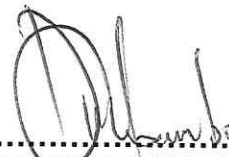


REPORT NO. 670

**CREATION OF A FULL DUTY REBATE FACILITY ON
TITANIUM DIOXIDE CLASSIFIABLE UNDER TARIFF
SUBHEADING 3206.11 FOR USE IN THE
MANUFACTURE OF WHITE MASTERBATCH
CLASSIFIABLE UNDER TARIFF SUBHEADING
3206.19, VALID FOR A LIMITED PERIOD OF 30
MONTHS FROM DATE OF IMPLEMENTATION**

The International Trade Administration Commission of South Africa herewith presents its Report No. 670: **Creation of a full duty rebate facility on titanium dioxide classifiable under tariff subheading 3206.11 for use in the manufacture of white masterbatch classifiable under tariff subheading 3206.19, valid for a limited period of 30 months from date of implementation**



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PRETORIA

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29 / 09 / 2022

REPUBLIC OF SOUTH AFRICA

INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF SOUTH AFRICA

REPORT NO. 670

Creation of a full duty rebate facility on titanium dioxide classifiable under tariff subheading 3206.11 for use in the manufacture of white masterbatch classifiable under tariff subheading 3206.19, valid for a limited period of 30 months from date of implementation

Synopsis

The Commission considered an application by Ferro South Africa (Pty) Ltd (the “Applicant” or “Ferro”), for the creation of a full duty rebate on titanium dioxide classifiable under tariff subheading 3206.11 for use in the manufacture of white masterbatch classifiable under tariff subheading 3206.19.

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

The Commission found that:

- According to current information at the Commission’s disposal, there is no local manufacturer of titanium dioxide in the Southern African Customs Union (SACU). However, Nyanza Light Metals (“Nyanza”), a local company, has undertaken to produce titanium dioxide domestically, although its progress is still in progress with Phase one of the project, which is in the construction of the Product Testing and Development Centre, having just been completed. Nyanza expects to start construction of the main plant in Quarter 2 of 2023 and is aiming for commercial production to commence in Quarter 1 of 2025.
- Updated information at the Commission’s disposal shows that whilst Nyanza has completed Phase 1 of its project, the projected date for commencement of

production has changed to Quarter 1 of 2025 when compared to the date provided at the time of the Commission's initial consideration, which was 2024.

- Titanium dioxide constitutes a significant portion of the Applicant's total cost of production, which is indicative of the potential cost rising impact the cost of importing titanium dioxide will have on the manufacture of white masterbatch, once the Applicant begins to source more of its titanium dioxide import requirements from countries where duties apply to titanium dioxide products.
- Amongst other comments considered during the investigation, three (3) industry comments received were in support of the application. Nyanza Light Metals ("Nyanza") submitted its support for the application based on the condition that the rebate facility is temporary and will be removed once Nyanza commences with production.
- It is envisaged that should the rebate facility concerned be created it will be made subject to an ITAC permit with specific Guidelines, Rules and Conditions as this will enable the Commission to monitor the use of the rebate item concerned for the 30-month period it before the Nyanza plant will be operational.

On balance and in light of the above considerations, the Commission decided to recommend that a rebate facility be created for a limited period of 30 months, to enable the domestic paint manufacturing industry to eliminate unnecessary cost rising pressures and increase production of white masterbatch.

Additionally, by making the rebate subject to an ITAC permit with specific Guidelines, Rules and Conditions, the Commission will be in a position to monitor the use of the rebate item concerned for the 30-month period, before the Nyanza plant becomes operational.

In the light of the foregoing, the Commission recommended the creation of a rebate facility on titanium dioxide classifiable under tariff subheading 3206.11, for use in the manufacture of white masterbatch, classifiable under tariff subheading 3206.19.90, in such quantities, at such times and subject to conditions as the International Trade Administration Commission may allow by specific permit provided the product is not available in the SACU market. The Commission further recommended limiting the validity period of the rebate facility to 30 months from the date of implementation. The reason for the limitation is to avoid uncertainty

that a rebate provision subject to a review might have on the Nyanza project which may, amongst others, assist Nyanza with accessing funding and/or attracting investment, while taking into consideration Nyanza's confirmation that it is aiming to commence production in Quarter 1 of 2025.

1. APPLICATION AND TARIFF POSITION

- 1.1. Ferro South Africa (Pty) Ltd (the "Applicant" or "Ferro") applied for the creation of a full duty rebate on titanium dioxide classifiable under tariff subheading 3206.11 for use in the manufacture of white masterbatch classifiable under tariff subheading 3206.19.
- 1.2. Ferro is a leading manufacturer of high quality porcelain enamels, glaze fritz, prepared glazes, compostos, zircon opacifiers, plastic masterbatches and VEDOC thermosetting powder coatings. Black and white masterbatches are colour concentrates produced for the plastic industry. In this case, the final manufactured product, using titanium dioxide as a raw material, is white masterbatch.
- 1.3 Information at the Commission's disposal indicates that white masterbatch is chosen as a material in producing plastic packaging in order to protect food from spoiling in different environmental conditions. Generally, white masterbatch is used for a variety of applications in different industries including:
 - Plastic Bags: carrier bags for food and agricultural products;
 - Extrusion coating, injection moulding and blow moulding;
 - Packaging materials;
 - Construction: Geomembranes, conduits, wires and cables, profiles, plugs, hoses, fittings, water tanks and corrugated pipes;
 - Electric- Electronics: Washing machines, blenders, mixers, vacuum cleaners, coffee machines, notebooks, DVDs, TVs etc.;
 - Automotive: Technical parts produced in engineering polymers (polyamides, polyesters, POM etc.); and
 - Shoes: EVA soles.

1.4 Following a virtual verification process, held on 04 February 2021, the Commission was informed by the Applicant regarding certain changes that occurred at Ferro during 2020. According to information at the Commission's disposal, effective March 2020, Ferro acquired fixed assets, inventories and employees of Performance Colour Systems ("PCS"), a division of Speedbird Investments (Pty) Ltd, as a going concern. PCS is a manufacturer of masterbatch, pastes, pigments, and liquids used in the plastics industry situated in Meadowdale, Johannesburg.

1.5 As motivation for its application, Ferro stated, *inter alia*, the following:

"Titanium dioxide is a vital raw material used in the manufacture of white masterbatch and consists of approximately 75% of white masterbatch. Currently there is no local manufacturer of titanium dioxide. The last local manufacturer closed down its titanium dioxide manufacturing facility in 2016;

Since the closure of Huntsman, all titanium dioxide used in the manufacture of white masterbatch can only be sourced from foreign suppliers. Despite, there being no local manufacturer, there is a 10% import duty on the vital raw material;

In this regard, the duty currently serves no protection purpose as there is no local industry to protect. As it stands, the duty serves to unnecessarily increase the cost of importing titanium dioxide and consequently the cost and price of white masterbatch, which is a vital raw material, particularly in the plastics industry;

Given the escalating global prices of titanium dioxide, it is imperative that an industrial rebate be created to reduce the cost burden. Further exacerbating the situation are the increasing costs of raw materials, labour, electricity, and fuel among other business costs. These have a significant impact and are negatively impacting manufacturing costs and consequently final prices to consumers and users of end products produced by the downstream manufacturing industry.

The importance of providing protection on the investment being made by Nyanza Light Metals, is acknowledged. However, the rebate provides an equitable solution

to all parties as the industrial rebate does not lead to a complete elimination of the duty on titanium dioxide.”

- 1.6 The application was published in the Government Gazette No. 44593 on 21 May 2021, for interested parties to comment.
- 1.7 The current tariff structure of the subject product is provided in Table 1 below and shows that titanium dioxide is classifiable under tariff subheading 3206.11. The subject product currently attracts a 10 per cent *ad valorem* duty from countries under the General and MERCOSUR column headings and an 8 per cent *ad valorem* duty under the African Continental Free Trade Agreement (“AfCFTA”) column heading.

Table 1: Tariff position for the subject product

Tariff heading	Tariff subheading	Description	Statistical unit	Rate of Duty					
				General	EU	EFT A	SADC	MERCOSUR	AfCFTA
32.06		Other colouring matter; preparations as specified in Note 3 to this chapter (excluding those of heading 32.03, 32.04 or 32.05); inorganic products of a kind used as luminophores, whether or not chemically defined:							
	3206.1	Pigments and preparations based on titanium dioxide:							
	3206.11	Containing 80 per cent or more by mass of titanium dioxide calculated on dry matter	Kg	10%	Free	Free	Free	10%	8%

Source: SARS

- 1.8 Table 2 below shows the tariff structure of the final product/s manufactured by the Applicant. The final product is classifiable under tariff subheading 3206.19.90. Currently, masterbatch products attract a 10% *ad valorem* duty under the General and MERCOSUR column headings and an 8% *ad valorem* duty under the AfCFTA column heading.

Table 2: Tariff position for the end subject product

Tariff heading	Tariff subheading	Description	Statistical unit	Rate of Duty					
				General	EU	EFT A	SADC	MERCOSUR	AfCFTA
32.06		Other colouring matter; preparations as specified in Note 3 to this chapter (excluding those of heading 32.03, 32.04 or 32.05); inorganic products of a kind used as luminophores, whether or not chemically defined:							
	3206.19	Other:							
	3206.19.90	Other	Kg	10%	Free	Free	Free	10%	8%

Source: SARS

1.9 The Applicant requested a 3rd Schedule rebate¹, which makes provision for rebate of the full customs duty on titanium dioxide, with the following rebate description provided by the South African Revenue Service (“SARS”) as shown in Table 3 below:

Table 3: Rebate description

Rebate Item	Tariff sub heading	Description	Extent of Rebate
xxx.xx	3206.11	Pigments and preparations containing 80 per cent or more by mass of titanium dioxide calculated on the dry matter, classifiable under tariff subheading 3206.11, for use in the manufacture of white masterbatch, containing 70 per cent of titanium oxide and 25 per cent polymer, classifiable under tariff subheading 3206.19.90	Full duty

Source: SARS

2. DISCUSSION

- 2.1. Information at the Commission’s disposal indicates that titanium dioxide is a white inorganic compound used as an ingredient in manufacturing a diverse range of products. It is non-toxic, non-reactive and has luminous properties. It is the whitest and brightest of known pigments, with reflective qualities.
- 2.2. According to information at the Commission’s disposal, the method or process of manufacturing pure titanium dioxide depends on the compositions of the original mineral ores or feedstock. In this regard, titanium dioxide is manufactured either through a sulphate based production process or a chloride based production process. The

¹ As specified in the Notes to Schedule 3 of Industrial Rebates of customs duties, imported goods specified in terms of a particular tariff (sub)heading, subject to the provisions of Section 75, will be admitted for use in connection with the production or manufacture of goods in certain industries, under rebate of customs duty to the extent stated in said schedule.

chloride based production process requires higher-grade titanium feedstocks and is favoured for its more efficient, cleaner and lower cost process.

- 2.3. According to technical literature submitted by the Applicant, titanium dioxide is a naturally occurring compound created when titanium reacts with the oxygen in the air. As an oxide, titanium is found in minerals in the earth's crust. It is also found with other elements, including calcium and iron.
- 2.4. Technical literature also highlights that the element titanium and the compound titanium dioxide are found around the world, linked to other elements such as iron, in several kinds of rock and mineral sands (including a component on some beach sands). Titanium most commonly occurs as the mineral ilmenite (a titanium-iron oxide mineral) and sometimes as the mineral rutile, a form of titanium dioxide. These inert molecular compounds must be separated through a chemical process to create pure titanium dioxide. In this regard, information at the Commission's disposal indicates that South Africa has some of the largest titanium dioxide feed stocks (i.e. ilmenite ore) in the world.
- 2.5. Further information at the Commission's disposal shows that titanium dioxide is used in a range of industrial and consumer products, including paints, coatings, adhesives, paper, plastics and rubber, printing inks, coated fabrics and textiles, as well as ceramics, floor coverings, roofing materials, cosmetics, toothpaste, soap, water treatment agents, pharmaceuticals, food colourants, automotive products, sunscreen and catalysts. In the SACU, paint manufacturers are some of the biggest users of titanium dioxide.
- 2.6. According to information at the Commission's disposal, information at the Commission's disposal shows that titanium dioxide is used in a range of industrial and consumer products, including paints, coatings, adhesives, paper, plastics and rubber, printing inks, coated fabrics and textiles, as well as ceramics, floor coverings, roofing materials, cosmetics, toothpaste, soap, water treatment agents, pharmaceuticals, food colourants, automotive products, sunscreen and catalysts. In the SACU region, paint manufacturers are some of the biggest users of titanium dioxide.
- 2.7. The Applicant explained that white masterbatch is used for adding opacity or whiteness into plastic products. White masterbatch is then used as an intermediate input in the

plastics industry. The position of the subject product in the value chain is depicted in Figure 1 below:

Figure 1: Industry value chain



Source: Adapted from Applicant

- 2.8. According to information at the Commission’s disposal, there is currently no local manufacturer of titanium dioxide in the SACU. The last known local manufacturer, Huntsman Pigment and Additives (Pty) Ltd (“Huntsman”) closed down its manufacturing plant situated in Umbongintwini at the end of 2016.
- 2.9. Current information at the Commission’s disposal indicates that Nyanza Light Metals (“Nyanza”), a privately owned South African company, with South African Government direct investment and support through various incentives, is constructing a R4.5 billion titanium beneficiation plant in the Richards Bay Industrial Development Zone (“RBIDZ”). The plant will beneficiate the country’s abundant titanium ore deposits to produce 80,000 tonnes per annum (tpa) of titanium dioxide pigment, which is widely used in the manufacturing of industrial coatings, paints, cosmetics, paper, plastics (masterbatch application) and other food ingredients.
- 2.10. In Nyanza’s comment submission to the Commission, the potential producer highlighted the following benefits that its R4.5 billion (bn) investment, will have on South Africa’s economy:
- 1,200 jobs during construction;

- 550 permanent and skilled jobs during operations;
- Reduction of imports of titanium dioxide pigments in excess of R1,5bn a year;
- Export revenues in excess of R2,5 bn earned in foreign currency;
- Increase in value addition industries whereas previously primary raw minerals were exported;
- Expansion and unlocking of the downstream titanium related chemicals and metals production industries that will produce titanium carbide, titanium nano materials and powders, titanium tetra chloride amongst others;
- Growth and development of the RBIDZ, with Nyanza as the anchor tenant; and
- Provision of alternative employment for the workers currently being retrenched in Richards Bay.

2.11. During the period between June - August 2022, the Commission considered the amendment of the proposed rebate facility for titanium dioxide with particular consideration given to limit the validity period of the proposed rebate facility concerned to 2 years (24 months).

2.12. In terms of ITAC's legislative framework and the Promotion of Administrative Justice Act's (PAJA) requirements, ITAC provided notice to interested stakeholders of the Commission's intention to consider the creation of a rebate facility for titanium dioxide used for the manufacture of white masterbatch for a limited period of 24 months. The Notice was published in Government Gazette No. 46581, Notice 1098 of 2022 on 22 June 2022 for a period of two (2) weeks, for interested stakeholders to submit comments.

2.13. During the publication period of 2022, Nyanza indicated that, in terms of its progress on the project, the project is on track. According to Nyanza, construction of the Product Testing and Development Centre, which is Phase 1 of the project, has been completed. Nyanza expects to start construction on the main plant in Quarter 2 of 2023 and is aiming for production to commence in Quarter 1 of 2025.

2.14. Cost and price information at the Commission's disposal shows that titanium dioxide as a primary input in the manufacture of white masterbatch, constitutes a significant

proportion to the total cost of production. In addition, the customs duty applicable for the import of titanium dioxide is shown to also to compound the cost of titanium dioxide to the total cost of production. This is indicative of the potential cost rising impact the cost of importing titanium dioxide will have on the manufacture of white masterbatch, particularly as the Applicant sources more of its titanium dioxide import requirements from countries, where duties apply to titanium dioxide products.

2.15. During the 2021 investigation period, comments in support of the application were received from, *inter alia*, Polyoak Packaging (Pty) Ltd, Usabco Industries (Pty) Ltd and Nyanza. It should be noted that Nyanza submitted its support for the application based on the condition that the rebate facility is temporary and will be removed once Nyanza commences with production. Nyanza indicated that construction of the plant is under way in Richards Bay with the then expected production from 2023/24.

2.16. Comments were received in response to the publication pertaining to considering limiting the timeframe of the proposed rebate facility for titanium dioxide used for the manufacture of white masterbatch. Overall, interested stakeholders acknowledged the importance of the Nyanza project, however, highlighted issues relating to, *inter alia*, sufficient commercial quantities being available to meet total SACU demand and concerns regarding the titanium dioxide product performance.

3. FINDINGS

3.1. The Commission found that:

- According to current information at the Commission's disposal, there is no local manufacturer of titanium dioxide in the Southern African Customs Union (SACU). However, Nyanza Light Metals ("Nyanza"), a local company, has undertaken to produce titanium dioxide domestically, although its progress is still in progress with Phase one of the project, which is in the construction of the Product Testing and Development Centre, having just been completed. Nyanza expects to start construction of the main plant in Quarter 2 of 2023 and is aiming for commercial production to commence in Quarter 1 of 2025.

- Updated information at the Commission’s disposal shows that whilst Nyanza has completed Phase 1 of its project, the projected date for commencement of production has changed to Quarter 1 of 2025 when compared to the date provided at the time of the Commission’s initial consideration, which was 2024.
- Titanium dioxide constitutes a significant portion of the Applicant’s total cost of production, which is indicative of the potential cost rising impact the cost of importing titanium dioxide will have on the manufacture of white masterbatch, once the Applicant begins to source more of its titanium dioxide import requirements from countries where duties apply to titanium dioxide products.
- Amongst other comments considered during the investigation, three (3) industry comments received were in support of the application. Nyanza Light Metals (“Nyanza”) submitted its support for the application based on the condition that the rebate facility is temporary and will be removed once Nyanza commences with production.
- It is envisaged that should the rebate facility concerned be created it will be made subject to an ITAC permit with specific Guidelines, Rules and Conditions as this will enable the Commission to monitor the use of the rebate item concerned for the 30-month period it before the Nyanza plant will be operational.

3.2. On balance and in light of the above considerations, the Commission decided to recommend that a rebate facility be created for a limited period of 30 months, to enable the domestic paint manufacturing industry to eliminate unnecessary cost rising pressures and increase production of white masterbatch.

3.3. Additionally, by making the rebate subject to an ITAC permit with specific Guidelines, Rules and Conditions, the Commission will be in a position to monitor the use of the rebate item concerned for the 30-month period, before the Nyanza plant becomes operational.

4. RECOMMENDATION

- 4.1. In the light of the foregoing, the Commission recommended the creation of a rebate facility on titanium dioxide classifiable under tariff subheading 3206.11, for use in the manufacture of white masterbatch, classifiable under tariff subheading 3206.19.90, in such quantities, at such times and subject to conditions as the International Trade Administration Commission may allow by specific permit provided the product is not available in the SACU market.
- 4.2. The Commission further recommended limiting the validity period of the rebate facility to 30 months from the date of implementation. The reason for the limitation is to avoid uncertainty that a rebate provision subject to a review might have on the Nyanza project which may, amongst others, assist Nyanza with accessing funding and/or attracting investment, while taking into consideration Nyanza's confirmation that it is aiming to commence production in Quarter 1 of 2025.