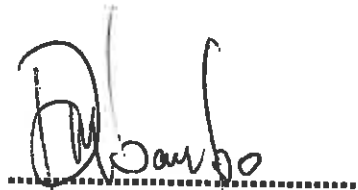


REPORT NO.591

**APPLICATION FOR AN INCREASE IN THE RATE OF CUSTOMS DUTY ON COATED PAPER
AND PAPER BOARD CLASSIFIABLE UNDER TARIFF SUBHEADING 4810.92.90**

The International Trade Administration Commission of South Africa herewith presents its Report No. 591: An increase in the rate of customs duty on coated paper and paper board classifiable under tariff subheading 4810.92.90



Dumisani Mbambo
DEPUTY CHIEF COMMISSIONER

PRETORIA
01/10/2018

REPUBLIC OF SOUTH AFRICA

INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF SOUTH AFRICA

REPORT NO. 591

Application for an increase in the rate of customs duty on coated paper and paper board classifiable under tariff subheading 4810.92.90

Synopses

The International Trade Administration Commission of South Africa ("ITAC" or "the Commission") received an application from PricewaterhouseCoopers ("PWC") submitted on behalf of Mpact Operations (Pty) Ltd t/a Mpact Paper – Springs Mill ("Mpact"), hereon referred to as the applicant, for an increase in the general rate of customs duty on coated paper and paperboard classifiable under tariff subheading 4810.92.90, from free of duty to 5 per cent *ad valorem*.

The Commission found that:

- The applicant is the only known manufacturer of recycled coated paper and paperboard in the SACU but that its main focus is not on manufacturing virgin grade coated paper and paperboard that is predominantly used in the food packaging sector.
- This tariff subheading concerned includes other coated paper and paperboard that are not subject to this investigation, which means that if a duty is introduced it would have a cost raising effect on downstream users of these products. SARS indicated that the creation of an additional 8-digit tariff subheading for recycled coated paper and paperboard, poses a challenge because in order to visibly distinguish between virgin and recycled coated paper and paperboard it would require testing and analysis by a laboratory. According to information at the Commission disposal, the aforementioned testing procedure would be administratively burdensome with an

additional cost raising effect. In addition, the creation of an additional tariff subheading could also lead to circumvention of the duty rendering the proposed protection ineffective.

- Despite experiencing marginal increases between 2015 and 2016, the applicant's production volumes, capacity utilisation and sales of the product concerned decreased on average for the period 2015 - 2017.
- In view of the fact that the product concerned is classifiable under a general tariff subheading, import statistics could not be analysed. However, in 2017, approximately 55 per cent of imports originated from countries classified under the general category, down from 66.2 per cent in 2016. On the other hand, approximately 45 per cent of the total imports originated from the EU in 2017, up from 33.8 per cent in 2016.
- There are a lot of job opportunities downstream in the paper printing and converting sectors that would be adversely affected by the increase in the customs duties.

In light of the foregoing, the Commission recommended that the application for an increase in the general rate of customs duty on imports of recycled coated paper and paperboard classifiable under tariff subheading 4810.92.90, from free of duty to 5 per cent *ad valorem* be rejected. The reason is that the requested increase in duties would have a cost-raising effect downstream, and that it is impractical to visually distinguish between domestically produced recycled coated paperboard and imported virgin coated paperboard, as well as being administratively unduly burdensome and cost raising process.

THE APPLICATION AND TARIFF POSITION

The International Trade Administration Commission of South Africa ("ITAC" or "the Commission") received an application from PricewaterhouseCoopers ("PWC") submitted on behalf of Mpact Operations (Pty) Ltd t/a Mpact Paper – Springs Mill ("Mpact"), hereon referred to as the applicant, for an increase in the general rate of customs duty on coated

paper and paperboard classifiable under tariff subheading 4810.92.90, from free of duty to 5 per cent *ad valorem*.

As reasons for the application, the applicant, among others, summarised that the requested increase in the customs duty is needed to:

- a) *“Stimulate further development of the SACU paper manufacturing sector and the associated industry/sector pipeline;*
- b) *Compensate industry for certain competitive disadvantages it experiences;*
- c) *Level the playing field vis-à-vis duties protection in the exporter countries by aligning the SACU import tariffs on subject product/s to levels that are justifiable and comparable to those in competing/similar economies;*
- d) *Provide a small but critically important “buffer” against increasingly rapid fluctuations of market conditions in the global economy; and foreign exchange fluctuations influencing the local economy; and*
- e) *Protect SACU producers’ capacity and market share in the domestic market to provide an effective and stable base market to support local manufacturing and substantial on-going investment to ensure industry sustainability.”*

The application was published in Government Gazette No. 41132 on 22 September 2017 for interested parties to comment.

Subsequent to the first publication of the application, CTP Limited (“CTP”), a downstream user of paper and paperboard products raised concerns that the current tariff structure for tariff subheading 4810.92.90 does not distinguish between recycled and virgin coated paper and paperboard.

Subsequently, a meeting was held on 15 January 2018, between representatives from ITAC, the South African Revenue Service (“SARS”), CTP and Mpact. During the meeting, SARS indicated that the creation of an additional 8-digit tariff subheading for recycled coated paper and paperboard would be challenging because in order to visibly distinguish between virgin and recycled coated paper and paperboard it would require testing and analysis by a laboratory. According to information at the Commission disposal, the aforementioned testing procedure would be administratively burdensome with an additional

cost raising effect. In addition, the creation of an additional tariff subheading could also lead to circumvention of the duty rendering the proposed protection ineffective.

In light of the challenges raised, it was proposed that, should the Commission decide to increase the rate of duty on the subject product, the creation of a rebate facility be considered for virgin paper and paperboard under Schedule 4 of the Customs and Excise Act, 91 of 1964 ("Customs and Excise Act"). Subsequently both the applicant and CTP submitted proposals with regard to the description of the proposed rebate provision to SARS, who provided the following:

Application for a temporary rebate of full duty on-

"Other paper and paperboard, coated on one or both sides with kaolin (China clay) or other inorganic substances, with or without a binder, and with no other coating, whether or not surface-coloured, surface-decorated or printed, in rolls or rectangular (including square) sheets, of any size, multi-ply paper and paperboard classifiable in tariff subheading 4810.92.90, containing less than 50 per cent by mass of pulps of fibres derived from recovered (waste and scrap) paper or paperboard or of other fibrous cellulosic material classifiable in tariff heading 47.06, 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 products are not available in the SACU region."

In order to afford interested parties an opportunity to comment on the newly proposed rebate provision, the Commission approved the publication of this proposal, which appeared in Government Gazette No. 41498, dated 16 March 2018.

The existing tariff structure for the subject product is given in Table 1 below and shows that coated paper and paperboard are currently classifiable under tariff subheading 4810.92.90 and attracts a zero duty across all regions. The provision reads as follows:

Table 1: Tariff position for the subject product

Tariff Heading	Tariff Subheading	Description	Statistical Unit	Rate of duty				
				General	EU	EFTA	SADC	MERCOSUR
4810.9		Other paper and paperboard:						
4810.92		Multi-ply:						
	4810.92.90	Other	kg	free	free	free	free	free

Source: SARS

This classification also caters for other coated paper and paperboard that did not form part of the application. It should be noted that the applicant only produces board made from recycled fiber, while tariff subheading 4810.92.90 does not distinguish between recycled fiber board and "virgin" or non-recycled fiber board.

The applicable WTO Bound rate for the products concerned is 5 per cent *ad valorem*.

It should be noted that the subject product is mainly imported in virgin grades, which according to the applicant, have a yield advantage of approximately 20% over recycled grades, which it manufactures. The applicant contended that the imported virgin grade coated paper and paperboard are substitutable for the locally manufactured recycled board.

DISCUSSION

The applicant is a manufacturer of recycled white-lined carton board, boards for industrial applications, and speciality coated boards. These products are used in a variety of applications, including food and industrial packaging as well as other industrial applications such as ceiling board.

The applicant categorised the subject products into four categories, as follows:

- a) **Valkote** is coated white-lined grey-back chipboard, commonly referred to as GD2 or duplex board. It has a multi-ply fibre construction, manufactured from recovered fibre with only the top ply containing virgin fibre. Valkote is an economical, environmentally friendly replacement for virgin grades used in litho-laminating and folding boxboard applications.
- b) **Valkraft** is coated white-lined brown-back chipboard. It has a multi-ply fibre

construction, manufactured from recovered fibre (predominantly recovered kraft fibre) with only the top ply containing virgin fibre (FSC compliant pulp). The top liner of the board is clay coated to give a smooth print surface, resulting in a superior print definition. Valkraft is an economical, environmentally friendly replacement for virgin grades used in corrugating, litho-laminating and folding boxboard applications.

- c) **Fastkote** has been developed for use as packaging material in the fast food sector. It has grease and moisture resistance features on the back liner, which protect the board from hot, moist, oil-and grease-containing food. This product has been developed as an environmentally friendly alternative to replace thermo-mechanical pulp (TMP) and coated white-lined chipboard protected by extruded polyethylene (PE) and/or fluorocarbon chemicals.
- d) **Coldpak** is coated white-lined, brown-back chipboard manufactured from predominantly recovered kraft fibre. It is hard sized, thereby optimising the water resistant properties of the product, making it suitable for fridge-freezer and beverage carry-pack applications. The large recovered kraft fibre component of the product also makes it suitable for other packing applications where superior rigidity is required.

According to information at the Commission's disposal, the applicant is the only known manufacturer of recycled coated paper and paperboard in the Southern African Customs Union ("SACU").

The following companies have been identified as importers of the subject product in the SACU region:

- Golden Era Group
- CTP Limited
- Converted Paper Products JHB (Pty) Ltd
- APL Cartons (Pty) Ltd
- Gerber Paper (Pty) Ltd
- Shave & Gibson Packaging (Pty) Ltd
- Papercor Holdings (Pty) Ltd

The applicant's production capacity for the product concerned amounted to 110 000t/annum over the period of the investigation. Due to the fact that the subject product is classified

under a general tariff subheading, which includes other carton board that are not subject to this investigation, domestic demand and market share estimates could not be calculated using import data. In such cases, the SACU market information at the Commission's disposal is the information provided by the applicant

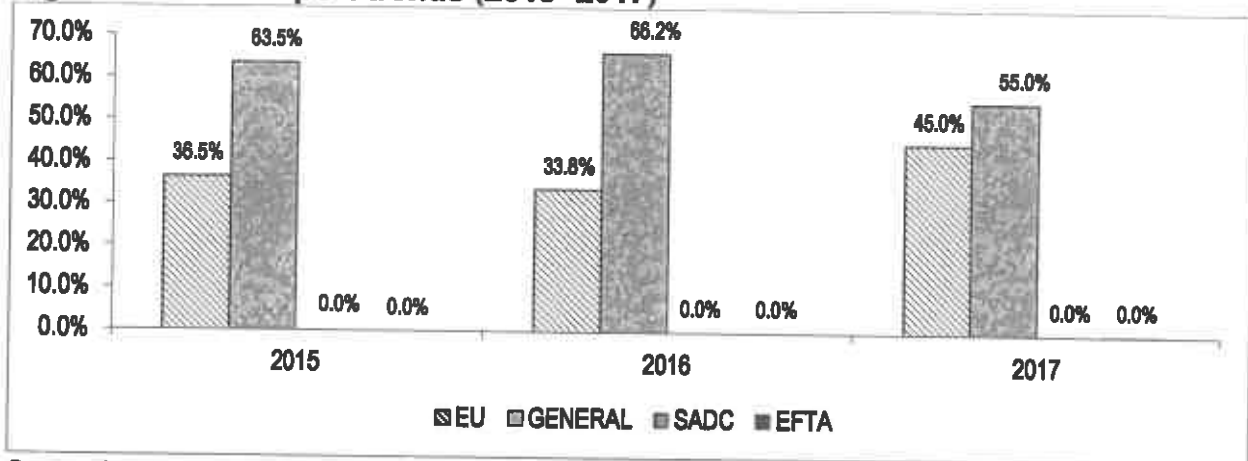
The applicant's production capacity utilisation increased from 2015 to 2016, however, between 2016 and 2017 capacity utilization declined. The applicant submitted that it has sufficient capacity to fully supply the local market should maximum capacity be utilised.

The applicant's production volume increased in 2016 before it declined in 2017. On average, the applicant's production volume declined for the period 2015-2017.

The applicant's domestic sales of the product concerned increased from 2015 to 2016. Between 2016 and 2017, there was a decline in the applicant sales volumes.

In view of the fact that the product concerned is classifiable under a general tariff subheading, import statistics could not be analysed. However, the main trends are reflected in Figure 1 below:

Figure 1: SACU Import trends (2015 -2017)



Source: SARS

Figure 1 above depicts import trends into SACU by region. According to information at the Commission's disposal, the majority of imports of coated paper and paperboard originated from countries such as Brazil, South Korea and China under the general category and from Sweden in the European Union ("EU"). In 2017, approximately 55 per cent of imports originated from the most favoured nations ("mfn") countries classified under the general

category, down from 66.2 per cent in 2016. On the other hand, in 2017, approximately 45 per cent of total imports originated from the EU, up from 33.8 per cent in 2016.

Due to the wide range of coated paper and paperboard manufactured domestically and imported, analysing prices based on import statistics would be misleading and as such, a selection of the most representative products, were considered for the purposes of analysis.

The applicant invested in supply side measures, plant and machinery for the subject product during the period 2015 to 2017.

Reciprocal commitments made by the applicant for the proposed tariff amendment were provided, particularly with respect to investment and employment creation, as articulated in the New Growth Path ("NGP").

Comments in support of the application were received from Packaging SA. The support for the application was centered around protecting domestic industry against imports in order to ensure sustainability and to enhance the competitiveness of the local manufacturers. The Paper Manufacturers' Association of South Africa (PAMSA) submitted that they do not dispute the facts of this application; however, it would not be in all PAMSA members' interests to support the application. Therefore, PAMSA submitted that it must remain neutral in this matter and trusts that ITAC will make a decision in the best interest of the country.

Comments objecting to the application were received from; *inter alia*, CTP, Golden Era Group, Printing SA, Citrus Growers' Association, National Brands Limited, Shave & Gibson Packaging (Pty) Ltd, Tiger Brands Limited and the Republic of Botswana. Parties voicing opposition mainly cited that the applicant cannot manufacture virgin paper and paperboard, which is required in most food grade packaging given that minerals in recycled coated paper and paperboard may migrate into the food content. It was further contested that the applicant does not have sufficient capacity to meet domestic market demand for the subject product. In response to the proposed rebate, parties indicated that the proposed rebate provision will result in a significant administrative burden for its intended users and it will result in dire consequences for a range of companies and jobs many multiples larger than any positive impact the introduction of the proposed 5% duty may have for Mpact.

In a counter response to certain objections raised by interested parties, the applicant submitted that it has sufficient capacity to supply the total local market requirement of recycled coated paper and paperboard should maximum capacity be utilised. In response to concerns raised that the applicant is unable to meet domestic demand for the subject products, the applicant submitted that its mill operates on a "make to order" basis, which implies that the product is produced on orders placed. Therefore, if orders have not been placed, capacity is not secured. With regard to the objection on the creation of a temporary rebate facility, the applicant submitted that the proposed rebate provision will exclude products with a recycled content of less than 50% and that it is the most fair and equitable way of dealing with the differentiated products being imported under tariff subheading 4810.92.90.

FINDINGS

The Commission found that:

- The applicant is the only known manufacturer of recycled coated paper and paperboard in the SACU but that its main focus is not on manufacturing virgin grade coated paper and paperboard that is predominantly used in the food packaging sector.
- This tariff subheading concerned includes other coated paper and paperboard that are not subject to this investigation, which means that if a duty is introduced it would have a cost raising effect on downstream users of these products. SARS indicated that the creation of an additional 8-digit tariff subheading for recycled coated paper and paperboard, poses a challenge because in order to visibly distinguish between virgin and recycled coated paper and paperboard it would require testing and analysis by a laboratory. According to information at the Commission disposal, the aforementioned testing procedure would be administratively burdensome with an additional cost raising effect. In addition, the creation of an additional tariff subheading could also lead to circumvention of the duty rendering the proposed protection ineffective.

- Despite experiencing marginal increases between 2015 and 2016, the applicant's production volumes, capacity utilisation and sales of the product concerned decreased on average for the period 2015 - 2017.
- In view of the fact that the product concerned is classifiable under a general tariff subheading, import statistics could not be analysed. However, in 2017, approximately 55 per cent of imports originated from countries classified under the general category, down from 66.2 per cent in 2016. On the other hand, approximately 45 per cent of the total imports originated from the EU in 2017, up from 33.8 per cent in 2016.
- There are a lot of job opportunities downstream in the paper printing and converting sectors that would be adversely affected by the increase in the customs duties.

RECOMMENDATION

In light of the foregoing, the Commission recommended that the application for an increase in the general rate of customs duty on imports of recycled coated paper and paperboard classifiable under tariff subheading 4810.92.90, from free of duty to 5 per cent *ad valorem* be rejected. The reason is that the requested increase in duties would have a cost-raising effect downstream, and that it is impractical to visually distinguish between domestically produced recycled coated paperboard and imported virgin coated paperboard, as well as being administratively unduly burdensome and cost raising process.