


Report No. 155

Sunset review of the anti-dumping duties on garlic originating in or imported from the People's Republic of China: Final determination

The International Trade Administration Commission herewith presents its Report No.
155: **SUNSET REVIEW OF THE ANTI-DUMPING DUTIES ON GARLIC ORIGINATING
IN OR IMPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA: FINAL
DETERMINATION**



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CHIEF COMMISSIONER

PRETORIA

08/02/ 2006

INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF SOUTH AFRICA

SUNSET REVIEW OF THE ANTI-DUMPING DUTIES ON GARLIC ORIGINATING IN OR IMPORTED FROM THE PEOPLES REPUBLIC OF CHINA: FINAL DETERMINATION

SYNOPSIS

General

On 28 May 2004, the Commission notified all interested parties through Notice No. 947 in Government Gazette No. 26374, that unless substantiated request is made by or on behalf of the domestic industry for the duties to be reviewed prior to the expiry thereof, the anti-dumping duties on garlic originating in or imported from the PRC, will expire on 20 October 2005. A detailed response of the review questionnaire was received from the South African Garlic Growers Association (SAGGA), on behalf of the domestic industry on 4 May 2005. Deficiencies in the petition were addressed with the Applicant. On 7 September the Commission decided to initiate a review of the anti-dumping duties on garlic originating in or imported from the PRC, as it was of the opinion that the SACU industry provided *prima facie* information to justify the initiation of a review.

The Commission formally initiated a review of the anti-dumping duties on garlic originating in or imported from the PRC pursuant to Notice No. 1750, which was published in Government Gazette No. 28038 on 23 September 2005.

Prior to the initiation of the investigation, the trade representatives of the countries concerned were notified of the Commission's intention to investigate, in terms of Article 5.5 of the Anti-Dumping Agreement.

All known interested parties were informed and requested to respond to the questionnaires and the non-confidential summary of the petition. No responses were

received.

On 30 November 2005, the Commission considered the application and made a preliminary determination to maintain the existing duty.

On 1 December 2005 "essential facts" letters were sent out to all interested parties and the deadline for comments was 19 December 2005. No comments were received.

On 18 January 2006 the Commission made a final determination that:

1. The expiry of the duty would be likely to lead to continuation or recurrence of dumping of garlic exported from the PRC; and
2. the expiry of the duty is likely to lead to continuation or recurrence of material injury.

The Commission, therefore, decided to recommended to the Minister of Trade and Industry to maintain the following duties for the PRC:

Tariff subheading	Description	Imported from or originating in	Duty
07.03	Onions, Shallots, Garlic, Leeks and other Alliaceous vegetables, fresh or chilled:	People's Republic of China	R6.07/kg.
0703.20	Garlic		

1. PETITION AND PROCEDURE

1.1 PETITIONER

The Petitioner review questionnaires were sent to the South African Garlic Growers Association (SAGGA), being the producers of the subject product in the SACU.

1.2 INVESTIGATION PROCESS

On 28 May 2004, the Commission notified all interested parties through Notice No. 947 in Government Gazette No. 26374, that unless substantiated request is made by or on behalf of the domestic industry for the duties to be reviewed prior to the expiry thereof, the anti-dumping duties on garlic originating in or imported from the PRC, will expire on 20 October 2005. A detailed response of the review questionnaire was received from SAGGA on behalf of the domestic industry on 4 May 2005. Deficiencies in the petition were addressed with the Applicant. On 7 September the Commission decided to initiate a review of the anti-dumping duties on garlic originating in or imported from the PRC, as it was of the opinion that the SACU industry provided *prima facie* information to justify the initiation of a review.

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1.3 INVESTIGATION PERIOD

This report contains information with regard to dumping for the period 1 January to 31 December 2004, and information with regard to injury for the period 1 January 2001 to 31 December 2004. An estimate of what the situation will be if the duties expire was also considered by the Commission.

1.4 PARTIES CONCERNED

1.4.1 SACU industry

The SACU industry comprises many individual farmer producers of the subject product, who are members of the South African Garlic Growers Association.

The SACU industry is represented by the South African Garlic Growers Association (SAGGA)

Dumping information was submitted by SAGGA, and it also submitted material injury information.

1.4.2 Exporters

The PRC exporters were unknown to the applicant at the initiation of the investigation.

1.4.3 Importers

The following importers were identified by SAGGA as interested parties:

Contraship(Pty)Ltd

Biz Africa 856 (Pty) Ltd

Expectra 859(Pty)Ltd

Freshex CC

Freshmark(Pty)Ltd

K&M International(Pty)Ltd

TLC Imports and Exports

Qin Fen Trading CC

Jing An international Trading CC

Garlic Importers CC

Fruit & Veg City Stores Jhb (Pty) Ltd

Contraship (Pty) Ltd

Odyssey Int Import & Export (Pty) Ltd

Global Exports CC

No importers responded to the Commission's questionnaire.

PRODUCTS, TARIFF CLASSIFICATION AND DUTIES

2.1 IMPORTED PRODUCTS

2.1. Description

The subject product is described as: Garlic.

2.1.2 Country of origin/export

The subject product is exported from the PRC.

2.1.3 Application/end use

The imported subject product is used for human consumption, domestic, industrial and medicinal uses.

2.1.4 Tariff classification

The subject product is classifiable as follows:

Tariff subheading	Article description	Unit	Rates of duty		
			General	EU	SADC
07.03	Onions, Shallots, Garlic, Leeks and other Alliaceous Vegetables, Fresh or Chilled.	kg			
0703.20	-Garlic	kg	325c with a maximum of 39%	free	free

2.1.5 Other applicable duties and rebates

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

Tariff subheading	Description	Rate of duty	Originating in or imported from:
07.03 0703.20	Onions, Shallots, Garlic, Leeks and other Alliaceous vegetables, fresh or chilled: Garlic	R6.07/kg	People's Republic of China

2.1.6 Production process

2.2 SACU PRODUCT

Garlic is grown in order to harvest the bulb, which develops underground much the same way as an onion does. The garlic bulb is normally 25 to 70mm in diameter and consists of layers of skin wrapped around a number of individual segments called cloves. The number of cloves depends on the strain of garlic and can vary from ten to fifteen in certain strains, and from twenty to twenty seven in other strains.

2.2.1 Description

The subject product is described as:

All strains of garlic: "Soft neck-garlic" *Allium sativum* and "hard neck-garlic" *Allium ophioscorodon*. Garlic can be in the form of whole bulbs or individual cloves, unpeeled or peeled and it can also be cured, trimmed, cleaned and graded. Garlic delivered in cold storage (chilled garlic) is also considered to be "fresh garlic". Dehydrated garlic and processed garlic are not included in the definition.

2.2.2 Application/ end use

The SACU product is used for human consumption, domestic, industrial, and medicinal use.

2.2.3 Tariff classification

The SACU product is classifiable under tariff subheading 0703.20

2.2.4 Production process

The subject product has the following production process:

Garlic seed is planted and cultivated until it is ready to be harvested.

The main inputs for the production of garlic are garlic seed, labour, agricultural machinery, fuel, fertilizer, chemicals and water.

In the original investigation, the Commission decided 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

The SACU industry comprises many individual farmer producers of the subject product, who are members of the South African Garlic Growers Association.

The SACU industry is represented by the South African Garlic Growers Association (SAGGA)

SAGGA supported the petition, and submitted material injury information.

The Commission decided on 7 September 2005 that the petition could be regarded as being made "by or on behalf of the domestic industry" under the provisions of the Anti-Dumping Agreement.

4. DUMPING

4.1 METHODOLOGY IN THIS INVESTIGATION FOR THE PRC.

As no responses were received from any exporter from the PRC the dumping margin was calculated using the best information available, as provided by the applicant.

4.1.1 Normal Value

The normal value was calculated using Section 32(4) of the ITA Act as basis.

The Applicant stated that it is of the opinion that the normal value of the goods, originating from the PRC are still affected by Government intervention and that the applicable normal values pertaining to the subject goods do not properly reflect the intrinsic value of the product.

Argentina was nominated by the Applicant to be used as a surrogate country for the PRC. The Applicant argues that while the PRC is the largest exporter of garlic in the world, Argentina is the second largest exporter of garlic in the world.

The normal value for the product under investigation was obtained from published market information for the subject product in the surrogate country. The Argentine price was accordingly determined to be US \$ 2.09 per kilogram for garlic (tariff subheading 0703.20). The price for the garlic was determined for the whole year as a simple average price. The average market price, which is assumed for the purposes of this investigation to be a fair reflection of normal value, for garlic in Argentina amounted to US\$2.09 in 2004. Using the exchange rate of US \$ 1 = SAR 6.41, (Jan.-Dec. 2004 average-SA Reserve Bank, was used in this regard), a normal value of R13.40 per kilogram was calculated for garlic.

Normal Value for the subject product was calculated as follows:

Table 4.1.1

COUNTRY	Normal Value 2004- Rands/kg.
Argentina	13.40

4.1.2 Export prices

4.1.2.1 Definition of Export price

The export prices were calculated using the statistics obtained from South African Revenue Services (SARS) over the POI.

The export prices were calculated for the PRC at R 2.23 per kilogram F.O.B., being the average price for 2004, which is the period of investigation.

4.1.3 Margin of dumping

The following dumping margin was calculated for the PRC:

Table 4.1.3.1

	Rand/kg
Normal value	13.40
Export price	2.23
Margin of dumping	11.17
Margin of dumping as percentage of export price	501%

4.2 SUMMARY - DUMPING

On the information supplied, the Commission has made a final determination that the expiry of the duty would be likely to continuation or recurrence of dumping.

5. MATERIAL INJURY

The following injury analysis relates to the member producers of SAGGA, which constitute the total SACU production of the subject product.

Information with regard to each of the injury indicators reflects the position of SAGGA subsequent to the imposition of the anti-dumping duties, as well as a substantiated estimate of what the effect of the expiry of the duties will have on the SACU industry.

5.1 IMPORT VOLUMES AND EFFECT ON PRICES

5.1.1 Import volumes

In any dumping investigation, the Commission normally uses audited import statistics from SARS to determine the volume of the subject product entering the SACU from the countries under investigation and other countries.

The following table shows the volume of the allegedly dumped imports of the subject product subsequent to the imposition of the current anti-dumping duties:

Table 5.1.1

Imported Garlic (tonnes)	2001		2002		2003		2004	
	vol	%	vol	%	vol	%	vol	%
PRC	306	59	533	90	553	66	441	52
Other	213	41	56	10	296	34	416	48
Total imports	519	100	589	100	849	100	857	100

Source: SARS official import statistics

The volume of imports from the PRC decreased from 849 tons in 1999 to 287 tons in 2000 after the implementation of the anti-dumping duty. The volume of imports however increased again to levels around 500 tons per annum. SAGGA believes

that the bulk of imports would originate from the PRC should the anti-dumping duty be allowed to expire, and go back to the former high levels.

The table above demonstrates that notwithstanding the anti-dumping duty, the exports to SACU from the PRC have been and continue to be significant. This can be attributed to the fact that either the price is sufficiently low that the duty can be absorbed by local importers, or that the high quality of garlic from the PRC at low prices allows the import from the PRC, notwithstanding the anti-dumping duties applicable.

The Applicant stated that the PRC produces 75% of the total world garlic production. One producer alone produces 38 000 tons of garlic per annum. South Africa has a very small market for garlic compared in world terms. An average of about 2 800 tons of garlic is sold per annum. There was no increase in garlic sales over the last few years but the imports increased from 481 tons in 1997 to 857 tons in 2004. This is in line with trends in the global economy where wholesalers and distributors of fresh produce try to obtain produce at better prices internationally in order to maximise profit. This practice is mostly to the detriment of the local industry in a particular country.

5.1.2 Effect on Domestic Prices

Price undercutting

Price undercutting is the extent to which the landed cost of the imported product is lower than the ex-farm selling price per unit price of the SACU product.

The following table compares the Applicant's ex-farm selling prices with the landed costs of the imported subject product for the years since the duty was imposed and an estimate for the next year, in the event of the duty expiring:

Table 5.1.2.1

Prices in S.A. Rands/KG.	2001	2002	2003	2004	ESTIMATE IF DUTY EXPIRES
Applicant	8.36	9.23	8.26	9.50	8.00
Alleged dumped product from PRC*				FOB price ex PRC 2.23 Freight, insurance, port charge (15% of R2.23) 0.33 Import duty (39% of R2.23) 0.87 AD duty (R6.07) 6.07 Total landed price 9.50	3.43
Price Undercutting	-1.86	-2.09	-1.60	0.00	4.57
Price undercutting %	(22%)	(22%)	(19%)	0%	57%

*The landed cost of the imported product as reflected in the table above was calculated by adding freight, insurance and landing charges (15%), import duty of 39% ad valorem and the anti-dumping duty of R6.07/kg to the fob price. Information was obtained from SARS official import statistics, SACU exporter of garlic and official NFPM statistics.

The Applicant stated that the table above indicates that the PRC is able to severely undercut local prices should the duty expire. All imports from the PRC in the years since the anti-dumping duties were introduced have been at prices substantially below the average local market price in SACU.

The Applicant noted that table 5.1.2.1 shows that severe price undercutting will take place if the anti-dumping duty expires. The SACU market prices are average prices and do not reflect quality differences. The imported garlic is usually of a very high quality and it compares only to the best classes of garlic available on the local markets. If the same quality of garlic is compared, price undercutting will be even worse. The local price can be as high as R18.00/kg compared with the imported price of R3.43/kg. Price undercutting can theoretically be as high as R14.57/kg.

Price Depression

Price depression occurs when the domestic industry experiences a decrease in its selling prices over time. The table below shows the domestic industry's domestic selling prices since the duties were imposed, and an estimate for 2005, in the event of the expiry of the duties:

Table 5.1.2.2

Rands	2001	2002	2003	2004	Estimate if duty expires
Selling Prices*	8.36	9.23	8.26	9.50	8.00

* Average selling prices on SACU National Fruit and Produce Markets (NFPM) are used.

The table above on price depression indicates a general recovery of prices since the anti-dumping duties were introduced, as could be expected. However it is estimated that if the duty expires, with even higher imports of garlic from the PRC than currently, the situation deteriorates immediately.

The Applicant stated that the biggest threat to local producers should the anti-dumping levy be allowed to expire, is the larger volumes of garlic coming into South Africa from the PRC. During a period of over-supply, market agents will in an effort to maintain a reasonable price, drastically reduce the volumes of garlic on their floors, simply by asking local producers to hold back supplies. The effect of eroded prices recorded by the fresh produce markets is of some significance, but the major loss incurred by producers would be shown in their reduced turnover figures.

The Applicant noted that the average local price rose by about R3.00/kg after the anti-dumping duty came into effect in 2000. During 1999 and 2000, the average selling price of garlic was R5.69, and R6.06 respectively. The higher average prices enabled producers to compensate for the losses suffered during the previous years and it enabled them to keep up with increasing production costs over the past four years.

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 at which the cost of production increased.

The following table shows the average costs of production and average selling prices for SAGGA for the subject product for the years since the duties were imposed, and an estimate for 2005, in the event of the duties expiring:

Table 5.1.2.3

R/kg.	2001	2002	2003	2004	Estimate if duty expires
Cost of local production/kg	100	111	123	137	152
Ave Selling price/kg	100	110	99	114	96
Cost as % of selling price	71%	72%	89%	86%	113%

*The information is confidential by nature as disclosure will lead to an unfair advantage to the Petitioner's competitors. The information is indexed with 2001 as base year.

The Applicant noted that the cost of production varies between different producers and between different years. Costs are constantly increasing and producers are bound by the fact that they have limited control over the selling price of their produce. The Applicant estimates that should the anti-dumping levy expire the selling price will be suppressed to an unprofitable level.

5.1.3 Consequent Impact of the dumped Imports on the Industry

5.1.3.1 Actual and potential decline in sales

The following table shows the sales volume for the subject product for three years subsequent to the imposition of the anti-dumping duties, and an estimate in the event of the expiry of the duties:

Table 5.1.3.1

Tonnes Volume	2001	2002	2003	2004	Estimate if duty expires
Applicants sales in SACU	1948	2249	2491	2756	1700

The Applicant estimated that should the duty expire a rapid increase of imports at low prices will displace local sales of the subject product in a market of limited size, such as the SACU.

The Applicant stated that the calculation to determine the volume of garlic sold each year is:

Total volume sold on domestic market + 25% (volume sold around market directly from producers to retailers) – imported volume (total for the year) = applicants sales volume in SACU.

The Applicant noted that 1998 was used as base year for comparison purposes. During that year import volumes increased from 355 tons in 1997 to 549 tons in 1998. In 1999 it increased to 849 tons before the anti-dumping duty came into effect.

A very bad year for the local garlic industry was 2001. Very low yields were obtained due to bad climatic conditions. Quality and size of the bulbs are usually associated with yield and therefore the quality and the size of the local crop was not good. Because of the smaller size of the bulbs the total volume harvested was lower. The year 2002 was a recovery year and volumes increased satisfactory over the last two years. Should the anti-dumping duty however expire it would lead to a significant

decline in sales as a result of the low prices at which the products are imported from the PRC.

Garlic production is seasonal by nature and as a result the garlic market worldwide is characterized by cycles of over-supply and resulting low prices followed by shortages and subsequent higher prices. Regular producers rely on periods of high price cycles to carry them through the low priced cycles.

5.1.3.2 Profit

The following table shows profit per kg. before interest and tax for SAGGA since the imposition of the anti-dumping duties, and an estimate for the next year in the event of the expiry of the duties:

Table 5.1.3.2

R per Kg.	2001	2002	2003	2004	Estimate if duty expires
Av. market price	147	162	145	167	141
Production cost	113	125	139	155	172
Profit(Loss)*	613	666	228	336	(279)

*Profit levels calculated on total sales of domestic garlic (average market prices are used)

** The information is confidential by nature as disclosure will lead to an unfair advantage to the Petitioner's competitors. The information is indexed with 1999 as base year.

In the above table average market prices were used and production cost figures based on historical data. The producers are not only subjected to a price supply threats but are also subject to vagaries of climate which can limit production, or produce smaller cloves yielding a lower mass.

The Applicant stated that the profitability of the garlic industry was at its lowest during 1999/2000 before the anti-dumping measures were implemented. There is no doubt in SAGGA's mind that profitability will again go down to unacceptably low levels should the anti-dumping duty expire.

5.1.3.3 Output

Actual and potential decline in output

The Applicant noted that the only way to make a historic comparison regarding output (production per producer) nationally is to use the sales volumes as indicated in Table 5.1.3.3

Table 5.1.3.3

	2001	2002	2003	2004	Estimate if duty expires- 2005
Applicants volume sales in SACU	88	102	113	125	77

* The information is confidential by nature as disclosure will lead to an unfair advantage to the Petitioner's competitors. The information is indexed with 1999 as base year.

The Applicant stated that the total output would decline significantly if garlic from China can be imported without the anti-dumping duty payable. Buyers would prefer buying high quality Chinese garlic at dumped prices to paying higher SACU market prices. Areas planted by garlic farmers will also decline as a result of the downward pressure on prices.

The Applicant noted that the decrease in area planted before the imposition of the anti-dumping duty is evident. Reports were received of producers ploughing their crops back into the soil during those times. It was not economically viable to harvest crops.

5.1.3.4 Market share

Actual and potential decline in market share.

Table 5.1.3.4

	2001		2002		2003		2004		2005 (Without a-d duty)	
Market share per volume	tonnes	%	tonnes	%	tonnes	%	tonnes	%	tonnes	%
Applicant	1948	79	2249	79	2491	74	2756	76	1700	58
Alleged Dumped imports	306	12	533	19	553	17	441	12	700	24
Other imports	213	9	56	2	296	9	416	12	550	18
Total	2467	100	2838	100	3340	100	3613	100	2950	100
Market share by value	R-000	%	R-000	%	R-000	%	R-000	%	R-000	%
Ave mkt price/kg.	R8.36		R9.23		R8.26		R9.50		R8.00	
Applicant	16 285	79	20 785	79	20 575	74	26 182	76	13 600	58
Alleged imports	2 558	12	4 920	19	4 568	17	4 190	12	5 600	24
Other imports	1 780	9	517	2	2 445	9	3 952	12	4 400	18
Total	20 623	100	26 222	100	27 588	100	34 324	100	23 600	100

The Applicant noted that this estimate was calculated by using the expected sales volumes, import volumes and selling price in the event of the anti-dumping duty expiring. Assumptions were made on the basis of the trends occurring during the period that dumping took place.

The Applicant further stated that the market share of the SACU industry declined from 84% in 1998 to 67% in 1999. After the implementation of the anti-dumping duty it recovered to around 80%. There was a significant increase in imports from other countries in 2003/4. Should the anti-dumping duty be allowed to expire, SAGGA believes the market share of the local industry may decline to as low as 58%.

5.1.3.5 Productivity

Actual and potential decline in productivity

Table 5.1.3.5

Description	2001 (kg)	2002 (kg)	2003 (kg)	2004 (kg)	Estimate if duty expires
Employee productivity (kg. per employee)	902	1 102	1 200	1 198	1 201

The Applicant's estimate is based on the assumption that a decline in production will lead to corresponding job losses. Productivity is therefore expected to remain at the same level.

5.1.3.6 Return on investment

Return on investment is normally 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 profit before interest and tax (PBIT) and its net value of assets for SAGGA for the years subsequent to the imposition of the anti-dumping duties, and an estimate for the next year in the event of the expiry of the duties:

Table 5.1.3.6

1999 used as base year, with the assumption of 100 hectare farm, of which 40 ha. are irrigable –rotation every year of 10 ha. over 4 yr. cycle	1999	2004	Estimate if duty expires
Land with irrigation equipment	100	106	113
Irrigable land	100	106	113
Remainder of farm	100	106	113
Sheds for garlic, storage crates, vehicles and implements (2% appreciation/year)	100	106	113
Realizable value of fixed assets	100	106	113
Truck (10% depreciation/6/7 years)	100	90	81
Storage crates "	100	90	81
Tractor "	100	90	81
Implements "	100	90	81
Total capital invested (fixed and moveable assets) (A)	100	99	99

Average market price (Table 5.3.2.3)	100	162	141
Cost of production (Table 5.3.2.3)	100	125	172
Profit /kg (Table 5.3.2.3)	100	666	(279)
Profit/(loss): (B)	100	666	(279)
Interest on Fixed assets	100	666	-
Profit(loss) after interest on Fixed assets	100	666	(399)
Tax at say 30%	100	666	113
Profit after interest and tax (C)	100	143	(340)
Return on investment before interest and tax (B/A)	100	750	(464)
Return on investment after interest and tax (C/A)	100	142	(342)

*The information is confidential by nature as disclosure will lead to an unfair advantage to the Petitioner's competitors. The information is indexed with 1999 as base year.

The Applicant stated that data is not available from all the producers. The only practical method of estimating the likely return on investment is to make the following assumptions for an average grower:

Total farm area is 100 ha. Area planted is 10 ha per annum. Rotation of fields is necessary so the total usable land needed is 40 ha. One x 60 kw. tractor is needed. One truck is needed and different implements are used. Storage or handling crates are needed to handle the garlic. Direct production cost and net cash received are values that were documented .The figures used are very conservative. Average market price and production cost were derived and used in this document.

The Applicant stated that the worst year before the anti-dumping duty was introduced was 1999. On the other hand, 2003 was a very good year for the garlic producers. Losses made previously could be made up to some extent.

The poor result in the estimate column is based on the assumption that the market price will decrease should the anti-dumping duty be allowed to expire.

5.1.3.7 Utilisation of production capacity

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

product for the years subsequent to the imposition of the anti-dumping duties, and an estimate for the next year in the event of the expiry of the duties:

Table 5.1.3.7

APPLICANT'S PRODUCTION (Tonnes)	2001	2002	2003	2004	ESTIMATE - DUTY EXPIRES
Capacity	3000	3000	3000	3000	3000
Actual Production	1948	2249	2491	2756	1700
Capacity Utilisation	65%	75%	83%	92%	57%

The Applicant stated that figures for the estimate above are based on the expected production volume should the anti-dumping duty expire. Garlic is not a staple food. The total market for garlic has remained at around 3000 tons per annum over the past number of years. A number of local producers have the capacity to expand their garlic enterprises, in the event of sufficient demand for the product. SACU producers are able to meet the domestic demand, except for the seasonal decrease in volume during the winter months of May, June and July when imports are sometimes necessary. It is evident that the production when the excessive imports took place in 1999 was significantly lower than the previous years. After the implementation of the anti-dumping duty it stabilized at the current acreage.

No shifts are involved with farm laborers. In general 5 laborers are used per hectare of garlic planted.

Production capacity can be increased without additional machinery, equipment and buildings. However, for every hectare increase in area planted 5 additional laborers are required. Production can be increased by 6 tons per additional hectare planted.

However, SAGGA is not aware of any plans to increase the existing production capacity.

The estimate, should the duty expire, indicates a likely decline in capacity utilization which improved significantly in 2003 and 2004. The expiry of the anti-dumping duty is likely to lead to an increase in dumped imports resulting in a decline in production and consequent decline in capacity utilization.

5.1.3.8 Factors affecting domestic prices

Based on the data collected for the compilation of this petition, and the projected dumped prices at which the product is likely to reach the SACU market in the absence of anti-dumping duties, the PRC has the ability to flood the SACU market with dumped product and to cause the Applicant to decrease prices.

5.1.3.9 The magnitude of the margin of dumping

In Section 4 of this submission, it was found that the subject product was exported at dumped prices during the investigation period at the following margin:

Table 5.1.3.9

RAND/KG.	
PRC	R11.17/Kg.

5.1.3.10 Actual and potential negative effects on cash flow

The Applicant stated that if the market was flooded by quantities of dumped garlic, the market agents, as has happened in the past, would refuse to accept the available harvested product from local producers. Garlic is a condiment used in limited quantities and excessive supplies drive down the prices and impact negatively on cash flow. Should the anti-dumping duty expire, the increase in import volumes at dumped prices will be extremely bad for local producers.

5.1.3.11 Inventories

SAGGA did not have information regarding inventories. Garlic is a perishable product with a shelf life of about 5 months. Garlic not sold during this period will be lost with the resulting negative effect on the income of the producer.

5.1.3.12 Employment

The following table shows the Applicant's employment levels for the years subsequent to the imposition of the anti-dumping duties, and an estimate for the next year in the event of the expiry of the duties:

Table 5.1.3.12

EMPLOYMENT	2001	2002	2003	2004	Est. if duty expires
Total number of employees	2160	2040	2075	2300	1415
Percent-2002 Base year	106%	100%	102%	113%	69%

The Applicant stated that garlic is a labour-intensive crop. Most of the operations carried out during the production process are done by hand, from the planting, hoeing, lifting, cutting, cleaning, packing and loading of the produce.

SAGGA calculated that on average for all producers, 5 labourers are used per hectare to produce the crop. The average area planted over the past 4 years was 420 ha. per year. Factors such as management skills, productivity, labour skills, motivation, etc. will differ on every farm. A large portion of these employees are rural women often the sole provider in a household with several dependants. The numbers sustained by the garlic industry is thus somewhere between 3 and 6 times the number of employees.

Should the anti-dumping levy expire and the garlic industry becomes unprofitable, all of these people will have to be re-deployed, but it is most likely that they will lose their jobs, according to the applicant.

5.1.3.13 Wages

The Applicant stated that wages represent about 33% of the total cost structure.

Table 5.1.3.13

WAGES	2001	2002	2003	2004	Est. if duty expires
Total number of employees	2160	2040	2075	2300	1415
Wages /employee	6600	7080	7800	8580	9438

5.1.3.14 Growth

During the years 1998 and 1999, the Applicant noted that a significant decline in area planted was experienced. This was due to the fact that nobody was sure whether they would be able to sell their produce with all the garlic coming into South Africa from the PRC. With the anti-dumping duty in place from 2000 significant growth was experienced in the area planted. The potential for growth is inhibited by the uncertainty around the garlic industry.

5.1.3.15 Ability to raise capital or investments

The Applicant noted that the ability to raise capital/investment is being eroded by the decreasing profitability of the crop. The negative effects of low-priced imports affect a far wider circle of persons than just the producers themselves.

5.2 SUMMARY - MATERIAL INJURY

The Commission made a final determination that material injury is likely to recur if the duty expires.

6. SUMMARY OF FINDINGS

6.1 Dumping

Dumping was found in respect of the PRC producers based on the average ex-factory export prices to SACU. It could therefore be considered that the expiry of the duty would be likely to lead to continuation or recurrence of dumping from the PRC.

6.2 Material injury

It is apparent that the current duty at R6.07/kg. has not inhibited the import of garlic from the PRC to the degree originally contemplated. Large quantities of garlic have been imported from the PRC each and every year since the imposition of anti-dumping duties unabated. The local garlic producers have had 5 years of year on year production cost increases, but the FOB price of garlic from the PRC has remained very similar (identical) to the FOB price found at the time of the initial investigation without any increase. The PRC imports still count for about 52% of all garlic imports to the SACU in the POI (the total of all imports amounted to 23 % of total annual local sales), notwithstanding the anti-dumping duty. It is clear that the current level of anti-dumping duties have been set too low. The product is price inelastic, as the local market appears only to be able to absorb a quantity of about 3600 tons per year. Further supplies merely drive the price downwards without increasing consumption. In addition it seems that imports absorb market share from the local industry, which has the capacity to supply the SACU market in full.

Table 5.1.3.4 on market share clearly indicates the threat to the local industry by the PRC imports, should the duty expire. The local industry would then reduce to about 60% of current annual production. Concomitantly, revenues will reduce to about 52% of current revenue realised. The increase of the anti-dumping duty, on the other hand, could increase local production by 12%, by replacing current PRC imports.

In Table No. 5.1.2.1, on price undercutting, it was illustrated that based on the average landed price obtained during the period of investigation the PRC producers would be able to undercut the prices of the SACU producers. It could therefore be considered that the expiry of the duty would be likely to lead to continuation or recurrence of material injury.

7. RECOMMENDATION

The Commission found that:

- 7.1** The expiry of the duty would be likely to lead to continuation or recurrence of dumping of garlic exported from the PRC; and
- 7.2** the expiry of the duty is likely to lead to continuation or recurrence of material injury.

The Commission, therefore, decided to recommend to the Minister of Trade and Industry to maintain the following duties for the PRC:

Table 7.2

Tariff subheading	Description	Imported from or originating in	Duty
07.03	Onions, Shallots, Garlic, Leeks and other Alliaceous vegetables, fresh or chilled:	People's Republic of China	R6.07/kg.
0703.20	Garlic		