raw materials	Crude tall oil	Crude tall oil
Physical characteristics and appearance	Combination of light colour, very good colour stability and air drying properties	Combination of light colour, very good colour stability and air drying properties
Tariff classification	3823.13	3823.13
Production process	Distillation and fractionation	Distillation and fractionation
Application or end use	Manufacture of alkyd resins	Manufacture of alkyd resins
Substitutability	The SACU product and the imported product are fully substitutable with no process changes.	The SACU product and the imported product are fully substitutable with no process changes.
Any other factors proven to the satisfaction of the Commission to be relevant	None	None

The above table indicates the criteria used by the Commission to determine the likeness of products. It shows that the imported and SACU products are the same.

After considering all the criteria to assess “like product”, the Commission made a final determination that the SACU and the imported products are “like products”, for purposes of comparison in this investigation, in terms of Section 1 of the Anti-dumping regulations and Article 2.6 of the Anti-Dumping Agreement.

3. INDUSTRY STANDING

3.1 INDUSTRY STANDING

The Applicant provided the following information with regard to the support and/or opposition to the application:

Table 3.1: Industry standing

Industry Standing	(Total domestic production of like goods for the 12 months preceeding the lodging of the petition)			
Manufacturer	Production volume-Support application	Percentage supporting application	Production volume opposing application	Production volume-neutral
Industrial Oleochemical Products	-	100%	-	-
Total SACU	-	100%	-	-

Based on this information, the application was supported by 100 per cent of the SACU industry.

Based on the above, the Commission made a final determination that the application was made by or on behalf of the domestic industry.

4. DUMPING

4.1 METHODOLOGY IN THIS INVESTIGATION FOR ARIZONA CHEMICALS

The information submitted by the exporter, Arizona Chemicals and the two importers, Cray Valley Resins and Hobart Trading, being the importing agent for Rolfes Chemicals, as well as the information submitted by Rolfes Chemicals, was considered by the Commission for purposes of its final determination.

4.1.1 Normal Value

Type of economy

Sweden is considered by the Commission to be a country with a free market economy and therefore the definition of Section 32(2) (b) of the ITA Act applies. Like product to that exported to the SACU is regarded to be sold in the domestic market in Sweden in the ordinary course of trade.

4.1.2 Calculation of normal value

The Commission found that the exporter sold the imported product in its domestic market during the period of investigation. Based on this information, a domestic selling price was determined.

The exporter claimed the following adjustments:

Discount and rebates

The exporter granted discount and rebates to two of its biggest domestic customers upon achieving certain targeted levels of purchases.

Delivery charges

The exporter incurred an expense for delivery for its domestically sold products.

Export sales

The exporter exported the subject product with trade name sylfat 2, to SACU during the period of investigation. Based on this information, an export price for the products exported to SACU was determined.

Adjustments on export price

Delivery charges

The exporter incurred an expense for inland delivery for products intended for export to SACU.

4.1.3 Margin of Dumping

The margin of dumping was determined to be 24 percent when expressed as a percentage of the ex-factory export price.

4.2 MARGIN OF DUMPING FOR ALL OTHER MANUFACTURERS

Margin of Dumping

The margin of dumping for all other manufacturers, excluding Arizona Chemicals AB, was determined to be 27 per cent when expressed as a percentage of the export price.

4.3 CONCLUSION - DUMPING

For purposes of its final determination, the Commission considered all the comments from interested parties and found that the subject product originating in or imported from Sweden was being dumped into the SACU market with the following margins:

Exporter	Dumping margin expressed as a percentage of the fob export price
Arizona Chemicals	20 %
All other exporters in Sweden	27%

5. MATERIAL INJURY

5.1 DOMESTIC INDUSTRY – MAJOR PROPORTION OF PRODUCTION

Industrial Oleochemical Products (Pty) Ltd, the Applicant, constitutes 100 per cent of the total domestic production of the subject product in SACU.

The Commission made a final determination that the Applicant constitutes “a major proportion” of the total domestic production, in accordance with Article 4.1 of the Anti-Dumping Agreement.

5.2 IMPORT VOLUMES AND EFFECT ON PRICES

5.2.1 Import volumes

The Commission uses import statistics from SARS to determine the volume of the subject product entering the SACU market.

The following table shows the volume of all the imports under tariff subheading 3823.13 as obtained from SARS:

Table 5.1.1: Import volumes

KG	2005	2006	2007
Alleged dumped imports	94 240	384 870	1 470 456
Other imports	521 390	190 204	276 810
Total imports	615 630	575 074	1 747 266
Alleged dumped imports %	15%	67%	84%
Other imports %	85%	33%	16%

The table above shows that the alleged dumped imports increased from 15 per cent in 2005 to 67 per cent in 2006 and 84 per cent in 2007, while other imports decreased from 85 per cent in 2005 to 33 per cent in 2006 and 16 per cent in 2007.

5.2.2 Effect on Domestic Prices

Price undercutting

Price undercutting is the extent to which the price of the imported product is lower than the price of the SACU product. The Commission determined

that the alleged dumped imports do not undercut the Applicant's price.

Price depression

Price depression occurs when the domestic industry experiences a decrease in its selling prices over time.

The table below shows the SACU industry's domestic selling prices:

R/kg	2005	2006	2007
Ex factory price/unit	100	117	137

This table was indexed due to confidentiality using 2005 as the base year.

The table above indicates that the Applicant did not experience price depression during the injury investigation period.

Price suppression

Price suppression is the extent to which increases in the cost of production of the product concerned, cannot be recovered in selling prices. To determine price suppression, a comparison is made of the percentage increase in cost with the percentage increase in selling price (if any), and whether or not the selling prices have increased by at least the same margin as that at which the cost of production increased.

The following table shows the Applicant's average costs of production and its actual selling prices of the subject product:

Rand/kg	2005	2006	2007
Ex-factory price	100	117	137
Unit cost of production	100	116	147
Gross profit per unit	100	121	48
Net profit per unit	negative	positive	negative

This table was indexed due to confidentiality using 2005 as the base year.

According to the table above, the Applicant's cost of production increased by 47 percentage points whereas its selling prices increased by 37 percentage points during the same period. The Commission concluded that this information indicates price suppression.

5.3 Consequent Impact of the Dumped Imports on the industry

5.3.1 Actual and potential decline in sales

The following table shows the Applicant's sales volume of the subject product:

Table 5.2.1: Sales Volume

kg	2005	2006	2007
Sales volume	100	109	69

This table was indexed due to confidentiality using 2005 as the base year.

The information in the table above indicates that the Applicant's sales volume increased by 9 percentage points from 2005 to 2006, and decreased by 37 percentage points from 2006 to 2007. The overall decrease in sales volume from 2005 to 2007 was 31 percentage points.

5.3.2 Profit

The following table shows the Applicant's net profit for the subject product:

Table 5.2.2: Profit

	2005	2006	2007
Gross profit per unit	100	121	48
Units sold	100	109	69
Gross profit R'000	100	131	33
Net profit R'000	negative	positive	negative

This table was indexed due to confidentiality using 2005 as base year

The above table indicates that the Applicant's net profit for the subject product increased from a negative in 2005 to a positive in 2006 and decreased again to a negative in 2007.

5.3.3 Output

The following table outlines the Applicant's domestic production volume of the subject product:

Kg	2005	2006	2007
Total production	100	108	68

This table was indexed due to confidentiality using 2005 as base year

The table above shows that the Applicant's output increased by 8 percentage points from 2005 to 2006 and decreased by 40 percentage points from 2006 to 2007. The overall decrease from 2005 to 2007 was 32 percentage points.

5.3.4 Market share

		2005	2006	2007
Applicant's product BR4-4	Kg	100	102	71
Market share of other SACU producers	Kg	-	-	-
Market share of alleged dumped imports from Sweden	Kg	100	383	1,632
Market share of other imports of the subject product	Kg	100	34	55
Total Market of the subject product	Kg	100	100	100

This table was indexed due to confidentiality using 2005 as the base year

The table above shows that the market share of the alleged dumped imports increased by 283 percentage points from 2005 to 2008 and increased by 1249 percentage points from 2006 to 2007. The Applicant's market share increased by 2 percentage points from 2005 to 2006 and decreased by 31 percentage points from 2006 to 2007.

The Applicant stated that its market share with regard to sales volume declined substantially in 2007 compared to 2005 and 2006. It stated that if the alleged dumped imports continue to flood the SACU market, the threat exists that the SACU industry will lose further market share.

5.3.5 Productivity

The following table outlines the Applicant industry's productivity

Table 5.2.5: Productivity

Description	2005	2006	2007
Applicant's total production volume (Kg)	100	108	68
Number of employees (manufacturing only)	100	100	100
Units per employee	100	108	68

This table was indexed due to confidentiality using 2005 as base year.

The above table indicates that the Applicant's production increased by 8 percentage points from 2005 to 2006 and decreased by 40 percentage

points from 2006 to 2007.

5.3.6 Return on investment

Return on investment is regarded by the Commission as being the profit before interest and tax as a percentage of the net value of assets.

The following table provides the Applicant's return on total net assets:

Table: 5.2.6: Return on investment

	2005	2006	2007
Net profit (All products)	100	127	190
Total net assets (All products)	100	122	143
Return on net assets	100	104	133

This table was indexed due to confidentiality using 2005 as base year.

The information in the table above indicates that the Applicant increased its return on net assets by 4 percentage points from 2005 to 2006 and by 29 percentage points from 2006 to 2007.

5.3.7 Utilisation of production capacity

The following table provides the Applicant's capacity and production for the subject product:

Table 5.2.7: Utilisation of production capacity

Kg	2005	2006	2007
Applicants capacity	100	100	100
Actual production	100	108	68
Capacity utilisation %	100	107	68

This table was indexed due to confidentiality using 2005 as base year.

The table above indicates that the Applicant's capacity utilization increased by 7 percentage points from 2005 to 2006 and decreased by 32 percentage points from 2006 to 2007.

5.3.8 Factors affecting domestic prices

The factor affecting domestic prices is price suppression. Neither price undercutting nor price depression was evident.

5.3.9 The magnitude of the margin of dumping

The following dumping margin was calculated:

Table 5.2.9: Margin of dumping

Country of origin: Sweden	Margin of dumping
Arizona Chemicals	19.1%
All other exporters	27%

5.3.10 Actual and potential negative effects on cash flow

The following table reflects the SACU industry's cash flow situation:

Table 5.2.10: Cash Flow

(product specific)	2005	2006	2007
Incoming cash flow (R'000)	100	127	93
Outgoing cash flow (R'000)	100	122	96
Net cash flow (Product) (R'000)	negative	negative	negative

This table was indexed due to confidentiality using 2005 as the base year.

The table above indicates a negative net cash flow.

5.3.11 Inventories

The following table provides the SACU industry's inventories for the subject product:

Table 5.2.11: Inventories

Inventories	2005	2006	2007
Volume /kg	100	38	59
Value (R'000)	100	41	74
Value per unit (R/kg)	100	110	125

This table was indexed due to confidentiality using 2005 as the base year.

The information in the table indicates that the Applicant's inventory volumes decreased by 62 percentage points from 2005 to 2006 and increased again by 57 percentage points from 2006 to 2007. The overall decrease in inventories during the period 2005 to 2007 was 41 percentage points.

5.3.12 Employment

The following table provides the SACU industry's total production units employed:

Table 5.2.12: Employment

1.1.1.1	2005	2006	2007
Direct labour units: production	100	85	108
Indirect labour units: SGA	100	94	97

This table was indexed due to confidentiality using 2005 as base year.

The table above indicates that the Applicant's labour units for production increased by 8.3 per cent during the period 2005 to 2007.

5.3.13 Wages

The following table provides the SACU industry's wages:

Table 5.2.13: Wages

	2005	2006	2007
Wage/time period: Production	100	105	117
Wage/time period: SGA (R'000)	100	68	76
Wages per employee	100	100	91
Wage/time period: total (R'000)	100	87	96

This table was indexed due to confidentiality using 2005 as the base year.

The table above indicates an increase in wages for production by 5 percentage points from 2005 to 2006 and by 12 percentage points from 2006 to 2007. The Applicant's SGA wages decreased by 32 percentage points from 2005 to 2006 and increased by 8 percentage points from 2006 to 2007.

5.3.14 Growth

The Applicant provided the following information with regard to growth of the market:

Table 5.2.14: Growth

	2005	2006	2007
Size of SACU market	100	107	96
% growth from previous year		7%	-11%
Applicant's sales volume	100	108	68
Applicant's growth		8%	-40%

This table was indexed due to confidentiality using 2005 as the base year.

The table above shows that the Applicant experienced negative growth during the period 2005 to 2007.

5.3.15 Ability to raise capital or investments

The Applicant provided the following information with regard to the SACU industry's ability to raise capital or investments:

Table 5.2.15: Ability to raise capital or investments

Rand	2005	2006	2007
Applicant's total capital/investment	100	118	114
Capital expenditure on subject product	100	78	28

This table was indexed due to confidentiality using 2005 as the base year.

The table above indicates that the Applicant's total capital investment increased by 18 percentage points from 2005 to 2006 and decreased slightly by 4 percentage points from 2006 to 2007. The Applicant's capital expenditure on subject product decreased by 22 percentage points from 2005 to 2006 and by 50 percentage points from 2006 to 2007. In overall, during the period 2005 to 2007, capital investment increased by 14 percentage points whereas capital expenditure decreased by 72 percentage points.

5.4 CONCLUSION - MATERIAL INJURY

After considering all relevant factors, the Commission decided that the Applicant was suffering material injury in that:

- it experienced price suppression;
- output declined;
- sales declined;
- market share declined;
- capacity utilisation declined;
- there was a negative effect on its cash flow;
- growth decline;
- productivity decreased
- decrease in net profit

6. CAUSAL LINK

6.1 GENERAL

In order for the Commission to impose definitive Anti-dumping duties, it must be satisfied that there is sufficient evidence to indicate that the material injury experienced by the SACU industry is as a result of the dumping of the subject products.

6.2 VOLUME OF IMPORTS AND MARKET SHARE

The Commission found that the market share of the alleged dumped imports increased by 283 percentage points from 2005 to 2008 and increased by 1249 percentage points from 2006 to 2007. The Applicant's market share increased by 2 percentage points from 2005 to 2006 and decreased by 31 percentage points from 2006 to 2007.

6.3 EFFECT OF DUMPED IMPORTS ON PRICES

The Applicant's information showed no price undercutting and price suppression.

6.4 CONSEQUENT IMPACT OF DUMPED IMPORTS

The Commission found that there was no price undercutting and price depression, but price suppression.

6.5 FACTORS OTHER THAN THE DUMPING CAUSING INJURY

6.5.1 The volume and price of imports not sold at dumping prices

The following table shows the volume and price of alleged dumped imports and imports from other countries:

Table 6.5.1: Import volume

Kg	2005	2006	2007
Alleged dumped imports	94 240	384 870	1 470 456
Other imports	521 390	190 204	276 810
Total imports	615 630	575 074	1 747 266
Alleged dumped imports %	15%	67%	84%
Other imports %	85%	33%	16%

The table above indicates that other imports decreased from 85 per cent in 2005 to 33 per cent in 2006 and decreased from 33 percent in 2006 to 16 per cent in 2007.

6.5.2 Competition between domestic producers

The Commission determined that the Applicant is the sole manufacturer of the subject product in the SACU.

6.5.3 Developments in technology

The Commission determined that the Applicant's technology is comparable with the exporter's technology.

6.5.4 Contraction in demand or changes in the patterns of consumption

The Applicant stated that there are no known changes specific to the subject product. The Applicant stated that the SACU market has grown very slowly. The Applicant stated that the reason for the slow growth is attributed to the very low per capita paper consumption in SACU.

6.5.5 Export performance

The Applicant stated that it is not involved in the export market.

6.5.6 Competition between foreign and domestic producers

Information was not provided by the Applicant.

6.5.7 Other factors affecting the SACU industry

The Applicant stated that there are no other factors affecting the SACU industry.

6.6 CONCLUSION ON CAUSAL LINK

After considering all relevant factors and comments by interested parties, the Commission made a final determination that there was a causal link between the dumping of the subject product and the material injury suffered by the Applicant.

7. SUMMARY OF FINDINGS

7.1 Dumping

Based on the information submitted by the exporter and verified by the investigators, there is sufficient evidence that the subject product originating in or imported from Sweden was imported at dumped prices into the SACU market.

The following dumping margins were calculated:

Country: Sweden	Dumping margins
Arizona Chemicals	20%
All other exporters	27%

7.2 Material injury

There is sufficient evidence to indicate that the Applicant suffered material injury in the form of:

- price suppression
- decline in sales
- decline in output
- decrease in net profit
- negative effect on cash flow
- decline in market share
- decrease in productivity
- decline in capacity utilisation
- decline in growth

7.3 Causal link

The Commission made a final determination that the material injury suffered by the SACU industry is causally linked to the dumped imports from Sweden.

7.4 Price disadvantage

The price disadvantage is the extent to which the price of the imported product (landed cost) is lower than the unsuppressed and undepressed ex-factory selling of the SACU product.

The price disadvantage, expressed as a percentage of the f.o.b export price, was found to be 19.1 per cent.

7.5 Amount of duty

The amounts of definitive anti-dumping duties were concluded to be as follows:

Country: Sweden	Rate of anti-dumping duties
Arizona Chemicals	19.1%
All other exporters	27%

8. FINAL DETERMINATION

The Commission made a final determination that:

1. The subject product originating in or imported from Sweden is being dumped into the SACU market;
2. The SACU industry suffered material injury; and
3. There is a causal link between the dumping of the subject product from Sweden and the material injury suffered by SACU industry.

The Commission, therefore, decided to recommend to the Minister of Trade and Industry that definitive anti-dumping duties be imposed on tall oil fatty acid, classifiable under tariff subheading 3823.13, originating in or imported from Sweden in the following amounts, being the lesser of the dumping margin and the price disadvantage:

Sweden	Rate of anti-dumping duty
-Arizona Chemical	19.1%
-All other exporters	27%