

REPORT NO. 485

**SUNSET REVIEW OF THE ANTI-DUMPING DUTIES ON 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. 485: **SUNSET REVIEW OF THE ANTI-DUMPING DUTIES ON TALL OIL FATTY ACID ORIGINATING IN OR IMPORTED FROM SWEDEN: FINAL DETERMINATION**



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CHIEF COMMISSIONER

PRETORIA
10/10/ 2014

1. APPLICATION AND PROCEDURE

- 1.1 This investigation is conducted in accordance with the International Trade Administration Act, 2002, (ITA Act 71 of 2001), and the International Trade Administration Commission's Anti-Dumping Regulations (ADR).
- 1.2 On 29 June 2012, the Commission notified the SACU industry through Notice No.528 in Government Gazette No.35463, that unless a substantiated request is made by the SACU industry indicating that the expiry of the anti-dumping duties on the subject product originating in or imported from Sweden, would likely lead to the continuation or recurrence of dumping and injury, the anti-dumping duties on the subject product originating in or imported from Sweden would expire on 11 December 2013.
- 1.3 A sunset review application questionnaire was received from Industrial Oleochemical Products (Pty) Ltd on 11 June 2013. After all the deficiencies were addressed, an updated sunset review questionnaire was received on 30 August 2013.
- 1.4 The applicant is Industrial Oleochemical Products (Pty) Ltd, the only producer of the subject product in the SACU.
- 1.5 The investigation was initiated through notice No. 1130 of 2013 of Government Gazette No. 37037 on 22 November 2013.
- 1.6 The initiation notice, non-confidential file and the exporters/importers' questionnaires were sent to all known interested parties.
- 1.7 The investigation period for dumping was from 01 January 2012 to 31 December 2012, and information with regard to the material injury involved evaluation of data for the period 01 January 2010 to 31 December 2012 with an estimate should the anti-dumping duties expire.
- 1.8 Foreign producers/exporter responses were received from Arizona Chemicals.

- 1.9 Response received from Arizona Chemicals was found to be deficient and a deficiency letter was sent. The company was allowed 7 days to address the deficiencies identified.
- 1.10 A response addressing deficiencies was received on 12 April 2014.
- 1.11 No response to the Commission's questionnaire was received from the SACU importers of the subject product except for Uniresin which did not import the subject product from Sweden and was excluded from the investigation.
- 1.12 Essential facts letters were sent to interested parties and comments were received from Industrial Oleochemical Products (Pty) Ltd.
- 1.13 The Commission took into account all comments received in making its final determination.
- 1.14 All non-confidential submissions made by interested parties are contained in the Commission's public file for this investigation.
- 1.15 It should be noted that this report does not purport to present all comments received and considered by the Commission. However, some salient and pivotal comments received from interested parties and the Commission's considerations of these comments are specifically included in this report.

Comment by the applicant

The articles of association attached were not translated and the organogram not attached.

Commission's consideration

The articles of association provided by Arizona were all translated in English and the organogram was provided.

1.16 After considering all the information and comments received, the Commission made a final determination that, since there is no likelihood of recurrence of dumping (one of the necessary conditions for anti-dumping duties to be maintained), even though there is likelihood of recurrence a material injury, there is no basis for maintaining the anti-dumping duties on Tall oil fatty acid (TOFA).

Therefore, the Commission made a final determination to recommend to the Minister of Trade and Industry that the anti-dumping duties on all imports of tall oil fatty acid originating in or imported from Sweden, be terminated.

2. PRODUCTS, TARIFF CLASSIFICATION AND DUTIES

2.1 IMPORTED PRODUCTS

2.1.1 Description

The Swedish product is tall oil fatty acid and is sold under the name - Sylfat. It is an oily liquid with a light yellow colour containing both fatty acids and rosin acids.

2.1.2 Tariff classification

The subject product is classifiable as follows:

Heading	Tariff subheading	Description	Statistical Unit	Rate of Duty			
				General	EU	EFTA	SADC
3823		Industrial monocarboxylic fatty acids; acid oils from refining; industrial fatty alcohols:					
	3823.1	Industrial monocarboxylic fatty acids; acid oils from refining:					
	3823.13	Tall oil fatty acids	Kg	10%	Free	1.3%	Free

The following anti-dumping duties are applicable to the subject product:

Tariff heading	Description	Country	Current Anti-Dumping Duty
3823.13	Tall oil fatty acid manufactured and exported by Arizona Chemicals	Sweden	19.1%
3823.13	Tall oil fatty acid manufactured and exported by all other manufacturers excluding Arizona Chemicals	Sweden	27%

2.2 SACU PRODUCT

2.2.1 Description

The SACU product is tall oil fatty acid and is sold under the name - Br 4-4. It is an oily liquid with a light yellow colour containing both fatty acids and rosin acids.

2.2.2 Raw Material used

Tall oil fatty acids are distilled from crude tall oil that is obtained from the pine pulping process.

2.2.3 Production Process

- Crude tall oil is de-pitched;
- Distilled; and
- Fractionated under high vacuum and high temperatures in purpose built distillation columns. One of the fractionated components from the distillation process is tall oil fatty acid.

2.2.4. Application/end use

The applicant stated that tall oil rosin finds use as a component of adhesives, rubbers, and inks, and as an emulsifier. The pitch is used as a binder in cement, an adhesive, and an emulsifier for asphalt. The applicant further stated that TOFA is a low-cost plant based eco-friendly alternative to tallow fatty acids for production of resins, lubricants, mining collectors and emulsifiers. When esterified it is used as a compound for manufacturing oil-based coatings. The applicant stated that certain grades of TOFA are also used as a component of drilling fluids, machining oils and cleaning agents. The applicant further stated that TOFA is normally used as an intermediate input for the manufacture of alkyd resins, rubber emulsifiers, mining collectors and industrial lubricants.

2.2 LIKE PRODUCT ANALYSIS

In the original investigation the Commission decided that the SACU product and the imported product are like products, for the purpose of comparison in terms of section 1 of the Anti-Dumping Regulations.

3. INDUSTRY STANDING

3.1 INDUSRTY STANDING

The applicant's production volume represents 100 percent of the total SACU production.

The Commission made a final determination that the application can be regarded as being made by or on behalf of the domestic industry.

4. DUMPING

METHODOLOGY IN THIS INVESTIGATION

4.1 TALL OIL FATTY ACID: SWEDEN

4.1.1 Normal value

It was found that the verified company produced and sold the subject product in its domestic market (Sweden) during the period of investigation. It was found that all domestic sales of the subject product were made at prices that recover the cost of production plus selling, general and administration expenses. The Commission made a final determination to consider all the producer's actual domestic sales of the subject product to determine the normal value.

Adjustments to normal value

The exporter claimed the following adjustments to the normal value which were verified:

(a) Payment terms

The exporter claimed an adjustment for payment terms for sales made in the domestic market. The Commission made a final determination to allow the adjustment to the normal value.

(b) Transport costs/Outbound freight

The producer claimed an adjustment for transport for the goods delivered to its domestic customers. The Commission made a final determination to allow the adjustment to the normal value.

(c) Packaging Costs

The producer claimed an adjustment for packaging for the goods packed in drums. The Commission made a final determination to allow the adjustment to the normal value.

(d) Royalty charges

The producer claimed an adjustment for a royalty expense for the product sold to all the customers who used the product as a fuel additive.

The Commission made a final determination to allow the adjustment to the normal value.

Comments by the applicant

The confidentiality claimed refers to “sales information and invoice” whilst the sworn statement reference is made to licensing agreement.

Commission’s consideration

The licensing agreement relates to royalty fee charged (on sales) to customers purchasing TOFA to use as fuel additive. Arizona pays royalty fees to Total France (a French corporation) for producing TOFA under license which is owned by Total France.

4.1.2 Export price

There were no exports to SACU during the period of investigation. The verified producer exported the subject product to other countries during the period of investigation. In determining the export price, the Commission made a final determination to use export sales to a third country.

When determining the export price based on exports to third countries, the Commission uses the export price of the subject product to an appropriate third country. The country selected is evaluated based on the following criteria:

- (a) The similarity of the like product used to establish the normal value and the product exported from the country of origin to the third country in terms of the criteria used by the Commission in its like product analysis;
- (b) The similarity in the level of development of:
 - (i) The domestic industry in SACU and the third country in respect of the like product including but not limited to, the existence and number of domestic producers of the like product; and
 - (ii) The domestic market in SACU and the third country in respect of the like product, including but not limited to, the volume of production, consumption, exports and imports of the like products;
- (c) The similarity in the volume of domestic sales of the like product in the country of origin and exports from the country of origin to the third country; and
- (d) Sales in the domestic market of the country of origin and in the third country are at the same level of trade.

Comments by the applicant

- (i) Misleading choice of third country by Arizona since Austria is within the European Community.*
- (ii) Sales invoice to Austria not submitted.*
- (iii) There is no similarity in the level of development between Belgium and South Africa as the latter is a developing country whilst Belgium it is a developed country and that there is no producer of TOFA in Belgium.*
- (iv) Belgium is not a correct third country to use as the volume of exports does not allow for fair comparison and the comparable volumes are those of the United States and Norway.*
- (v) Further, Belgium is part of the European Union and thus export from Sweden to Belgium can be regarded as domestic market sales.*

Commission's consideration

- (i) The selection of the third country for the export price determination is done by the Commission based on objective criteria.*
- (ii) The sales invoices relating to sales to third countries were provided and verified.*
- (iii) Although Belgium is classified as a developed country and South Africa a developing country, the similarities referred to in this regard are not related to the development of the country but the development of the industry concerned.*
- (iv) Desktop research revealed that there is a producer of the subject product in Belgium. The research was further confirmed by Arizona which provided a list of the countries that produces the subject product.*
- (v) Based on the information submitted and verified, Belgium is the appropriate third country since it meets the Commission's criteria for the third country selection.*
- (vi) Belgian sales were considered export sales as the investigation is against Sweden not the EU.*

The Commission made a final determination to use Belgium as an appropriate third country to determine the SACU export price as Belgium meets the Commission's criteria.

Adjustments to export price

The exporter claimed the following adjustments to the export price:

(a) Payment terms

The exporter claimed an adjustment for payment terms for sales made to Belgium. The Commission made a final determination to allow this adjustment.

Comments by the applicant

The actual invoice did not correlate with the export sales schedule that was supplied by Arizona as a result of Arizona's supplying new payment terms without advising the Commission that it did so in their initial response.

The allegation that Arizona did not keep the records of the payment terms was pointed out to be devious and that, as the invoices are available, terms of trade would also be available and must be supplied as in the case of the domestic sales. The Commission should disregard the data supplied by Arizona on the basis that it is not fully cooperating and that the data is unreliable.

Commission's consideration

The Commission allowed the payment terms based on the verified payment days and terms of trade that were demonstrated to have affected price comparability at the time of setting prices.

(b) Transport costs/Outbound freight

The producer claimed an adjustment for transport for the goods delivered to its Belgium customers. The Commission made a final determination to allow this adjustment.

(c) Royalty charges

The producer claimed an adjustment for the royalty expense for the product sold to all the customers who used the product as a fuel additive. The Commission made a final determination to allow this adjustment.

Comments by the applicant

The applicant stated that there was no packaging costs adjustment with regard to the export prices as was the case on the normal value as the export packaging is more expensive than packaging for the domestic market. Therefore this is an adjustment which the Commission ought to have made as exporters would not have claimed such adjustment.

Commission's consideration

The packaging cost adjustment was claimed on export prices. however, there was no packaging cost adjustment claimable on exports to Belgium since there were no goods packed in drums as in the case of domestic sales and other export markets.

4.1.3 Margin of dumping

The margin of dumping was calculated to be minus 5.45 percent when expressed as a percentage of the export price.

4.2. Dumping margin for all other manufacturers in Sweden

4.2.1 Normal value

For the residual dumping margin, the normal value is calculated based on Arizona Chemical's verified domestic sales. The Commission made a final determination not to make any adjustment on the normal value for all others, as the adjustments that were claimed by the verified company were all company specific. It was found that in most cases the customers arranged their own transport for the goods.

4.2.2 Export price

There were no exports to SACU during the period of investigation. The verified producer exported the subject product to other countries during the period of investigation. In determining the export price, the Commission made a final determination to use export sales to a third country.

The Commission made a final determination to select Belgium as an appropriate third country to determine the SACU export price as Belgium meets all the Commission's criteria.

The Commission made a final determination not to make any adjustment on the export price for all others, as the adjustments that were claimed by the verified company were all company specific. It was found that in most cases the customers arranged their own transport for the goods.

4.2.3 Margin of dumping

The margin of dumping was calculated to be minus 9.2 percent when expressed as a percentage of the export price.

Comments by Arizona

The Commission initiated based on the old information. The review was initiated in December 2013 whereas information provided is for the period ending December 2012.

Comments by the applicant

- (i) The application contained injury information with regard to 2013 and estimates for 2014 if the dumping duties are revoked. It further indicated that it used the information in the original application and adjusted it with the production price index of Sweden.*
- (ii) The statement that the currency used is the same for both domestic and export sales is not correct and the Commission should investigate.*

Commission's consideration

- (i) The applicant provided the injury information for 2013 with estimates for 2014.*
- (ii) The Commission considered the original quoted price obtained in Sweden in 2008 and adjusted the price based on the 2013 producer price index of Sweden obtained from Swedish statistics. The adjustment figures used are monthly figures for the corresponding month.*
- (iii) The domestic sales were made in Swedish Krona and the export sales were made in Euros and Dollars. It was found that their accounting system provides for three different currencies with a build-in currency conversion. It was explained that this is due to the fact that it is a global company which operates in Europe and the United States. The currency used for both the domestic and export market was verified.*

The Commission made a final determination that the expiry of the anti-dumping duties on Tall Oil Fatty Acid originating in or imported from Sweden would not likely lead to the recurrence of dumping.

5. MATERIAL INJURY

5.1 DOMESTIC INDUSTRY – MAJOR PROPORTION OF PRODUCTION

The following injury analysis relates to the information submitted by Industrial Oleo chemical Products (Pty) Ltd (IOP).

The Commission made a final determination that the applicant's production constitutes "a major proportion" of the total production, in accordance with the Anti-Dumping Regulations.

5.2 IMPORT VOLUMES AND EFFECT ON PRICES

5.2.1 Import volumes

The following tables show the volume of the allegedly dumped imports of the subject product during the injury period of the investigation:

Table 5.2.1: Material Injury indicator

Material Injury Indicators	2010	2011	2012	Estimate if the duties expire	Increase or decrease (If the duty expires)
Allegedly dumped imports (kg)	0	17 690	17 800	1 500 000	Increase
Other Imports (kg)	1 492 414	750 184	448 281	220 247	Decrease
Total (kg)	1 492 414	767 874	466 080	1 720 247	Increase
Price undercutting			-	13%	
Price depression	100	109.23	125.88	113.81	Decrease
Price suppression	100	116.88	128.57	138.96	Increase
Sales volumes (Kg)	100	94.78	89.28	64.36	Decrease
Inventory (Kg)	100	100	100	100	Constant
Gross profit	100	43.48	4.35	-30.43	Decrease
Output (Kg)	100	94.78	89.28	64.36	Decrease
Applicant's market share	100	114.31	121.94	81.25	Decrease
Alleged dumped imports' market share	-	0.4%	0.5%	36.2%	Increase
Other imports'	100	61.79	41.79	18.93	Decrease

Material Injury Indicators	2010	2011	2012	Estimate if the duties expire	Increase or decrease (If the duty expires)
market share					
Return on net assets	100	40.54	-5.41	-32.43	Decrease
Productivity (kg)	100	94.78	89.28	96.54	Increase
Utilisation of production capacity	100	93.65	88.89	63.49	Decrease
Employment	100	100	100	100	Decrease
Wages	100	101.56	97.38	109.44	Increase
Net Cash Flow	100	37.68	-5.56	-38.36	Decrease

5.3 Conclusion on material injury

The commission made a final determination that the expiry of the anti-dumping duties on TOFA originating in or imported from Sweden would likely lead to the recurrence of material injury to the SACU industry.

6. SUMMARY OF FINDINGS

6.1 Continuation or Recurrence of Dumping

The Commission made a final determination that the expiry of the anti-dumping on TOFA originating in or imported from Sweden would not likely lead to the recurrence of dumping to the SACU industry.

6.2 Continuation or Recurrence of Material Injury

The Commission made a final determination that the expiry of the anti-dumping duties on TOFA originating in or imported from Sweden would likely lead to the recurrence of material injury to the SACU industry.

For the anti-dumping duties to remain in place, there must be a finding of both the likelihood of continuation and/or recurrence of both dumping and material injury. In this case, the finding is that the expiry of the anti-dumping duties would not likely lead to the recurrence of dumping. Therefore there is no basis for maintaining the anti-dumping duties.

7. RECOMMENDATION

The Commission made a final determination that the expiry of the anti-dumping duties on TOFA originating in or imported from Sweden would not likely lead to the recurrence of dumping.

The Commission therefore decided to recommend to the Minister of Trade and Industry that the anti-dumping duties on TOFA originating in or imported from Sweden be terminated.