

**REPORT NO. 600**

**INCREASE IN THE RATE OF CUSTOMS DUTY ON  
ACRYLIC RESINS CLASSIFIABLE UNDER TARIFF  
SUBHEADINGS 3906.90.20 AND 3208.20.90**

The International Trade Administration Commission of South Africa herewith presents its Report No. 600: **Increase in the rate of customs duty on acrylic resins classifiable under tariff subheadings 3906.90.20 and 3208.20.90**



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Meluleki Nzimande

CHIEF COMMISSIONER

PRETORIA

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# REPUBLIC OF SOUTH AFRICA

## INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF SOUTH AFRICA

### REPORT NO. 600

#### INCREASE IN THE RATE OF CUSTOMS DUTY ON ACRYLIC RESINS CLASSIFIABLE UNDER TARIFF SUBHEADINGS 3906.90.20 AND 3208.20.90

##### Synopsis

The Commission considered an application by Ferro Coating Resins (Pty) Ltd (“Ferro”), for an increase in the rate of customs duty on acrylic resins classifiable under tariff subheadings 3906.90.20 and 3208.20.90 from free of duty and 10% *ad valorem*, respectively, to 15% *ad valorem* through the creation of additional 8-digit tariff subheadings, which make specific provision for the products that form the basis of this investigation.

During its deliberations and in arriving at its recommendation, the Commission considered the information at its disposal, including comments received during the publication period.

The Commission found that:

- The industry manufacturing the subject product is in a position to meet the full market requirements for the range of acrylic resin as described in the tariff structure;
- Price disadvantages are experienced *vis-à-vis* foreign manufacturers exporting the product to SACU;
- The domestic industry is unable to compete with imported products, given the existing duty structure. This adversely affects domestic investment and employment opportunities; and
- Levels of profitability and capacity utilisation have declined.

On balance, the recommended duty increase to 15% ad valorem would enable the domestic industry manufacturing acrylic resins to fully utilise existing under-utilised production capacity thereby achieving cost advantages arising *inter alia* from increased output.

In light of the foregoing, the Commission recommended an increase in the rate of customs duty on acrylic resins classifiable under tariff subheadings 3906.90.20 and 3208.20.90 from free of duty and 10% ad valorem, respectively to the bound rate level of 15% ad valorem.

## 1. APPLICATION AND TARIFF POSITION

- 1.1. Ferro Coating Resins (Pty) Ltd (hereon referred to as “Ferro” or “the applicant”), applied for an increase in the rate of customs duty on acrylic resins classifiable under tariff subheadings 3906.90.20 and 3208.20.90 from free of duty and 10% ad valorem, respectively, to 15% ad valorem through the creation of additional 8-digit tariff subheadings, which make specific provision for the products that form the basis of this investigation.
- 1.2. Ferro is part of the Ferro Group South Africa, involved in the manufacturing and distribution of resins and additives used as an input product in the surface coatings market. Product offerings include alkyds and modified alkyds, acrylics, styrene acrylic emulsions, pure acrylic emulsions, saturated polyesters, polyamides, rheology modifiers and surface modifiers.
- 1.3. As reasons for the application, Ferro stated, *inter alia*, that:
  - *“The business currently faces stiff competition from imported products particularly from India and Taiwan; over the years, import volumes have increased significantly. Some SACU Ferro customers force Ferro to match the low priced imported products.*
  - *Ferro is therefore forced to sell at margins (0%-5%) that do not allow it to fully recover its costs.*

- *A large proportion of the raw materials required for resin manufacturing are sourced from international suppliers, and currency fluctuations often result in a major impact on the cost of the raw materials and pricing in the local market.*
- *Ferro competes with domestic manufacturers, distributors, and international companies who supply directly into South Africa. Competition with local manufacturers is “easier” to acknowledge as they compete on an even playing field since they all import the raw materials. However, competition with imported resins is more challenging as these companies usually have larger plants with greater efficiencies.*
- *Alkyds resins (3907.50) and unsaturated polyester resins (3907.91) are similar to acrylic resins and these have a protection of 15% and 10% import duty, respectively. Thus the current zero duty on acrylic resins weakens the competitiveness of Ferro, as such; the duty should be increased from free of duty to 15% under tariff subheading 3906.90. Moreover, the 10% duty currently in place on tariff subheading 3208.20.90 has not been effective in curbing low priced imports; thus, it should be increased as well from 10% to 15%.”*

1.4. The application was published in the Government Gazette on 21 September 2018, for interested parties to comment. In order to discuss the impact of the requested duty increase on the industry value chain, specifically with regard to the manufacturing of automotive paint, the International Trade Administration Commission of South Africa (“ITAC”) and the Department of Trade and Industry (“**thedti**”) facilitated a stakeholder engagement between the applicant, KZN Resins (Pty) Ltd, Synthetic Polymers (Pty) Ltd, who represented the upstream sector, and Luxor Paints (Pty) Ltd who represented the downstream sector.

1.5. The tariff structures for acrylic resins are shown in Table 1 and Table 2 below. According to the applicant, these are similar products used for the same purpose. However, as a result of the difference in the composition of these products’ raw materials, they are classifiable under different subheadings, as shown below.

**Table 1: Current tariff position for acrylic resins under tariff subheading 3906.90.20**

| Heading | Sub-heading | Article Description   | Stat. Unit | Rate of Duty |      |      |      |          |
|---------|-------------|---|------------|--------------|------|------|------|----------|
|         |             |   |            | General      | EU   | EFTA | SADC | MERCOSUR |
| 3906.90 |             | Acrylic polymers in primary forms: Other  |            |              |      |      |      |          |
|         | 3906.90.20  | Liquids and pastes [excluding polyacrylamide flocculating agents and the like (anionic and nonionic)] | Kg         | free         | free | free | free | free     |

Source: SARS

**Table 2: Current tariff position for acrylic resins under tariff subheading 3208.20.90**

| Heading | Sub-heading | Article Description  | Stat. Unit | Rate of Duty |      |      |      |          |
|---------|-------------|--|------------|--------------|------|------|------|----------|
|         |             |  |            | General      | EU   | EFTA | SADC | MERCOSUR |
| 3208.20 |             | Paints and varnishes (including enamels and lacquers) based on synthetic polymers or chemically modified natural polymers, dispersed or dissolved in a non-aqueous medium; solutions as defined in Note 4 to this Chapter: |            |              |      |      |      |          |
|         | 3208.20.90  | Other  | Kg         | 10%          | free | free | free | 10%      |

Source: SARS

1.6. As can be seen in Tables 1 and 2 above, the subject products are classified together with “other” products that do not form part of this investigation. However, the South African Revenue Service (“SARS”) has provided descriptions for additional 8-digit tariff subheadings, which makes specific provision for the products manufactured by the applicant to ensure that duties are only imposed on the products that form the basis of this investigation.

1.7. SARS provided us with the following wordings:

a) 3906.90.xx

*“Liquids and pastes consisting of 50% or more of hydroxyl acrylic resin”.*

b) 3906.90.xx

*“Liquids and pastes consisting of 50% or more of thermoplastic acrylic resin”.*

c) 3208.20.xx

*“Solutions (other than collodions) consisting of acrylic polymers in a volatile organic solvent where the weight of the solvent exceeds 50% of the weight of the solution”.*

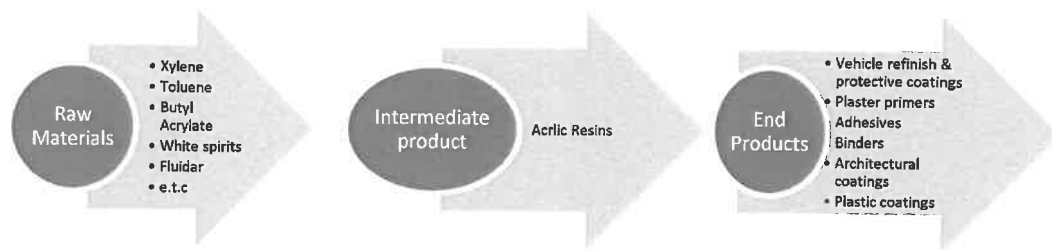
1.8. The WTO bound rate on both tariff subheadings concerned is 15% ad valorem.

## **2. DISCUSSION**

2.1 The applicant is a manufacturer of acrylic resins, which are a group of related thermoplastic or thermosetting plastic substances derived from acrylic acid and other related compounds. Acrylic resins are characterized by exceptional transparency, durability and weather resistance qualities when used as a coating material. These resins are widely used for automotive and plastic coatings.

2.2 The applicant manufactures different types of acrylic resins, broadly categorised as either thermoplastic acrylic or hydroxyl acrylics. Within these two broad categories, there are up to ten types or grades, which differ from each other depending on the composition of the raw materials used. Acrylic resins are also featured in numerous applications such as binders for paper/fiber processing, computer screens, display windows for cellular phones and backlights for liquid crystal displays (LCDs).

2.3 Figure 1 below depicts the position of acrylic resins in the value chain of manufacturing of paints.



Source: Applicant

- 2.4 A large portion of the raw materials required for the manufacturing of acrylic resins are sourced from international markets. The majority of these raw materials are imported from China.
- 2.5 According to information at the Commission's disposal, other known SACU manufacturers of acrylic resins are as follows:
- KZN Resins (Pty) Ltd
  - PRP Resins (Pty) Ltd
  - Metallica Chemicals (Pty) Ltd
  - Olympic Resins (Pty) Ltd
  - Uniresins (Pty) Ltd
  - Synthetic Polymers (Pty) Ltd
- 2.6 The applicant's production capacity increased between 2015 and 2018, owing to recent investments in capital equipment. The applicant submitted that it has sufficient capacity to supply the majority of the subject product in the SACU market should maximum capacity be utilised.
- 2.7 The applicant's production volume decreased during the period of the investigation.
- 2.8 The applicant's domestic sales of the product concerned declined during the period of the investigation, coupled with declining ex-factory selling prices over the same period.
- 2.9 According to information at the Commission's disposal, the applicant was selling the subject product at suppressed ex-factory prices given that importers were bargaining for lower domestic selling prices using quotations sourced from China.



- 2.10 Reciprocal commitments made by the applicant were provided, particularly with respect to levels of production, investment and employment creation, as articulated in the New Growth Path (“NGP”).
- 2.11 Comments in support of the application were received from KZN Resins (Pty) Ltd, Synthetic Polymers (Pty) Ltd and StonCor Africa (Pty) Ltd. The support for the application was centred on, among others, protecting the viability of the domestic industry manufacturing acrylic resins, which is being threatened by low priced imports. It was submitted that increasing import duties will be vital in ensuring continued manufacturing of acrylic resins in the Southern African Customs Union (“SACU”) market.
- 2.12 The South African Paint Manufacturing Association (SAPMA) submitted that, it would not be in all SAPMA members’ interests to support or to object to the application, therefore, SAPMA opted to remain neutral on this application.
- 2.13 Comments objecting to the application were received, *inter alia*, from Paintchem (Pty) Ltd, Luxor Paints and the Republic of Botswana. Parties voicing opposition mainly cited that the applicant together with other local manufacturers of the subject product cannot manufacture acrylic resins in line with quality requirements. It was stated that the price difference between the locally sourced product and the imported product is insignificant owing to the applicant agreeing to reduce the selling prices to match the prices of the import product. It was further stated that an increase in duty will likely have a price raising effect on the downstream industries.

### **3. FINDINGS**

3.1. The Commission found that:

- The industry manufacturing the subject product is in a position to meet the full market requirements for the range of acrylic resin as described in the tariff structure;
- Price disadvantages are experienced *vis-à-vis* foreign manufacturers exporting the product to SACU;

- The domestic industry is unable to compete with imported products, given the existing duty structure. This adversely affects domestic investment and employment opportunities; and
- Levels of profitability and capacity utilisation have declined.

3.2. On balance, the Commission found that the recommended duty increase to 15% ad valorem would enable the domestic industry manufacturing acrylic resins to fully utilise its existing under-utilised production capacity thereby achieving cost advantages arising from increased output due to operational efficiencies.

#### **4. RECOMMENDATION**

4.1. In light of the foregoing, the Commission recommended an increase in the rate of customs duty on acrylic resins classifiable under tariff subheadings 3906.90.20 and 3208.20.90 from free of duty and 10% ad valorem, respectively to the bound rate level of 15% ad valorem. The Commission further recommended that the duty be reviewed after a period of three years from the date of implementation to determine the performance of the domestic industry.