

# **Report No. 729**

**INVESTIGATION INTO THE ALLEGED DUMPING OF ACTIVE YEASTS (BAKER'S  
COMPRESSED YEAST) ORIGINATING IN OR IMPORTED FROM THE REPUBLIC OF  
ZIMBABWE: PRELIMINARY DETERMINATION**

The International Trade Administration Commission of South Africa herewith presents its Report No.729: **INVESTIGATION INTO THE ALLEGED DUMPING OF ACTIVE YEASTS (BAKER'S COMPRESSED YEAST) ORIGINATING IN OR IMPORTED FROM THE REPUBLIC OF ZIMBABWE: PRELIMINARY DETERMINATION**



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**MR AYABONGA CAWE**  
**CHIEF COMMISSIONER**

**PRETORIA**

29 / 04 / 2024

## INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF SOUTH AFRICA

### INVESTIGATION INTO THE ALLEGED DUMPING OF ACTIVE YEASTS (BAKER'S COMPRESSED YEAST) ORIGINATING IN OR IMPORTED FROM THE REPUBLIC OF ZIMBABWE: PRELIMINARY DETERMINATION

#### SYNOPSIS

On 18 August 2023, the International Trade Administration Commission of South Africa (“the Commission”) initiated an investigation into the alleged dumping of active yeasts (baker’s compressed yeast) originating in or imported from the Republic of Zimbabwe (Zimbabwe) through Notice No. 1983 of 2023, which was published in *Government Gazette* No. 49140.

The application was lodged by Rymco (Pty) Ltd, trading as Anchor Yeast, the only producer of the subject product in the Southern African Custom Union (SACU).

The investigation was initiated after the Commission considered that there was *prima facie* evidence to show that the subject product was being imported into SACU at dumped prices, causing material injury and threatening to cause material injury to the SACU industry.

Upon initiation of the investigation, the diplomatic representatives and all known foreign producers/exporters of the subject product in Zimbabwe were sent a non-confidential copy of the application, initiation notice and foreign manufacturer’s/exporter’s questionnaires to complete. Importers of the subject product in the SACU were also sent a non-confidential copy of the application, initiation notice and the importer’s questionnaires to complete.

Questionnaire responses and comments were received from one foreign producer/exporter in Zimbabwe and its related importer in South Africa.

After considering all the responses and comments received from interested parties, the Commission made a preliminary determination that the subject product originating in or imported from Zimbabwe was being imported into the SACU market at dumped prices, thereby causing material injury and threat of material injury to the SACU industry.

The Commission further decided to request the Commissioner of the South African Revenue Service (SARS) to impose provisional payments for a period of six months in order to protect the domestic industry while the investigation continues.

## 1. APPLICATION AND PROCEDURE

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### 1.1 LEGAL FRAMEWORK

This investigation is conducted in accordance with the International Trade Administration Act, No.71 of 2002 (“ITA Act”) and the International Trade Administration Commission of South Africa Anti-Dumping Regulations (“ADR”) and giving due regard to the World Trade Organisation (“WTO”) Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade, 1994 (“the Anti-Dumping Agreement”).

### 1.2 APPLICANT

The application was lodged by Rymco (Pty) Ltd, trading as Anchor Yeast, the only producer of the subject product in the Southern African Custom Union (SACU).

### 1.3 DATE OF ACCEPTANCE OF APPLICATION

The application was accepted by the Commission as being properly documented in accordance with ADR 21 on 08 August 2023. The trade representatives of the Republic of Zimbabwe were advised accordingly.

### 1.4 ALLEGATIONS BY THE APPLICANT

The information gathered by the Commission indicated that imports of the subject product originating in or imported from Zimbabwe were being dumped into the SACU market, thereby causing material injury and threat of material injury to the SACU industry. The basis for the alleged dumping is that the subject product is exported to SACU at prices lower than the normal values in the country of origin.

The information at the Commission’s disposal indicated that, as a result of dumping of the subject product from Zimbabwe, the SACU industry is suffering material injury in the form of:

- Price undercutting;
- Price suppression;
- Declining sales volume;

- Impact on market share;
- Declining in profitability;
- Decline in output;
- Decline in employment;
- Decrease in return on investment;
- Decline in capacity utilisation;
- Decline in cash flow;
- Increase in inventory levels; and
- Decline in growth.

## **1.5 INVESTIGATION PROCESS**

The application was first received by the Commission on 17 October 2022. The material injury information submitted by the Applicant was verified on 25 and 26 May 2023.

The trade representatives of Zimbabwe were notified, in terms of Regulation 27.1 of the ADR that the Commission received a properly documented application.

The Commission initiated an investigation into the alleged dumping of the subject product originating in or imported from the Republic of Zimbabwe through Notice Number 1983 of 2023, which was published in the Government Gazette No. 49140 on 18 August 2023.

On 21 August 2023, after initiation, all known interested parties were informed and requested to respond to the relevant questionnaires and the non-confidential version of the application.

## **1.6 INVESTIGATION PERIODS**

The investigation period for dumping is 01 January 2022 to 31 December 2022. The investigation period for material injury is 01 January 2020 to 31 December 2022.

## **1.7 PARTIES CONCERNED**

### **1.7.1 SACU industry**

The SACU industry consists of Rymco (Pty) Ltd, trading as Anchor Yeast, the only producer of the subject product in the SACU.

### **1.7.2 Manufacturers/Exporters**

Responses to the Commission's exporter questionnaire was received from Lesaffre Zimbabwe (Pvt) Ltd ("Lesaffre"). Lesaffre requested an extension of the Commission's due date for submission of its exporter response, and an extension of 14 days was granted.

Initial responses from Lesaffre were found to be deficient. Lesaffre was advised accordingly and was given seven days to rectify the identified deficiencies. On 30 October 2023, a response addressing the deficiencies was received from Lesaffre. Lesaffre's information was verified from 08 to 10 January 2024. The Commission took the information submitted by Lesaffre into account for purposes of its preliminary determination.

### **1.7.3 SACU Importers**

Responses to the Commission's importer questionnaire were received from Aries Bakery Supplies (Pty) Ltd ("Aries"). Aries requested an extension of the Commission's due date for submission of its response, and an extension of 14 days was granted. The response submitted by Aries was found to be deficient. Aries was advised accordingly and was given seven days to rectify the identified deficiencies. On 30 October 2023, a response addressing deficiencies was received from Aries. The Commission took the information submitted by Aries into account for purposes of its preliminary determination.

## **1.8 COMMENTS FROM INTERESTED PARTIES**

Comments were received from Lesaffre, Aries and the Applicant. All the comments received were considered by the Commission for purposes of its preliminary determination. The salient and pivotal comments are summarised and reported in relevant sections of this report.

All submissions made by interested parties are contained in the Commission's public file for this investigation and are available for perusal. 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 consideration of these comments is specifically included in this report.

**Comments by Aries and Lesaffre ("interested parties")**

- a) Interested parties stated that the Applicant has not summarised information which it claims to be confidential and incapable of summarisation. Interested parties further stated that the reasons which the Applicant provided in an affidavit for not providing a non-confidential summary were a repeat of the provisions of Section 33 of the ITA Act and ADR 2 and do not provide proper justification for the failure to provide a non-confidential summary of the information claimed to be confidential.
- b) Interested parties stated that they request the agreement between the Applicant and Chipkins Puratos, or at the very least, a non-confidential summary of the essential terms of those agreements to enable it to respond to the case against it.
- c) Interested parties stated that according to the Applicant, the subject product is BCY "that is a form of fresh active yeast", the only yeast manufactured in Zimbabwe and exported to SACU. Interested parties stated that the market under investigation is a submarket of the active yeast market for the baking industry available commercially such as liquid yeast, BCY, and dry yeast (collectively, referred to as "active yeast").
- d) Interested parties stated that all three commercial forms of active yeast are substitutable for and can be used interchangeably by industrial and semi-industrial bakeries who are the major customers of the Applicant. Interested parties further stated that this substitutability has become apparent in the last 10 years when most of the industrial and semi-industrial bakeries have shifted from



BCY to liquid yeast. Interested parties stated that the market has also evolved, which has further affected the substitutability of these commercial yeast forms.

- e) The Applicant has been accused of dividing the SACU BCY market into two submarkets: the contract market, which includes Chipkins Puratos (“Chipkins”), and the open market, which includes all other customers in the SACU BCY market. The Applicant's actions are alleged to increase the injury suffered by the Applicant in the open market by excluding the price effects of sales to Chipkins, particularly from price suppression, depression, and undercutting. The exclusion of sales to Chipkins also removes Chipkins as a cause of the injury suffered by the Applicant.

Interested parties argued that the exclusion of one customer accounting for approximately 40% of the production by the domestic industry of BCY over the injury investigation period, from an analysis of injury, including price undercutting, price depression, and price suppression, is even more clearly a contravention of the WTO Anti-Dumping Agreement.

#### **Comments by the Applicant**

- a) The Applicant stated that its confidentiality claims are justified and the confidentiality affidavit does contain proper justification for confidentiality to be upheld.
- b) The Applicant stated that confidentiality was rightfully claimed regarding the agreements that Anchor Yeast has with third parties, the nature of which are intellectual property rights, technical assistance, contract manufacturing and other agreements. The Applicant further stated that parties are not entitled access to any of the agreements or the essential terms thereof, which Anchor Yeast has with third parties.
- c) The Applicant indicated that the focus of the application is on the BCY market within SACU, where there is a direct competitive position between Anchor Yeast and the dumped BCY imported from Lesaffre and distributed by Aries.

The Applicant reiterates that Zimbabwe produces BCY, the only fresh active yeast from Zimbabwe, which is exported to the SACU market.

- d) The Applicant confirms that liquid yeast, BCY, and dry yeast are used in SACU baking, but dry active yeast is not used industrially, preferring fresh yeast. BCY is primarily utilized in industrial baking processes in SACU due to its fast-acting characteristics, resulting in consistent bread quality, aroma, and flavour. The Applicant argues that replacing BCY with dry active yeast is not economically or operationally viable for commercial bakery operations.
  
- e) The Applicant argues that the dumped imports of the subject product do not affect the Anchor Yeast's selling prices of the BCY to Chipkins, as there is no direct competition between the two companies. The Applicant produces and sells the BCY to Chipkins in terms of a contract production agreement, and the subject product is also produced and sold by Anchor Yeast in an open SACU market where the dumped Lesaffre product, the Chipkins product, and the Anchor Yeast product directly compete for customers.

The Applicant argues that presenting the information separately does not amount to a determination of injury on the basis of a 'market segment' as alleged by the parties. The relationship with Chipkins is one of contract manufacturing, and the ex-factory price at which it sold the subject product on contract to Chipkins in SACU and the BCY ex-factory price at which it sold the subject product to other clients in SACU cannot be compared.

The Applicant reiterates that the subject product it sells to Chipkins, which also competes with the Anchor Yeast in the open SACU BCY consumer market, does not undercut the Anchor Yeast prices and thus cannot be the cause of or contribute to the material injury suffered by Anchor Yeast. The harmful impact of the Zimbabwean subject product on Chipkins bears a threat to Anchor Yeast in the future, through reduced uptake of the subject product produced for Chipkins and future of Chipkins purchasing from Anchor Yeast.

**Commission's consideration**

- a) *The Commission considered that the Applicant has complied with the confidentiality requirements in the ADR.*
- b) *The Commission considered that the contract between the Applicant and Chipkins is confidential by nature and a non-confidential summary which would enable interested parties to comment meaningfully on it cannot be produced.*
- c) *The Commission made a determination to initiate the investigation on the subject product, which is BCY, and is the only type of yeast produced in Zimbabwe for export into the SACU market.*
- d) *The comments relating to substitutability are noted, however the Commission considered that these do not affect the current matter as the like product from Zimbabwe is only BCY, and no other product. If there were other types of yeasts imported from Zimbabwe, the issue of ignoring those other yeasts would arise, had the Commission done so. In this instance, there are no such yeast exports from Zimbabwe. The Commission furthermore, considered the fact that the exporter during verification when asked if it is able to export liquid yeast, clearly stated there is no way that it would export liquid yeast into SACU, and can only export BCY.*
- e) *In calculating price effect, the Commission included Chipkins' information which had been excluded by the Applicant for analysis of price effects and its injury determination. The Commission agrees with interested parties that had it ignored such information it would have been inconsistent with the ADR and WTO rules, thus there was no such omission by the Commission.*

**Comments by the Applicant**

- a) "Certification and Sworn Statement"

The Commissioner of Oaths who 'attested' to the Aries director's affidavit, indicates the same physical and postal addresses as Aries. This implies that the Commissioner of Oaths, likely contravened the Act and Regulations governing the Administering of an Oath or Affirmation by conducting prohibited acts.

- b) The Applicant stated that, when viewing the public file, linked access was obtained to the non-confidential version of the importer's questionnaire response submitted by Aries. The date on which it was submitted is not indicated, but the certification date of signing is 30 October 2023 ("Aries Response").
- c) Reference is made in paragraph C1.1 (of the importer's questionnaire) to separate correspondence submitted on behalf of Aries, containing Aries's comments on the application, from which it is not clear what is being referred to and request the Commission to make it available to the Applicant.

### **Comments by Aries**

- a) Aries stated that Regulation 7(2) read with item 2 of the Schedule to the Regulations, provides that a commissioner who is not an attorney and whose interest arises out of his employment and in the course of his duties is not prohibited from administering an oath or affirmation if he has an interest to which the oath or affirmation relates as provided in 7(1) of the Regulations.

### **Commission's consideration**

- a) *The Commission established that ADR 7(2) provides that this provision does not apply to an affidavit or declaration set out in the Schedule to the Regulations. The Schedule provides in paragraph 2 that – A declaration taken by a commissioner of oaths who is not an attorney and whose only interest therein arises out of his employment and in the course of his duty. The Commission considered that this exception would apply as the interest of the CA would arise from his or her employment and in the course of his or her duty. Therefore, the Commission accepted the Aries response as adequate.*
- b) *The Commission confirms that the responses from Aries and Lesaffre were both received on 30 October 2023, which can be confirmed on the hard copies and an acknowledgement of receipt email which was sent on the same date.*
- c) *The Commission reassures that Applicant that the reference in paragraph C.1.1 is the comments to the application, which was submitted to the Commission in a separate correspondence and sent in the link sent to the Applicant.*

## 1.9 PRELIMINARY DETERMINATION

After considering all submissions, responses and comments, the Commission at its meeting of 05 March 2024 and its round robin meeting from 26 March to 05 April 2024 made a preliminary determination that:

- dumping of the subject product originating in or imported from the Republic of Zimbabwe is taking place;
- there is material injury and threat of material injury to the SACU industry; and
- there is causal link between the alleged dumped imports and the material injury and threat of material injury experienced by the SACU industry.

The Commission also considered that the SACU industry would continue to experience material injury during the course of the investigation if provisional measures were not imposed. Therefore, the Commission decided to request the Commissioner for the South African Revenue Service (SARS) to impose provisional measures of 132.20% *ad valorem* on imports of the subject product, classifiable under tariff subheading 2102.10 originating in or imported from the Republic of Zimbabwe, for a period of six months.

Comments submitted by interested parties (within the specified time period) on the preliminary determination will be considered by the Commission prior to making its final determination and recommendation to the Minister of Trade, Industry and Competition (“the Minister”).

## 2. PRODUCTS, TARIFF CLASSIFICATION AND DUTIES

### 2.1 IMPORTED PRODUCTS

#### 2.1.1 Description

The Applicant described the imported product to be a type of Active Yeast, commonly known as fresh yeast of Baker's compressed yeast ("BCY").

#### 2.1.2 Country of origin/export

The subject product originates in or imported from Zimbabwe.

#### 2.1.3 Possible tariff loopholes

The Applicant indicated that it is not aware of any possible tariff loopholes.

#### 2.1.4 Tariff Classification

The subject product is classifiable under the following tariff subheading:

Table 2.1.4: Tariff classification

| Heading / Subheading | Description   | Unit | General | EU/UK | EFTA | SADC | MERCOSUR | AfCFTA |
|----------------------|---|------|---------|-------|------|------|----------|--------|
| 21.02                | Yeast (active or inactive); other single -cell micro-organisms, dead (but not including vaccines of heading 30.02); prepared baking powder: |      |         |       |      |      |          |        |
| 2102.10              | Active yeasts   | Kg   | 15%     | free  | Free | free | 15%      | 12%    |

Source: SARS

#### 2.1.5 Other applicable duties and rebates

The Applicant stated that there are currently no other applicable duties and rebates on active yeast.

#### 2.1.6 Negligibility test

The Commission considers the volume of imports to be negligible if alleged dumped imports account for less than 3 percent of total imports of the subject product during the period of investigation for dumping. The following table shows the alleged dumped imports as a percentage of the total imports:



**Table 2.1.6: Negligibility test**

| <b>Import volumes in kg</b>  | <b>Import volumes 01 January 2022 – 31 December 2022</b> | <b>Volume as a % of total imports</b> |
|------------------------------|--|---------------------------------------|
| Alleged dumped imports (BCY) | 635 250  | 100%                                  |
| *Other imports               | 0  | 0%                                    |
| <b>Total imports</b>         | <b>635 250</b>   | <b>100%</b>                           |

\*Excluding other imports regarded as not to be the subject product

The table above indicates that imports of the subject product from Zimbabwe are above 3 percent as a percentage of total imports. The Commission made a preliminary determination that the volumes of imports from Zimbabwe are above the negligibility level in terms of ADR 16.2.

### **Comments by the Applicant**

The Applicant stated that all active yeasts that were exported from other countries (excluding Zimbabwe) to SACU, will be dry yeast that is also commonly referred to as imported dry yeast (“IDY” or “DAY”). The Applicant further stated that from its market intelligence that is based on the ongoing monitoring of the trade activities in the SACU market, the only form of fresh yeast that was found that did not originate within SACU, was the BCY that originates from Zimbabwe. In addition, based on its market intelligence, the forms of IDY (DAY), other than the Anchor Yeast product, that were found in the SACU market that did not originate within SACU and did not originate within Zimbabwe, were imported from other countries.

The Applicant stated that as per the SARS data, the imports from Zimbabwe would pertain to BCY only and the imports from other countries would be for IDY and not include BCY. Accordingly, there is no dumped subject product from other countries.

### **Comments by interested parties**

Interested parties in the SACU market have expressed concerns about the injury suffered by the Applicant, who has a lion’s share of the SACU BCY market. They argue that this application is an attempt to drive out Lesaffre, the exporter of the subject product, and its importer, Aries, from the SACU BCY submarket to

establish itself as the sole producer and supplier of BCY. The parties also stated that their share of the SACU active yeast market is 1.4%, a slightly higher percentage of the SACU active yeast baking market, and 5.47% of the SACU BCY market. They also noted that the proportion of BCY originating from Zimbabwe relative to the SACU market during the injury investigation period is extremely small, with a small proportion of BCY from Zimbabwe being assessed. Therefore, the injury allegedly suffered by the Applicant is not attributable to Zimbabwean yeast imports.

***Commission's consideration***

*The Commission considered that the investigation is for BCY. The market share of the subject product from Zimbabwe is above the negligibility level set out in ADR16.2.*

The Commission made a preliminary determination that the volume of imports from Zimbabwe are above the negligibility level in terms of ADR16.2 as they are above 3 percent.

**2.1.7 Raw Material used**

The Applicant stated that the main raw materials are molasses, phosphoric acid, ammonia, starch and water.

**2.1.8 Production process**

The Applicant described the production process of the subject product as follows:

**a) Conservation**

The production process starts in a laboratory where the different strains of yeasts are conserved and stored at an extremely low temperature in what is called a strain bank.



**b) Multiplication**

The multiplication process commences with an initial liquid culture that is prepared within a tube and few milligrams of yeast are then transferred to culture medium, which is thereafter placed in an incubator at a temperature, allowing for the yeast cells to develop.

**c) Pre-Fermentation**

From the laboratory, the yeast cells are then transferred to a larger environment where the cells are placed in a series of tanks that are increasing in size where pre-fermentation takes place, in order for the yeast cell biomass (the quantity of cells that are produced) to reach a sufficient quantity of yeast.

**d) Fermentation**

A fermenter (e.g., molasses, nutrients and water) is then “pitched” to obtain the first-generation yeast. The yeast then develops into commercially generation volume of several tons within a few days.

**e) Centrifugal separator**

The yeast is then separated from the culture medium, which enables the cells to multiply using a centrifugal separator.

**f) Cooling process**

The process produces a cream that is then cooled and stored in chilled conditions at around 4°C to ensure the yeast cells are inactive. At this stage the cream yeast can be processed to be sold as a liquid yeast by preparing just the cream yeast that could be sold in refrigerated bags, in containers as big as 1m<sup>3</sup> or in tank containers.

**g) Vacuum filter**

By passing the cream yeast through a rotary/vacuum filter fresh or compressed yeast is produced. The filter sucks away the liquid, making it possible to obtain a fine layer of yeast, which is then processed in a mixer that compresses the yeasts. The compressed fresh yeast is then cut into cubes and packed.

**2.1.9 The products' technical characteristics and appearance**

The Applicant stated that Fresh yeast is a slurry of yeast and water formed into a crumbly in a semi-solid crumbly in a semi-solid consistency in block form, with a creamy coloured appearance. Active dry yeast is approximately 0.2 to 3 millimetres in diameter and spherical. Instant yeast is porous and cylindrical. It is about 0.5 millimetres in diameter and a few millimetres long. Yeast can vary in colour from dark brown to almost white.

**Baker's Compressed Yeast/ Fresh Yeast**



**2.1.10 Application or end use**

The Applicant stated that active yeasts are used in food and beverage preparation for human and animal consumption.

### **2.1.11 Substitutability**

The Applicant stated that there are no differences between the imported subject product and the SACU like product. The Applicant believes that they are identical in all aspects. The SACU subject product is fully substitutable with the product imported from Zimbabwe.

## **2.2 SACU PRODUCT**

### **2.2.1 Description**

The Applicant describes the SACU like product as Active Yeast, commonly known as fresh yeast or Baker's compressed yeast ("BCY").

### **2.2.2 Raw Material used**

The Applicant stated that the main raw materials are molasses, phosphoric acid, ammonia, starch and water.

### **2.2.3 Production process**

The Applicant described the production process of the subject product as follows:

#### **a) Conservation**

The production process starts in a laboratory where the different strains of yeasts are conserved and stored at an extremely low temperature in what is called a strain bank.

#### **b) Multiplication**

The multiplication process commences with an initial liquid culture that is prepared within a tube and few milligrams of yeast are then transferred to culture medium, which is thereafter placed in an incubator at a temperature, allowing for the yeast cells to develop.

**c) Pre-Fermentation**

From the laboratory the yeast cells are then transferred to a larger environment where the cells are placed in a series of tanks that are increasing in size where pre-fermentation takes place, in order for the yeast cell biomass (the quantity of cells that are produced) to reach a sufficient quantity of yeast.

**d) Fermentation**

A fermenter (e.g., molasses, nutrients and water) is then “pitched” to obtain the first-generation yeast. The yeast then develops into commercially generation volume of several tons within few days.

**e) Centrifugal separator**

The yeast is then separated from the culture medium, which enables the cells to multiply using a centrifugal separator.

**f) Cooling process**

The process produces a cream that is then cooled and stored in chilled conditions at around 4°C to ensure the yeast cells are inactive. At this stage the cream yeast can be processed to be sold as a liquid yeast by preparing just the cream yeast that could be sold in refrigerated bags, in containers as big as 1m<sup>3</sup> or in tank containers.

**g) Vacuum filter**

By passing the cream yeast through a rotary/vacuum filter fresh or compressed yeast is produced. The filter sucks away the liquid, making it possible to obtain a fine layer of yeast, which is then processed in a mixer that compresses the yeasts. The compressed fresh yeast is then cut into cubes and packed.

**2.2.4 The products’ technical characteristics and appearance**

Fresh yeast is a slurry of yeast and water formed into a crumbly in a semi-solid consistency in block form, with a creamy coloured appearance. Active dry yeast is approximately 0.2 to 3 millimetres in diameter and spherical. Instant yeast is

porous and cylindrical. It is about 0.5 millimetres in diameter and a few millimetres long. Yeast can vary in colour from dark brown to almost white.

### **Baker's Compressed Yeast/Fresh yeast**



#### **2.2.5 Application or end use**

The Applicant stated that active yeasts are used in food and beverage preparation for human and animal consumption.

#### **2.2.6 Substitutability**

There are no differences between the imported subject product and the SACU like product. The Applicant believes that they are identical in all aspects. The SACU subject product is fully substitutable with the product imported from Zimbabwe.

### **2.3 LIKE PRODUCTS ANALYSIS**

In determining the likeness of products, the Commission uses the following criteria:

**Table 2.3: Like product determination**

|  | <b>Imported product</b>  | <b>SACU product</b>  |
|--|--|--|
| <b>Raw materials</b>                           | Molasses, phosphoric acid, ammonia, starch, water, vitamins, urea, antifoam and electricity.   | Molasses, phosphoric acid, ammonia, starch, water, and electricity.  |
| <b>Physical characteristics and appearance</b> | Fresh yeast is a slurry of yeast and water formed into a crumbly a semi hard constancy in block form, with a creamy coloured appearance. Active dry yeast is approximately 0.2 to 3 millimetres in diameter and spherical. Instant yeast is porous and cylindrical. It is about 0.5 millimetres in diameter and a few millimetres long. Yeast can vary in colour from dark brown to almost white.  | Fresh yeast is a slurry of yeast and water formed into a crumbly a semi hard constancy in block form, with a creamy coloured appearance. Active dry yeast is approximately 0.2 to 3 millimetres in diameter and spherical. Instant yeast is porous and cylindrical. It is about 0.5 millimetres in diameter and a few millimetres long. Yeast can vary in colour from dark brown to almost white.  |
| <b>Tariff classification</b>                   | 2102.10  | 2102.10  |
| <b>Production process</b>                      | <p>a) Conservation - The production process starts in a laboratory where the different strains of yeasts are conserved and stored at an extremely low temperature in what is called a strain bank.</p> <p>b) Multiplication - The multiplication process commences with an initial liquid culture that is prepared within a tube and few milligrams of yeast are then transferred to culture medium, which is thereafter placed in an incubator at a temperature, allowing for the yeast cells to develop.</p> <p>c) Pre-Fermentation - From the laboratory the yeast cells are then transferred to a larger</p> | <p>a) Conservation - The production process starts in a laboratory where the different strains of yeasts are conserved and stored at an extremely low temperature in what is called a strain bank.</p> <p>b) Multiplication - The multiplication process commences with an initial liquid culture that is prepared within a tube and few milligrams of yeast are then transferred to culture medium, which is thereafter placed in an incubator at a temperature, allowing for the yeast cells to develop.</p> <p>c) Pre-Fermentation - From the laboratory the yeast cells are then transferred to a larger</p> |

|  | <b>Imported product</b>  | <b>SACU product</b>  |
|--|--|--|
|  | <p>environment where the cells are placed in a series of tanks that are increasing in size where pre-fermentation takes place, in order for the yeast cell biomass (the quantity of cells that are produced) to reach a sufficient quantity of yeast.</p> <p>d) Fermentation - A fermenter (e.g., molasses, nutrients, and water) is then "pitched" to obtain the first-generation yeast. The yeast then develops into commercially generation volume of several tons within few days.</p> <p>e) Centrifugal separator - The yeast is then separated from the culture medium, which enables the cells to multiply using a centrifugal separator.</p> <p>f) Cooling process - The process produces a cream that is then cooled and stored in chilled conditions at around 4°C to ensure the yeast cells are inactive. At this stage the cream yeast can be processed to be sold as a liquid yeast by preparing just the cream yeast that could be sold in refrigerated bags, in containers as big as 1m<sup>3</sup> or in tank containers.</p> <p>g) Vacuum filter - By passing the cream yeast through a rotary/vacuum filter fresh or compressed yeast is produced.</p> | <p>environment where the cells are placed in a series of tanks that are increasing in size where pre-fermentation takes place, in order for the yeast cell biomass (the quantity of cells that are produced) to reach a sufficient quantity of yeast.</p> <p>d) Fermentation - A fermenter (e.g., molasses, nutrients, and water) is then "pitched" to obtain the first-generation yeast. The yeast then develops into commercially generation volume of several tons within few days.</p> <p>e) Centrifugal separator - The yeast is then separated from the culture medium, which enables the cells to multiply using a centrifugal separator.</p> <p>f) Cooling process - The process produces a cream that is then cooled and stored in chilled conditions at around 4°C to ensure the yeast cells are inactive. At this stage the cream yeast can be processed to be sold as a liquid yeast by preparing just the cream yeast that could be sold in refrigerated bags, in containers as big as 1m<sup>3</sup> or in tank containers.</p> <p>g) Vacuum filter - By passing the cream yeast through a rotary/vacuum filter fresh or compressed yeast is produced.</p> |



|                               | <b>Imported product</b>  | <b>SACU product</b>  |
|-------------------------------|--|--|
|                               | The filter sucks away the liquid, making it possible to obtain a fine layer of yeast, which is then processed in a mixer that compresses the yeasts. The compressed fresh yeast is then cut into cubes and packed. | The filter sucks away the liquid, making it possible to obtain a fine layer of yeast, which is then processed in a mixer that compresses the yeasts. The compressed fresh yeast is then cut into cubes and packed. |
| <b>Application or end use</b> | The Zimbabwe imported products are used in food and beverage preparation for human and animal consumption.   | The SACU products are used in food and beverage preparation for human and animal consumption.  |
| <b>Substitutability</b>       | The SACU products are fully substitutable with the imported product.   | The SACU subject product is fully substitutable with the product imported from Zimbabwe.   |

The Commission made a preliminary determination that the SACU product and the imported product are “like products”, for purposes of comparison, in terms of the definition of “like product” in ADR 1.



### 3. INDUSTRY STANDING

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The application was lodged by Rymco (Pty) Ltd, trading as Anchor Yeast, the only producer of the subject product and constitute 100% of the domestic production of the subject product in the SACU.

The Commission made a preliminary determination that the application can be regarded as being made by or on behalf of the SACU industry in terms of ADR 7.2.

## 4. DUMPING

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The margin of dumping is calculated by subtracting the export price from the normal value of the product (after all the adjustments have been made). In terms of ADR 12.3, the margin of dumping shall be regarded as *de minimis* if it is less than two percent when expressed as a percentage of the export price.

There was one exporter that responded to the investigation. The individual and residual dumping information is based on the information of the verified exporter with regard to the normal value. It was found that Lesaffre produced and sold the subject product to different type of customers in Zimbabwe. It was also found that sales to SACU were made to a related company, Aries Baking supplies.

### 4.1 METHODOLOGY USED FOR LESAFFRE

#### 4.1.1 Normal Value

The normal value is based on domestic sales. It was found that domestic sales volume constituted more than 5 percent of export sales volumes sold to the SACU market, and therefore are of sufficient volumes to determine a normal value, in accordance with ADR 8.3.

It was found that sales that were below cost, constituted less than 5 percent of the total domestic sales volume. Therefore, such sales are negligible and are included in the calculation of the normal value.

Lesaffre claimed the following adjustments to the normal value:

#### a) Cost of payment terms

It was explained that the payment terms are determined on a case by case basis, are currency driven and depend on the relationship with the customers and historical payments. It was found that Lesaffre allowed some of its domestic customers to make payments within a specific period of days from the date of invoice at a certain interest rate percentage. It was also found that the payment terms were not reflected or shown in the invoice however it is recorded in the account statement which is issued after sales took place.

**Commission's consideration**

*In making its preliminary determination, the Commission considered that the terms and conditions were not indicated in the invoices and they were only indicated in the statement account which is issued to customers at a later date. Without payment terms on the invoices, it is the Commission's view that it was not demonstrated to have affected the price comparability at the time of setting prices, since it was not proved that such payment terms were agreed on at the time of setting prices even though it is said that the payment terms were known by the customer and Lesaffre at the time the sale is concluded. Therefore, the Commission made a preliminary determination not to allow this adjustment to the normal value.*

**b) Delivery charges**

It was found that Lesaffre charged delivery cost for delivery of some of the finished goods from the factory to their customers in Zimbabwe. During verification delivery charges adjustment was only reflected on the sales schedule and not on the sales invoice.

**Commission's consideration**

*The Commission considered that the adjustments for delivery was only reflected on the sales schedule and not on the sales invoice. Based on this, the Commission considered that delivery charges were not demonstrated to have affected the price comparability at the time of setting prices. Therefore, the Commission made a preliminary determination not to allow delivery charges adjustment to the normal value.*

**c) Selling, general and administrative expense; and**

It was explained that SG&A were for selling expenses which are exclusive to the domestic market. During verification the adjustments of SG&A was substantiated, verified, however it was not demonstrated to have affected the price comparability at the time of setting prices. It was found that Lesaffre has a sales manager in Zambia. However, an adjustment for SG&A was not shown on the sales schedule to third country. It was noted that SG&A is an expense which cannot be attributed to a specific market as at any point of sales there should be

personnel facilitating sales and administration either domestic or export market and that this adjustment is applicable in both domestic and export market, and it should be adjusted in both markets including for sales to the SACU market, which was not.

***Commission's consideration***

*The Commission noted that the adjustments of SG&A was substantiated, verified, however it was not demonstrated to have affected the price comparability at the time of setting prices. It was found that Lesaffre has a sales manager in Zambia. However, an adjustment for SG&A was not shown on the sales schedule to third country. The Commission considered that SG&A is an expense which cannot be attributed to a specific market as at any point of sales there should be personnel facilitating sales and administration either domestic or export market and that this adjustment is applicable in both domestic and export market, and it should be adjusted in both markets including for sales to the SACU market, which was not. Therefore, the Commission made a preliminary determination not to allow this adjustment to the normal value.*

**d) Difference in currencies**

It was explained that difference in currencies adjustment is to cover the rapid devaluation of the Zimbabwean dollar and that customers paying in Zimbabwean dollars are charged a higher price using the highest exchange rate of the day as opposed to the mid exchange. During verification, the adjustments of invoice currency difference was explained, however calculations on how it is determined was not provided, and the only substantiation document provided is the Reserve Bank of Zimbabwe Monetary Policy statement which does not give any indication on how invoice currency difference is determined. The exporter could not provide the company policy, and or procedure and standards as a substantiation on how the invoice currency is determined, how much percentage the exchange rate will be adjusted for and what percent is used to charge a higher price to the domestic customers. It was further noted that this is determined internally from time to time. This adjustment in its form also seems to be an economic policy adjustment, and that at the time of setting prices, such monetary policy effects are unknown.

**Commission's consideration**

*The Commission considered that during verification, the adjustments of invoice currency difference was explained, however calculations on how it is determined was not provided, and the only substantiation document provided is the Reserve Bank of Zimbabwe Monetary Policy statement which does not give any indication on how invoice currency difference is determined. The exporter could not provide the company policy, and or procedure and standards as a substantiation on how the invoice currency is determined, how much percentage the exchange rate will be adjusted for and what percent is used to charge a higher price to the domestic customers. The Commission further considered that this is determined internally from time to time. This adjustment in its form also seems to be an economic policy adjustment, and that at the time of setting prices, such monetary policy effects are unknown. The Commission considered that the adjustment was not demonstrated to have affected the price comparability at the time of setting prices. Therefore, the Commission made a preliminary determination not to allow this adjustment to the normal value.*

**4.1.2 Export price**

It was found that the exporter and the importer are related. ADR 10.1(b) states that export price may be constructed where the exporter or foreign producer and the importer are related. In constructing the export price, ADR 1 states that the export price may be determined on:

- (a) The basis of the selling price to the first independent buyer in the SACU less
  - i) All actual or allocated costs incurred between the exporter's ex-factory price and the first independent resale price; and
  - ii) A reasonable profit, as determined according to section 10.3 or
- (b) Any other reasonable basis.

All costs between the exporter's ex-factory price and the first independent resale price were considered.

It terms of ADR 10.3, "[t]he reasonable profit may be determined by calculating:

- b) the total cost of the importer, including all costs from the ex-factory export point of the producer/exporter; and

c) the total profit realised by both the producer/exporter and the importer, and by allocating the profit in the same ratio as the costs incurred by the two parties. The reasonable profit allocated shall not be less than zero”.

The reasonable profit for both the importer and the producer/exporter was calculated and the average reasonable profit was determined.

#### **4.1.3 Margin of dumping**

Based on the above information, the following dumping margin as a percentage of the ex-factory export price was calculated to be 144.02%

#### **4.2 Residual dumping margin**

Since there is only one producer/exporter in Zimbabwe who also responded and or cooperated with the investigation, and was verified, the Commission considered implementing a residual dumping margin that is similar to that of the verified exporter. The residual dumping margin was determined to be 144.02%.

#### **4.3 SUMMARY**

For purposes of its preliminary determination, the Commission considered information from interested parties and found that the subject product originating in or imported from the Republic of Zimbabwe is being dumped into the SACU market.

## 5. MATERIAL INJURY

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### 5.1 DOMESTIC INDUSTRY – MAJOR PROPORTION OF PRODUCTION

The material injury information was provided by Anchor Yeast, which represents 100% of the domestic production of the subject product in SACU from 01 January 2020 to 31 December 2022.

The Commission made a preliminary determination that this constitutes “a major proportion” of the total domestic production, in accordance with ADR 7.

### 5.2 MATERIAL INJURY ANALYSIS

The injury information presented below relates to the evaluation of data for the period 01 January 2020 to 31 December 2022.

### 5.3 IMPORT VOLUMES AND EFFECT ON PRICES

#### 5.3.1 Import volumes

The following tables show the volume of the alleged dumped imports of the subject products as sourced from SARS for the period 01 January 2020 to 31 December 2022.

**Table 5.3.1: Import volumes**

| KG   | 2020          | 2021           | 2022           |
|--|---------------|----------------|----------------|
| Alleged dumped imports (BCY)                   | 43 200        | 355 500        | 635 250        |
| Other Imports (BCY)                            | 0             | 0              | 0              |
| Alleged dumped imports as a % of total imports | 100%          | 100%           | 100%           |
| <b>Total Imports</b>                           | <b>43 200</b> | <b>355 500</b> | <b>635 250</b> |

\*Excluding other imports regarded as not to be the subject product

The table above shows that the alleged dumped imports from Zimbabwe increased by 722.92% from 2020 to 2021 and further increased by 78.69% from 2021 to 2022. During the POI, the alleged dumped imports increased by 1 370.49%.

The Applicant stated that all active yeasts that were exported from other countries (excluding Zimbabwe) to SACU, will be dry yeast that is also commonly referred to imported dry yeast (“IDY” or “DAY”).

The Applicant further stated that from its market intelligence that is based on the ongoing monitoring of the trade activities in the SACU market, the only form of fresh yeast that



was found that did not originate within SACU, was the BCY that originates from Zimbabwe. In addition, based on its market intelligence, the forms of IDY (DAY), other than the Anchor Yeast product, that were found in the SACU market that did not originate within SACU and did not originate within Zimbabwe, were imported from other countries.

In conclusion, the Applicant stated that as per the SARS data, the imports from Zimbabwe would pertain to BCY only and the imports from other countries would be for IDY and not include BCY. Accordingly, there is no dumped subject product from other countries.

**Commission’s consideration**

*The tariff subheading is inclusive of other forms of active yeasts which are not the subject product. The alleged dumped product which originates from Zimbabwe subject to investigation is the BCY. The Commission made a preliminary determination and considered the Applicant’s explanation to exclude imports (IDY/DAY) from other countries.*

**5.4 Effect on Domestic Prices**

**5.4.1 Price undercutting**

Price undercutting is the extent to which the price of the imported product is lower than the price of the like product produced by the SACU industry. The price of the imported product is determined based on the landed cost.

**Table 5.4.1: Price undercutting**

| R/Kg (Including Chipkins)                              | 2020  | 2021 | 2022 |
|--|-------|------|------|
| *Applicant’s ex-factory selling price                  | 100   | 104  | 103  |
| **FOB import price                                     | 100   | 91   | 85   |
| **Landed cost imported product                         | 100   | 93   | 69   |
| ***Price undercutting                                  | (100) | (46) | 81   |
| ***Price undercutting as % of ex-factory selling price | (100) | (45) | 79   |

\*Ex-factory selling price including Chipkins

\*\*Indexed due to confidentiality

\*\*\*the indexed base was a negative.



It was found that the imported product from Zimbabwe is undercutting the Applicant’s selling price by 79 percent during the period of investigation.

**Comments by interested parties**

Interested parties stated that if the contract production (Chipkins Puratos) is included, there was negative price undercutting and price disadvantage (i.e. the landed cost of the Zimbabwean imports calculated by the Applicant was higher than the Applicant's prices) in 2020 and 2021.

**Commission’s consideration**

*In determining the effect on domestic price (price undercutting), the Commission made a preliminary determination to take into consideration Chipkins’ information.*

*Table 5.4.1 above shows that even with Chipkins’ information taken into consideration, the Applicant is still experiencing price undercutting in and 2022. To calculate the FOB import price, the Commission used the ex-factory import price plus inland freight cost. The Commission noted the impact of the prices of the alleged dumped product, undercutting the prices of the SACU producer.*

**5.4.2 Price depression**

Price depression takes place where the SACU industry’s ex-factory selling price decreases during the investigation period.

**Table 5.4.2: Price depression**

| R/kg (Including Chipkins) | 2020 | 2021 | 2022 |
|---------------------------|------|------|------|
| BCY Yeast                 | 100  | 104  | 103  |

The figures were indexed due to confidentiality using 2020 as a base year.

Table 5.4.2 above indicates that the Applicant’s selling price for BCY increased by 4 index points from 2020 to 2021, then decreased by 1 index point from 2021 to 2022. During the POI the Applicant’s selling price decreased by 3 index points.

**Comments by interested parties**

Interested parties stated that if the contract production (Chipkins) is excluded, there is price depression in 2022 relative to the base year of 2020. However, if contract

production is included, there is no price depression. The selling price of BCY (total) increased from the base year of 2020, indicating that there was no price depression.

### Comments by the Applicant

The Applicant stated that the dumped BCY imported from Zimbabwe does not directly compete with Anchor Yeast in selling the subject product to Chipkins. As the BCY is supplied on contract, the Anchor Yeast selling prices to Chipkins are determined based on the terms of the agreement, with Anchor Yeast’s open SACU market competitive position being influenced by the dumped BCY product from Zimbabwe.

### Commission’s consideration

*The Commission noted the comments of interested parties. However, in determining the effect on domestic price (price depression), the Commission made a preliminary determination to take into consideration Chipkins’ information.*

*Table 5.4.2 above shows that when taking Chipkins information into consideration there is no price depression as the price increased over the investigation period. The Commission noted the Applicant slightly increased its selling prices during the POI.*

### 5.4.3 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.

**Table 5.4.3: Price suppression**

| BCY Yeast (including Chipkins)            |          | 2020       | 2021       | 2022       |
|---|----------|------------|------------|------------|
| Ex-factory selling price                  | R/kg     | 100        | 104        | 103        |
| Cost of production                        | R/kg     | 100        | 106        | 117        |
| Gross Profit                              | R/kg     | 100        | 100        | 70         |
| Gross Profit %                            | %        | 100        | 96         | 68         |
| <b>Cost of production % selling price</b> | <b>%</b> | <b>100</b> | <b>102</b> | <b>114</b> |

The figures were indexed due to confidentiality using 2020 as a base year.

The table 5.4.3 above indicates that for BCY, year-on-year cost to price ratio increased for the POI, which additionally was substantial over the POI.

The Applicant stated that increasing price suppression trends exist for the subject product that indicates that the cost of production increased at a quicker rate than what Anchor Yeast can increase its selling price, resulting in Anchor Yeast experiencing declining profit margins. The Applicant further stated that the continuation and increase in price suppression trends for the POI are indicative of the fact that material injury is being suffered by Anchor Yeast, based on pricing, as a result of the dumped imports from Zimbabwe.

#### **Comments by interested parties**

The analysis of the Applicant's price suppression and the effects of contract production, including or excluding Chipkins, revealed that the gross profit margin was lower if contract production was included. The Applicant's contention that downward pricing pressure from Zimbabwean imports accounts for the price suppression it allegedly experienced has no basis. Any suppression of the selling prices alleged by the Applicant has been caused by factors other than Zimbabwean imports.

#### **Comments by the Applicant**

The Applicant stated that it was indicated in the Application that in 2020 SACU BCY open market selling price was already at a suppressed level, which was as a result of the dumping of the subject product from Zimbabwe that had already commenced in 2019.

#### ***Commission's consideration***

*In determining the effect on domestic price (price suppression), the Commission made a preliminary determination to take into consideration Chipkins' information. The calculation for price suppression still reveals that there is price suppression. The gross profit as a percentage of cost of production calculated by the Commission including Chipkins' information and the cost of production as a percentage of selling prices shows that there is price suppression. The Commission noted the impact of the alleged dumped products on the Applicant's inability to increase selling prices in line with the increase in costs.*

## 5.5 CONSEQUENT IMPACT OF THE DUMPED IMPORTS ON THE INDUSTRY

### 5.5.1 Actual and potential decline in sales volumes

The following table shows the SACU sales volume of the subject product for the period of investigation:

**Table 5.5.1: Sales volumes**

| (Kg)                 | 2020 | 2021 | 2022 |
|----------------------|------|------|------|
| Sales volumes of BCY | 100  | 94   | 89   |

The figures were indexed due to confidentiality using 2020 as a base year.

The table above indicates that the sales volume for BCY decreased by 6 index points from 2020 to 2021, and further decreased by 5 index points from 2021 to 2022 and overall decreased by 11 index points during the period of investigation.

The Applicant stated that the impact of the dumped Zimbabwean product on Anchor's BCY sales volume is clear in the declining sales volume over the POI. The Applicant stated that the decreasing SACU sales volume trend over the POI, caused Anchor Yeast to suffer material injury, as it was unable to retain or gain market share against the dumped imports from Zimbabwe.

#### **Comments by interested parties**

Interested parties pointed out that the sales information submitted by the Applicant includes Chipkins' sales information and shows a decline in sales volume. They stated that when Chipkins' sales are excluded, the decline in sales volume over the same period is less. This again demonstrates the expedient nature of the Applicant's decision on whether to include Chipkins information.

#### **Commission's consideration**

*The Commission made a preliminary determination that the investigation is for BCY including BCY sales to Chipkins. Interested parties in some instances indicate that Chipkins' information should not be excluded, however when it comes to sales volumes their analysis is based on these sales being excluded.*

## 5.5.2 Profit

The following table shows the Applicant's profit situation to the period of investigation:

**Table 5.5.2: Gross and Net Profit**

|                        | 2020 | 2021 | 2022 |
|------------------------|------|------|------|
| Total Gross Profit (R) | 100  | 93   | 62   |
| Total Net Profit (R)   | 100  | 88   | 35   |

The figures were indexed due to confidentiality using 2020 as a base year.

The table above indicates that the Applicant's gross profit margin for BCY decreased by 7 index points from 2020 to 2021 and further decreased by 31 index points from 2021 to 2022. The net profit margin decreased by 12 index points from 2020 to 2021 and further decreased by 53 index points from 2021 to 2022. The table above shows that both the gross profit and the net profit decreased by 38 index points and 65 index points respectively over the POI.

The Applicant stated that the net and gross profit for BCY deteriorated year-on-year and that the impact of the dumped subject product on the profit of Anchor Yeast is a clear indication that material injury is being suffered by the SACU Industry.

### Comments by interested parties

Interested parties stated that a low or declining total profit can be caused by high costs, low volumes and or low prices.

### Comments by the Applicant

Anchor Yeast reiterates that due to the direct competition by the dumped subject product from Zimbabwe, it was prevented from increasing its sales to customers in the open SACU BCY market and negatively impacted on its profit.

### Commission's consideration

*The Commission considered that based on all information provided, the reduced profits are as a result of increased low priced imports from Zimbabwe in a shrinking SACU market.*

### 5.5.3 Output

The following table shows the Applicants total output of the subject product:

**Table 5.5.3: Output**

| KG  | 2020 | 2021 | 2022 |
|-----|------|------|------|
| BCY | 100  | 94   | 89   |

The figures were indexed due to confidentiality using 2020 as a base year.

The table above shows that the Applicant's production volumes for BCY decreased by 6 index points from 2020 to 2021, decreased further by 5 index points from 2021 to 2022 and overall decreased by 11 index points during the period of investigation.

The Applicant stated that BCY total production volumes did experience year-on-year declines. The increasing dumped imports from Zimbabwe were applying pressure on Anchor Yeast, which led to a reduction in sales volume during the POI. The Applicant further stated that these sales volume reductions led to a forced reduction in Anchor Yeast' production, to prevent inventory increases beyond manageable levels and prevent losses, as the fresh active yeast products have a limited shelf time.

#### **Comments by interested parties**

Interested parties stated that there is no correlation between the increase in the volume of Zimbabwean imports with the alleged changes in the Applicant's output. Interested parties further stated that the Application shows that the reduction in output attributed to Chipkins is greater than the reduction of production attributed to the Applicant's direct sales in the open SACU active yeast market. The interested parties stated that the Applicant mentioned that the imports from Zimbabwe do not compete with the Applicant's sales to Chipkins.

#### **Comments by the Applicant**

Anchor Yeast submits that as result of BCY sales being lost to the dumped subject product from Zimbabwe, therefore it had to reduce production to prevent loss and increase inventory beyond manageable levels, which resulted in a reduction in capacity utilisation.



**Commission’s consideration**

The Commission considered that the high import volumes of the subject product that Lesaffre exports into the SACU market are also contributing to the decline in output. The Commission noted that the overall production volume declined irrespective of whether the production is for the open market or contract market.

**5.5.4 Market share**

The following table gives a breakdown of market share for the subject products based on sales and import volumes:

**Table 5.5.4: Market share**

| Kg                       | 2020       | %          | 2021      | %          | 2022      | %          |
|--------------------------|------------|------------|-----------|------------|-----------|------------|
| BCY Total                | 100        | 100        | 94        | 97         | 89        | 95         |
| Alleged dumped imports   | 43 200     | 100        | 355 500   | 856        | 635 250   | 1 562      |
| <b>Total SACU Market</b> | <b>100</b> | <b>100</b> | <b>96</b> | <b>100</b> | <b>94</b> | <b>100</b> |

The figures were indexed due to confidentiality using 2020 as a base year.

\*\*Source: SARS

The table above shows that the Applicant’s market share for BCY decreased by 6 index points from 2020 to 2021, decreased by 5 index points from 2021 to 2022 and overall decreased by 11 index points during the period of investigation.

The Applicant stated that the total SACU market (volume) showed a decreasing trend over the POI. The Applicant further stated that the market share of the alleged dumped imports increased, on the other hand over the POI as a result of the export volumes that increased considerably.

**Comments by interested parties**

Interested parties stated that the Applicant admitted that the SACU active yeast market contracted over the injury investigation period “as a result of the consumer demand for BCY that declined over the investigation period”. The interested parties further stated that the alleged dumped imports market shares in all of these markets are negligible and accordingly cannot be the cause of the alleged injury suffered by the Applicant.

**Comments by the Applicant**

The Applicant stated that the dumped subject product from Zimbabwe that is directly competing with Anchor Yeast, did result in a further market share reduction due to the sales that were lost to the Zimbabwean subject product.

**Commission’s consideration**

*The Commission noted imports from other countries. However, they were not taken into consideration when conducting market share analysis as they are regarded as non-subject product.*

*The Commission considered that the SACU market for the subject product indeed shrunk during the POI, however, the increase in Zimbabwean dumped imports is exacerbating the situation of the SACU industry.*

*The Commission made a preliminary determination that the volume of imports from Zimbabwe are above the negligibility level as they are above 3 percent.*

**5.5.5 Productivity**

The following table provides SACU industry’s productivity based on output and number of employees in direct production:

**Table 5.5.5: Productivity**

|                                      | 2020       | 2021      | 2022      |
|--------------------------------------|------------|-----------|-----------|
| BCY Total production volumes (Kg)    | 100        | 94        | 89        |
| BCY Total number of direct employees | 100        | 98        | 94        |
| <b>BCY Productivity per employee</b> | <b>100</b> | <b>95</b> | <b>94</b> |

The figures were indexed due to confidentiality using 2020 as a base year.

The table above indicates that productivity per employee decreased by 5 index points from 2020 to 2021, further decreased by 1 index point from 2021 to 2022 and overall decreased by 6 index points during the period of investigation.

**Comments by the Applicant**

The Applicant stated that it is clear that the total volume produced of BCY per employee deceased. The Applicant further stated that this declining productivity is as a result of



BCY total production volumes experiencing a decreasing trend for the POI. The Applicant stated that the decreasing trend indicates that the Applicant suffered material injury.

**Comments by interested parties**

Interested parties stated that the volume of BCY imports from Zimbabwe is small in absolute terms, and its increase over the injury investigation period was much smaller than the decline in the Applicant's sales, which clearly shows that the primary cause of the decline in volumes was the decline in demand.

**Commission's consideration**

*The Commission considered that although the volume of BCY imports from Zimbabwe is considered small by interested parties, the dumped imports from Zimbabwe have contributed to the decline in demand as consumers may have switched to cheap dumped imports from Zimbabwe. The Commission further considered that the import volumes in relative terms to both the production and sales volume declined by 5 index points during the POI. Therefore, there was a correlation between the increase in import volumes from Zimbabwe and the decline in sales and production volume of the Applicant.*

**5.5.6 Return on investment**

The following table shows SACU industry's return on investment on the subject products:

**Table 5.5.6: Return on investment**

| (R)                        | 2020 | 2021 | 2022 |
|----------------------------|------|------|------|
| Net profit (BCY)           | 100  | 88   | 35   |
| Net assets (BCY)           | 100  | 59   | 69   |
| Return on net assets (BCY) | 100  | 149  | 51   |

The figures were indexed due to confidentiality using 2020 as a base year.

The table above indicates that the return on net assets increased by 49 index points from 2020 to 2021, further decreased by 98 indexed points from 2021 to 2022 and overall decreased by 49 index points during the period of investigation.

The Applicant stated that the BCY return of investment on net assets, although positive during the POI, showed a declining trend over the POI.

**Comments by interested parties**

Interested parties stated that the Applicant acknowledges that the data presented indicates that the BCY return on investment on net assets was positive during the injury investigation period which is inconsistent with the high profit levels of the Applicant throughout the injury investigation period. Interested parties further stated that the Applicant retained its investment levels constant throughout the injury investigation period which attests to the strength of its balance sheet.

**Comments by the Applicant**

The Applicant stated that even though its return on investment was positive during the POI, it shows a declining trend as a result of the impact of the dumped product.

**Commission’s consideration**

*The Commission considered that although the Applicant posted a positive net profit and as well as ROI, it is showing a declining trend over the POI.*

**5.5.7 Utilisation of production capacity**

The following table provides the Applicant’s capacity utilisation.

**Table 5.5.7: Utilisation of production capacity**

| <b>SACU Anchor Yeast</b>          | <b>2020</b> | <b>2021</b> | <b>2022</b> |
|-----------------------------------|-------------|-------------|-------------|
| BCY installed capacity (kg)       | 100         | 100         | 100         |
| BCY actual production (kg)        | 100         | 94          | 89          |
| <b>BCY Capacity utilisation %</b> | <b>100</b>  | <b>94</b>   | <b>89</b>   |

The figures were indexed due to confidentiality using 2020 as a base year.

The table above indicates that capacity utilisation for BCY decreased by 6 index points from 2020 to 2021, and further decreased by 5 index points from 2021 to 2022 and overall decreased by 11 index points during the period of investigation.

The Applicant stated that total installed capacity for BCY remained the same throughout the POI. The Applicant further stated that the capacity utilisation for BCY did experience a year-on-year decrease for the POI.

### 5.5.8 The magnitude of the margin of dumping

The following margin of dumping was calculated:

**Table 5.5.8: Margin of dumping**

| Country of origin | Dumping margin as a % of ex-factory export price |
|-------------------|--|
| Zimbabwe          | 144.02%  |

### 5.5.9 Actual and potential negative effects on cash flow

The table below outlines net cash flow applicable to the subject products:

**Table 5.5.9: Cash flow situation**

| BCY                 | 2020 | 2021 | 2022 |
|---------------------|------|------|------|
| Cash flow: incoming | 100  | 99   | 95   |
| Cash flow: outgoing | 100  | 102  | 107  |
| Net cash flow       | 100  | 88   | 45   |

The figures were indexed due to confidentiality using 2020 as a base year.

The table above indicates that the Applicant’s net cash flow for BCY decreased by 12 index points from 2020 to 2021, and further decreased by 43 index points from 2021 to 2022 and overall decreased by 55 index points during the period of investigation.

The Applicant stated that the subject product experienced decreasing net cash flow values for the POI. The Applicant stated that the dumped imports prevented it from increasing its selling prices to recover increasing costs, as any price increase would have resulted in further SACU sales volume losses, which would negatively impact on Anchor Yeast’s market share.

The Applicant further stated that, should the current situation deteriorate even further, the sustainability of Anchor Yeast’s operations will be under threat. Current market conditions that are caused by the dumped imports are impairing the required increase

in sales and production volumes that Anchor Yeast requires to ensure a stable operational and employment environment.

**Comments by interested parties**

Interested parties stated that the alleged downward trend in cash flow over the injury investigation period belies the fact that the applicant was profitable throughout the injury investigation period. Interested parties further stated that the data presented by the Applicant at company level shows that it continues to perform well. Interested parties stated that the volume of imports from Zimbabwe is too small to have had any impact on the Applicant.

**Comments by the Applicant**

Anchor Yeast affirms that as a result of the dumping of the subject product from Zimbabwe into the SACU market, Anchor Yeast was not able to increase its selling prices to recover increasing costs and this impacted negatively on Anchor Yeast’s cash flow, while its profits, declined, causing Anchor Yeast to suffer material injury.

**Commission’s consideration**

*The Commission considered that the Applicant’s profitability and the net cash flow shows a declining trend during the POI, and that confirms the fact that the Applicant is suffering material injury as a results of dumped imports from Zimbabwe, notwithstanding the fact that interested parties deem this a small impact.*

**5.5.10 Inventories**

The following table provides the SACU industry’s inventory volumes for the subject product:

**Table 5.5.10: Inventories**

| <b>Anchor Yeast</b> | <b>2020</b> | <b>2021</b> | <b>2022</b> |
|---------------------|-------------|-------------|-------------|
| Volume (kg)         | 100         | 102         | 133         |
| Value (R)           | 100         | 102         | 147         |
| Value per kg (R/Kg) | 100         | 100         | 111         |

The figures were indexed due to confidentiality using 2020 as a base year.

The table indicates that the inventory volumes for BCY increased by 2 index points from 2020 to 2021, then increased by 31 index points from 2021 to 2022 and overall increased by 33 index points during the period of investigation.

The Applicant stated that keeping inventory levels stable, is a priority goal of Anchor Yeast, especially in the case of fresh active yeast, which has limited sell-by date of 30-days from date of production. Accordingly, dumped imports have a major destabilising effect on the SACU market demand, resulting in the Anchor Yeast sales and production volumes being negatively affected.

The Applicant stated that the BCY product experienced an increasing inventory trend for the POI. The Applicant further stated that for the recent 12-month period, an increasing inventory volume trend is reflected for BCY, with a noticeable trend period existing in 2022, causing Anchor Yeast to suffer material injury.

#### **Comments by interested parties**

Interested parties stated that dry yeast and liquid yeast are substitutable products for BCY and would affect the Applicant's inventory levels. The interested parties further stated that the Applicant's failure to take account of imports of dry yeast from third countries is a material flaw in its Application.

#### **Comments by the Applicant**

The Applicant stated that fresh yeast is the raw material of choice for large commercial bakeries, and they will not substitute BCY with dry active yeast products. The Applicant further stated that the dumped subject product from Zimbabwe had an impact on Anchor Yeast's sales reduction, which lead to inventory increases.

#### ***Commission's consideration***

*The Commission considered that the investigation is for the BCY, the only product manufactured in Zimbabwe and exported to SACU. The Commission also considered that during verification the exporter also indicated that they will not be able to export to SACU the only other product which they manufacture "liquid yeast". Furthermore, the issue of dry yeast has been addressed on various sections of this report.*

**5.5.11 Employment**

The following table provides the SACU industry’s production employment figures:

**Table 5.5.11: Employment**

| <b>SACU Anchor Yeast</b>       | <b>2020</b> | <b>2021</b> | <b>2022</b> |
|--------------------------------|-------------|-------------|-------------|
| Direct labour production       | 10          | 98          | 94          |
| Indirect labour production     | 100         | 97          | 90          |
| <b>Total production labour</b> | <b>100</b>  | <b>98</b>   | <b>92</b>   |

The figures were indexed due to confidentiality using 2020 as a base year.

The table above indicates that the total number of production employees for BCY decreased by 2 index points from 2020 to 2021, and further decreased by 6 index points percent from 2021 to 2022, and overall decreased by 8 index points during the period of investigation.

The Applicant stated that all these workers are utilised in the production of all substances and no worker is dedicated to produce a specific substance. The indicated direct labour units relate to the personnel component assigned to the actual manufacturing for all subject product, the allocation of which is done in accordance with a shift roster system. The indirect labour units relate to the personnel component allocated in support of and complimentary to the manufacturing process such as quality assurance, process technologist, and industrial engineering support and so forth.

The Applicant further stated that it has invested in the development and training of its work force and having to retrench production workers as result of the impact of the dumping on its operations, would be an option that Anchor Yeast would prefer to avoid. Average employment was calculated based on the number of labourers that were employed during the specific periods. The Applicant stated that it is participating in the Youth Employment Initiative of the government. However, if the dumping is not properly addressed, Anchor Yeast would have to look at the viability of further participating in this initiative and employee numbers would have to be reduced.

**Comments by interested parties**

Interested parties argue that the impact of BCY imports on the Applicant's employment should be assessed relative to the total output. It is believed that the volume of BCY



relative to the Applicant's total output and on BCY and dry yeast is negligible and would not have affected the Applicant's employee complement. The Applicant is threatening to withdraw from the Youth Employment service due to imports from Zimbabwe, which are irrelevant to the investigation. The Applicant's claim of an alarming rate of imports from Zimbabwe is not justified, as the growth of Zimbabwean imports is off a small base. The volume of imports from Zimbabwe during the injury investigation period was immaterial.

### Comments by the Applicant

The Applicant stated that the likelihood of Anchor Yeast's no longer continuing to participate in the youth employment initiative is no idle threat as alleged by the parties. The Applicant further stated that should the dumping of BCY from Zimbabwe not be properly addressed, the viability of Anchor Yeast having to reduce employment numbers on a much larger scale will become a reality.

### Commission's consideration

*The Commission considered that irrespective of the Applicant's threat to withdraw from youth employment initiative, the Applicant's employment and production shows a decline trend over the POI, this will be worsened should duties not be imposed and the applicant further losses market share.*

### 5.5.12 Wages and Salaries

The following table provides the SACU industry's total annual wages:

**Table 5.5.12: Wages and Salaries**

| Wages and salaries (R)               | 2020 | 2021 | 2022 |
|--------------------------------------|------|------|------|
| Total wages: Production of BCY       | 100  | 99   | 105  |
| Wages per employee Production of BCY | 100  | 101  | 115  |

The figures were indexed due to confidentiality using 2020 as a base year.

The table above indicates that total wages decreased by 1 index point from 2020 to 2021, increased by 6 index points percent from 2021 to 2022, and overall increased by 5 index points during the period of investigation.

The total wages per employee increased by 1 index point from 2020 to 2021, increased by 14 index points percent from 2021 to 2022, and overall increased by 15 index points during the period of investigation.

The Applicant stated that the wages show year-on-year increases and thus increasing trends for direct, indirect, and total production wages for the POI, which to some extent must be absorbed by Anchor Yeast, as it has to suppress its selling prices to compete with the dumped product in the SACU market.

**Comments by interested parties**

Interested parties stated that the Applicant's wages per employee involved in the production of BCY increased over the injury investigation period and that despite such increase, the Applicant was profitable.

**Comments by the Applicant**

The Applicant stated that there is factual evidence of considerable threat of increasing BCY import volumes from Zimbabwe and also the importation of liquid yeast, if the dumping duty is imposed on BCY and not fresh active yeast, which will apply pressure on Anchor Yeast's employment and also wages and salaries.

**Commission's consideration**

*The Commission considered that in most instances in South Africa, salaries are increased in line with inflation and are also negotiated by union/s representing employees. This profitability assisted the Applicant in increasing wages of employees, but the profits are declining and should the Applicant be in a loss making situation, they will not be able to increase wages, thus will be forced to further reduce employees instead.*

**Growth**

The following tables show size of the SACU market applicable to the subject products:

**Table 5.5.13: Growth**

| kg                       | 2020   | Growth (%) | 2021    | % Growth | 2022    | % Growth |
|--------------------------|--------|------------|---------|----------|---------|----------|
| BCY (SACU)               | 100    |            | 94      | (100)    | 89      | (72)     |
| Alleged dumped imports** | 43 200 |            | 355 500 | 723      | 635 250 | 79       |
| Total SACU Market        | 100    |            | 96      | (100)    | 94      | (55)     |

The figures were indexed due to confidentiality using 2020 as a base year.

\*\*source: SARS



The table above indicates that the size of the SACU market growth for BCY decreased by 4 index points from 2020 to 2021, and decreased by 2 index points from 2021 to 2022, and overall increased by 6 index points during the period of investigation.

The Applicant stated that the total SACU market experienced a negative growth for the POI, whilst the dumped imports experienced a substantial positive growth margin. The Applicant further stated that the alleged dumped imports sales market share in the SACU market is growing rapidly and stands to achieve an even higher significant portion, due to the import prices being well below the other countries' import prices and the SACU industry's selling prices in the SACU market.

**Commission's consideration**

*The Commission noted imports from other countries are mainly for dry yeast, since the tariff subheading is for all active yeasts, which includes dry yeast, BCY and liquid yeast. The Commission preliminary determined that dry yeast is the only other yeast which can be imported from other countries, and it is not considered a subject product, it further determined that imports from other countries are zero.*

**5.5.13 Ability to raise capital and investments**

The following table provides SACU industry's ability to raise capital and investments on the subject products:

**Table 5.5.14: Ability to raise capital and investments**

| (R)  | 2020 | 2021 | 2022 |
|--|------|------|------|
| Total capital/investment: Subject product (BCY)        | 100  | 101  | 101  |
| Capital expenditure during year: Subject product (BCY) | -    | 100  | -    |

The figures were indexed due to confidentiality using 2020 as a base year.

The table above indicates that capital investment for BCY increased by 1 index point from 2020 to 2021, there was no change from 2021 to 2022, and overall increased by 1 index point during the period of investigation.

The Applicant stated that total capital/investment for BCY is more indicative of a stagnant trend for the POI, with a marginal increase with no additional investment occurring in 2022 as a result of the declining return on net assets. The Applicant further stated that there is currently no need to raise additional capital for increasing capacity,

as there is an underutilisation of the existing production capacity for BCY at this stage as a result of decline in production.

#### **5.5.14 Summary material injury**

Based on the above information, the evaluation of the injury information of the SACU industry for the period 01 January 2020 to 31 December 2022 is summarised as follows:

- Price undercutting;
- Price suppression;
- Declining sales volume;
- Decrease in market share;
- Decline in output;
- Declining productivity;
- Declining employment;
- Declining profits;
- Declining net cash flow;
- Declining return on investment
- Increase in inventory’;
- Declining utilisation of production capacity; and
- Slowdown in growth

#### ***Commission’s consideration***

*The Commission considered that material injury must be based on positive evidence. According to WTO jurisprudence, positive evidence refers to the quality of evidence that the authority may rely upon in making a determination. Therefore, positive evidence refers to the facts justifying and underpinning the injury determination. The evidence and facts in this instance must be affirmative, objective, verifiable and credible. These facts and evidence must be objectively examined by the investigating authority, meaning that that they must be investigated in an unbiased manner.*

*According to Article 3.1 of WTO Anti-Dumping Agreement, a determination of material injury shall be based on positive evidence and involve an objective examination of both the following factors:*

- a) *the volume of the dumped imports and the effect of the dumped imports on prices in the domestic market for like products; and*

b) *the consequent impact of these imports on domestic producers of such products.*

*Article 3.2 of WTO Anti-Dumping Agreement further states that the investigating authorities shall consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption. With regard to the effect of the dumped imports on prices, the same Article states that the investigating authorities shall consider whether there has been a significant price undercutting, or whether the effect of such imports is otherwise to depress prices or prevent price increases.*

*Article 3.1 and Article 3.2 mentioned above, read together with ADR13.1 and ADR13.2, mean that the examination of positive evidence should be made on both a “price effect” and a “volume effect”. It should be noted that only “consideration” of both effects is mandatory, and not necessarily a positive finding of an effect on both volume and prices, meaning that a positive finding on either (or both) will suffice for a positive finding on material injury.*

*The first examination of evidence before the Commission shows that in terms of a price effect the SACU industry experienced price undercutting and price suppression. The Commission noted that according to Article 3.2 referenced above, the price effects can be either on price undercutting or price depression/suppression. In this case, the effect is on price undercutting and price suppression.*

*The Commission also considered that price undercutting found for the final year of the POI was 22 index points. The significance of these numbers is also supported by consideration of the conditions of competition in the domestic BCY market, were sellers compete almost exclusively on price as there is little or no product differentiation in terms of quality or other criteria.*

*In arriving at the conclusion that subject imports can be linked to the observed significant increase in price suppression of 14 index points, the increasingly lower subject import prices were considered together with the circumstance that the subject imports alone were competing in the BCY marketplace with the applicant's BCY. This situation also needs to be seen in the context of the rapidly increasing level of subject imports*

*throughout the POI, but particularly from 2021 to 2022 when subject imports nearly doubled, which was the same period that almost the entirety of the price suppression occurred.*

*The second examination of evidence the Commission considered shows that, in absolute terms, dumped imports increased by 722.92% from 2020 to 2021 and further increased by 78.69% from 2021 to 2022. During the POI, the alleged dumped imports increased by 1 370.49%, and in relative terms (as percentage of domestic consumption) dumped imports increased by 3 index points from 2020 to 2021, further increased by 5 index points from 2021 to 2022 and increased by 5 index points between 2020 and 2022. The Commission considered the dumped imports increased significantly throughout the POI in absolute terms.*

*The third examination of evidence the Commission considered, namely the impact of the dumped imports, shows that sales volume declined by 11 index points over the POI, market share declined by almost 5 index points over the POI, market growth declined by 6 index points over the POI, number of employees declined by 8 index points over the POI, inventory levels increased by almost 33 index points over the POI, capacity utilisation declined by 11 index points, output declined by 11 index points, net cash flow declined by 55 index points, net profit declined by 65 index points, and gross profit declined by 38 index points, return on investment declined by 49 index points, and productivity declined by 6 index points.*

*The Commission also considered that there is no threshold in terms of the minimum and/or maximum number of injury impact factors that should be negative/positive to make a finding of material injury.*

*The Commission considered that the injury indicators listed above and all material injury information is sufficient to make a preliminary determination that the Applicant is experiencing material injury.*

Based on this information, the Commission made a preliminary determination that the SACU industry is experiencing material injury.

## 6 THREAT OF MATERIAL INJURY

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The Applicant provided the following information in its substantiation of the threat of material injury:

### 6.1 Freely Disposable Capacity

The Applicant provided the following information regarding freely disposable capacity:

The Applicant stated that in 2015, Société Industrielle Lesaffre acquired a 60% stake in Zimbabwe's sole yeast manufacturing facility. Lesaffre invested USD3 million in the Zimbabwe facility, raising the production output of yeast per annum by a third and targeting to export 30% of its total production. Lesaffre also plans to inject USD1 million in additional capital and new equipment to increase production at its Gweru plant by 50%.

The Applicant further stated in 2019, Lesaffre announced plans to expand its operations into the regional market, following a USD10 million plant upgrade, which increased its production capacity. It was stated the company is pursuing expansion into South Africa and Mozambique, among other Southern African Development Community countries. The Applicant stated that it was announced that the company was operating at 80 percent of its production capacity of about 10 000 tons per annum, double the country's domestic annual yeast demand of 5,400 tons.

The Applicant stated that the export contribution of Lesaffre's production is estimated to be 2,600 tons, with a remaining free capacity of 2,000 tons per annum. The Applicant further stated that Lesaffre has channelled USD 13 million towards upgrading its plant and equipment, increasing its production capacity by 75 percent. The company has excess capacity for expansion and export, with weekly deliveries to Zambia and South Africa.

### **Comments by interested parties**

Interested parties stated that Lesaffre investment in Capex in the plant since 2015 is less than USD 13 million as alleged by the Applicant. It was further stated that the investment was in respect of extending capacity, namely fermenters, pipping, boilers and cooling towers. The interested parties stated that Capex was invested to upgrade the quality of the product, improve the process, reduce ratio consumption of raw materials and implement better packing. Interested parties further stated that installed capacity is less than 10,000 tons per annum as alleged by the Applicant. The installed capacity was increased by less than 20% over the period since the acquisition of the factory as result of the above and efficiencies brought to bear by Lesaffre's expertise and investment in technology and upgrades.

Interested parties stated that Lesaffre's capacity for BCY in 2022 is 112 index point and the BCY annual plant capacity utilisation is more than 75% as alleged by the Applicant. Interested parties further stated that Lesaffre estimates the Zimbabwean domestic market for BCY at less than 5,400 tons as alleged by the Applicant. Interested parties stated they it estimates that the Zimbabwean domestic market will increase, and its available capacity will be prioritized for the Zimbabwean domestic market.

### **Comments by the Applicant**

The Applicant stated that is not privy to the confidential financial information of Lesaffre ZM hence it relied on open-source information and articles published in the media. The Applicant further stated that Lesaffre should have rebuked the statement of its USD 13 million towards upgrading its plant and equipment made by the General manager from the onset. The Applicant stated that no effort was made by Lesaffre or the Lesaffre Group in 2022 to correct these alleged incorrect publications at the time, although it had ample opportunity to do so.

The Applicant stated that Lesaffre acknowledged that it expanded its capacity to above 10 000 tons, which is substantial, more than double the size of the Zimbabwean market, therefore there is ample capacity to produce and export to SACU. The Applicant stated that although Lesaffre estimates that the



Zimbabwean domestic market will increase and its available capacity will be prioritized for the Zimbabwean domestic market, the market will not double overnight and thus Lesaffre will be sitting with at least 5 000 tons that they will be dumping in SACU.

### ***Commission's consideration***

*The Commission considered the capex investment which led to capacity increases of the exporter, as a threat of material injury to the SACU industry.*

## **6.2 Significant increase of the alleged dumped imports**

The Applicant provided the following information regarding significant increase of alleged dumped imports:

The Applicant stated that there was a remarkable increase in the volume of the dumped imports from Zimbabwe over the POI, with the prices of the dumped imports into SACU from Zimbabwe were still well below the "Other Countries" prices and Anchor Yeast unsuppressed selling price. Such low prices create an opportunity for SACU importers to increase its volume uptake of the Zimbabwe product. Should Anchor Yeast increase its selling prices to be more commercially viable, it would most definitely lead to further sales volume losses and a further increase in the Zimbabwe subject product import volumes, as the low prices would be lucrative option for importers to capitalise on.

### **Comments by interested parties**

Interested parties stated that on the Applicant's version, the Zimbabwe subject product import volume increased over the injury investigation period from 43 200kg in 2020, to 355 500kg in 2021 and in 2022 to 635 250kg. In 2022, the Zimbabwe subject product import volume market share constituted 5.47% of the Total SACU BCY market and 1.4% of the total SACU active yeast market and slightly more than 1.4% of the SACU yeast market for baking. This negligible percentage can in no way be considered as meaningful.

Interested parties stated that there is no "likelihood of substantially increased importation" into South Africa as it has a limited "infrastructure" (i.e., distribution



network). It stated that they (Lesaffre and Aries) only service a very small percentage of the SACU BCY market. An increase in infrastructure will require a considerable outlay in terms of sales team, technical team, cold storage, cold distribution, additional buildings. It further stated that Aries operates only in 4 provinces (Gauteng, Mpumalanga, part of Northwest, part of Limpopo). Interested parties further stated that Lesaffre is also planning to export, which would limit the volumes available to substantially increase imports to SACU.

### **Comments by the Applicant**

The Applicant stated that it obtained SARS data for HS 2102.10 (active yeasts) for the period January to October 2023 and compared it to the SARS data for the period January to October 2022. The data reveal that at the end of October 2023 imports from Zimbabwe for active yeast were already at 688 840kg as compared to 499 050kg in 2022 which is an increase of 189 790kg.

The Applicant further stated that the alleged limited infrastructure that the parties have referred to is still sufficient to allow for a 38.03 percent volume increase for the period January to October 2023, compared to the same 2022-period. The Applicant submits that this increase is substantial and is already higher than the full 12-month period of 2022. It is expected that 2023 full period will also be substantially higher than in 2022.

### ***Commission's consideration***

*The imports volume from Zimbabwe shows a significant increase of 1 370.49 percent increase over the POI. Currently, between 2022 and 2023, imports volumes from Zimbabwe showed an increase of 38%, which is a significant growth of imports of the subject product from Zimbabwe with the potential of displacing the Applicant in the future. It is noted that these increases in import volumes are from a low base, however they are significant considering the declining SACU market.*

### **6.3 Prices of imports which will have a significant depressing or suppressing effect on domestic prices.**

The Applicant provided that price suppression and price depression for the subject product exists for the POI. Due to the increasing dumped imports from Zimbabwe, Anchor Yeast is unable to increase its subject product selling prices, in order to recover costs increases. Having the ability to further increase its production and export volume, Zimbabwe poses a further threat to Anchor Yeast in the SACU market adding further material injury, should there not be relief granted by addressing the dumped imports from Zimbabwe with the imposition of dumping duties the threat exist that the SACU industry will suffer additional material injury.

#### **Comments by interested parties**

Interested parties stated that if the Applicant is suffering any material injury as a result of low profits, this is due to its choice to sell significant volumes (40.23% of its sales volume to Chipkins at low prices and other factors that are preventing price increases. Interested parties further stated that the Applicant's numbers reflect that there is only price depression (relative to the base year) because the Applicant has elected to exclude sales to Chipkins, which increased over the period.

#### ***Commission's consideration***

*The Commission considered the price effect analysis including Chipkins information which shows that the Applicant is experiencing price undercutting and price suppression.*

### **6.4 Export inventories**

The Applicant stated that it is of the view that there exists sufficient inventory in Zimbabwe to service new export or domestic orders but is not aware of what the actual inventory volume is.

#### **Comments by interested parties**

Interested parties stated that as the product has a limited shelf life and therefore any existing inventories do not pose any threat of injury.

**Commission's consideration**

*The Commission considered that given the six week's shelf lifespan of the subject product, inventory may pose a serious threat to the SACU industry. The exporter may sell their remaining stock to the SACU market at dumped prices in order to ensure that the stock does not stay beyond its shelf life.*

**6.5 State of the economy of the country of origin/export and its influence on the operations of the producers/exporters**

The Applicant stated that Zimbabwe's economy is primarily based on the tertiary industry, and has experienced an average growth rate of 12% from 2009 to 2013, making it one of the fastest-growing economies in the world. However, Zimbabwe faced challenges in 2000 when a land redistribution act was planned to collect white-owned commercial farms and return them to the black majority, leading to severe export losses and negatively affecting market confidence. The government spends 29.7% of GDP, with state enterprises strongly subsidized, high taxes and tariffs, and costly labour market regulations. Starting or closing a business is slow and costly, and unemployment has risen to 94% by 2008. Zimbabwe's 2014 report by the Africa Progress Panel found that the country fared worst in terms of doubling per capita GDP.

The government entered a second Staff Monitored Program with the IMF in 2014 and undertook other measures to reengage with international financial institutions. However, financial observers note that Zimbabwe is unlikely to gain new financing due to the government's lack of disclosure about its plans to repay more than USD1.7 billion in arrears to the World Bank and African Development Bank. International financial institutions want Zimbabwe to implement significant fiscal and structural reforms before granting new loans.

Macroeconomic volatility, high dependence on low-productivity agriculture, lack of high-productivity jobs, and intermittent shocks like droughts and the pandemic have increased vulnerability in urban and rural areas. The Central Bank has tightened monetary policy, raised interest rates, liberalized the forex market, and issued gold coins as a store of value to manage inflation.

**Comments by interested parties**

Interested parties stated that the Applicant's use of Wikipedia is not reliable. Interested parties continued and stated that poor domestic market performance could incentivize exporters to increase exports, as local demand for bread is growing. Real GDP growth is projected to recover to 3.2% in 2023 and 2024, driven by agriculture, mining, and services. Tight monetary and fiscal policy is expected to increase macroeconomic stability. Inflation is projected to ease further to 132.2% in 2023 and 36.1% in 2024, supported by economic stability and evolving global dynamics. The fiscal deficit is expected to narrow to 0.2% of GDP in 2023, and the current account is projected to show a surplus of 0.8% of GDP in 2023 and 0.5% in 2024.

***Commission's consideration***

*The Commission considered the fact that that domestic market performance could incentivize exporters to increase exports is a serious threat of material injury to a SACU industry fighting against dumping.*

**6.6 Any other information relevant to your allegation that the infliction of material injury is imminent.**

The Applicant stated that the investment in the Zimbabwe production plant is aimed to increase Lesaffre's export capabilities, with the domestic market demand estimated at over 50% of Lesaffre's production capacity. However, Anchor Yeast argues that due to COVID-19, the Zimbabwe domestic market would not have experienced an increase in free capacity. The increase in product exports to SACU at dumped prices supports Lesaffre's surplus stock and its pursuit of increased exports, leading to unfair trade practices.

Zimbabwe can increase its SACU sales volume market share, but if the prices of dumped Zimbabwe products remain low or are reduced further, importers are likely to increase their uptake of these products, causing Anchor Yeast serious injury. The company cannot reduce its selling prices further, leading to the closure of its production plant.

Furthermore, if dumped products continue to enter the SACU market unaddressed at dumped prices, Chipkins sales in SACU would also come under further pressure, making it difficult for Chipkins to compete with Zimbabwean imports. This would result in Anchor Yeast losing a substantial portion of its sales to Chipkins, causing additional material injury.

***Commission's consideration***

*The Commission considered the fact that the installed capacity was increased and a rapid increase of imports from the Republic of Zimbabwe by 1 370% over the investigation period, a threat of material injury exists. The Zimbabwean imports of the subject product have been increasing yearly and if left unchecked they have a potential of further reducing the SACU industry's market share significantly.*

*Currently these imports only account for a small percentage of the SACU market, but a continued increase at the current rate may soon displace the SACU industry, resulting in loss sales, output, employment and investment. The increase in investment of the exporter, together with the relationship it has with the SACU importer may result in the SACU importer taking over the SACU market through imports, to the detriment of the SACU producer.*

Based on the information above, the Commission made a preliminary determination that a threat of material injury to the SACU industry exists.

## 7 CAUSAL LINK

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### 7.1 GENERAL

In order for the Commission to initiate an investigation, it must be satisfied that there is sufficient evidence to indicate that the material injury and/or threat of material injury experienced by the SACU industry is as a result of the dumping of the subject product.

The following relevant factors are evaluated to establish whether there is a causal link between the alleged dumped imports and material injury.

### 7.2 VOLUME OF IMPORTS AND MARKET SHARE

An indication of causality is the extent of the increase in volume of imports and the extent to which the market share of the domestic industry has decreased since the commencement of injury, with a corresponding increase in the market share of imports.

#### 7.2.1 Import volumes

The following tables show import volumes of the subject products:

**Table 7.2.1: Import volumes**

| (Kg)   | 2020          | 2021           | 2022           | Change 2020-2022 |
|--|---------------|----------------|----------------|------------------|
| Alleged dumped imports(BCY)**                            | 43 200        | 355 500        | 635 250        | 1 370%           |
| Other Countries**  | 0             | 0              | 0              | 0%               |
| <b>Total</b>   | <b>43 200</b> | <b>355 500</b> | <b>635 250</b> | <b>1 370%</b>    |
| Alleged dumped net imports(BCY) as a % of total imports: | 100%          | 100%           | 100%           | Not applicable   |
| Other net imports as a % of total imports                | 0%            | 0%             | 0%             | Not applicable   |
| <b>Total Imports</b>                                     | <b>100</b>    | <b>100</b>     | <b>100</b>     |                  |

\*Source: SARS

\*\* Commission considered that there are no imports from other countries.



**Table 7.2.2: Market share**

|                          | 2020<br>(Kg) | %          | 2021<br>(Kg) | %          | 2022<br>(Kg) | %          |
|--------------------------|--------------|------------|--------------|------------|--------------|------------|
| Total BCY Yeast (SACU)   | 100          | 100        | 94           | 97         | 89           | 95         |
| Alleged dumped imports*  | 43 200       | 100        | 355 500      | 856        | 635 250      | 1 562      |
| Non-dumped imports**     | 0            | 0          | 0            | 0          | 0            | 0          |
| <b>Total SACU Market</b> | <b>100</b>   | <b>100</b> | <b>96</b>    | <b>100</b> | <b>94</b>    | <b>100</b> |

\*Source: SARS

\*\* Commission considered that there are no imports from other countries.

The table above shows that the Applicant’s market share for BCY decreased by 6 index points from 2020 to 2021, decreased by 5 index points from 2021 to 2022 and overall decreased by 11 index points during the period of investigation.

**Commission’s consideration**

*The Commission considered that the alleged dumped imports market share constitutes not only a significant portion of imports but also imports of the subject product entering the SACU market.*

**7.3 EFFECT OF DUMPED IMPORTS ON PRICES**

It has already been shown in section 5 of this report that the applicant experienced price undercutting and price suppression, but did not experience price depression.

**7.4 CONSEQUENT IMPACT OF DUMPED IMPORTS**

The information at the Commission’s disposal indicates that SACU industry suffered material injury during the POI as follows:

- Price undercutting;
- Price suppression;
- Declining sales volume;
- Decrease in market share;
- Decline in output;
- Declining productivity;
- Declining employment;
- Declining profits;
- Declining net cash flow;



- Declining return on investment;
- Increase in inventory;
- Declining utilisation of production capacity; and
- Slowdown in growth

## 7.5 FACTORS OTHER THAN THE DUMPING CAUSING INJURY

Table 7.5: Examination of causality under Regulation 16 of the ADR

| Period   | 2020  | 2021 | 2022 | Change<br>2020-2021 |
|--|---|------|------|---------------------|
| FOB prices for imports not sold at dumped prices (R/kg)              | 0   | 0    | 0    | 0%                  |
| Volume of imports not sold at dumped prices (kg)                     | 0   | 0    | 0    | 0%                  |
| <b>Changes in demand or patterns of consumption</b>                  | The Anchor Yeast BCY sales volume did experience a decreasing trend for the POI while the dumped subject product imports from Zimbabwe showed an aggressive increase into the SACU market. Anchor Yeast submits that it would not have lost BCY sales to fair priced Zimbabwe imports and therefore as a result of the increase in the dumped import volumes from Zimbabwe at decreasing prices, sales were lost. |      |      |                     |
| <b>Trade-restrictive practices of foreign and domestic producers</b> | None that Anchor Yeast is aware of, but in fact as a result of the SADC Agreement, Zimbabwe enjoys the privilege of exporting duty free to SACU from behind a high tariff wall and as a result, the South African product is subject to a 40 percent customs duty and permit requirement if exported to Zimbabwe.   |      |      |                     |
| <b>Developments in technology</b>                                    | There were no known recent developments in technology that would place Anchor Yeast at a disadvantage compared with the technology of the exporters.  |      |      |                     |
| <b>Export performance of the domestic industry</b>                   | The BCY that Anchor Yeast produces is only supplied for consumption in the SACU domestic market and not exported. Please note that the material injury data as supplied relates only to the SACU market.  |      |      |                     |
| <b>Productivity of the domestic industry</b>                         | Anchor Yeast believes that its productivity compares favourably with its competitors. However, as a result of the dumped imports, the productivity of Anchor Yeast is affected as these imports impact on the production of Anchor Yeast.   |      |      |                     |

|   |   |
|---|---|
| <p><b>Any strikes, go-slows or lock-outs?</b></p>   | <p>Anchor Yeast did not experience any labour actions that impacted negatively on production during the POI.</p>  |
| <p><b>Effect of the changing exchange rate has been on:</b></p> <ul style="list-style-type: none"> <li>- <b>Your production cost</b></li> <li>- <b>Your selling price; and</b></li> <li>- <b>The price of the imported product</b></li> </ul> | <p>The exchange rate does impact on the Anchor Yeast's production cost and selling price as a portion of the input costs pertain to soda ash, phosphoric acids and potato starch, which cannot be sourced in South Africa. As a result, the exchange rate fluctuation will impact on the production cost, selling price as well as the imported products price.</p> <p>The weakening ZAR exchange rate had increased the ZAR based cost of Anchor Yeast's products. Subject Product is sold predominantly in SACU and is priced in ZAR. Limited Subject Product (other Active Yeasts) is sold to the SADC region that would be exposed to exchange rate fluctuations. That said, the imported Zimbabwe Subject Product is priced ex-works in USD and a weakening ZAR/USD relationship should increase the ZAR based pricing, yet the calculated Zimbabwe FOB prices experienced a decreasing trend for the POI.</p> |
| <p><b>Indicate any other factors affecting the SACU prices</b></p>  | <p>None that Anchor Yeast is aware of, except for the volume of dumped imports and their prices from Zimbabwe in the SACU market.</p>   |

**Commission's consideration**

*There are no imports of the subject product from other countries hence the FOB prices for imports not sold at dumped prices and volume of imports not sold at dumped prices are recorded as zero in the table above.*

- *Over the POI, the alleged dumped imports from Zimbabwe increased from 43 200 kg to 635 250kg an increase of 1 370.49 percent.*
- *During the same POI, the Applicant's sales volume and market share decreased, while the alleged dumped imports increased by 1 370.49 percent over the same period. The SACU market for the subject product indeed shrunk during the POI, however, the increase in Zimbabwean dumped imports is exacerbating the situation of the SACU industry, which can be seen in the fact that the contraction in the domestic market was less than the overall loss in sales of the Applicant.*

- *Over the POI, production volumes decreased by 11 index points. The Commission considered that the high import volumes of the subject product imports which Lesaffre exported into the SACU market also contributed to the decline in output. The overall production volume declined irrespective of whether the production is for the open market or contract market, and these markets are not considered separate by the Commission for the purposes of this investigation.*
- *The alleged dumped imports are priced lower than the Applicant's subject product. During the POI for dumping, the alleged dumped imports undercut the Applicant's price.*
- *The Commission considered that although the volume of BCY imports from Zimbabwe is not immense in absolute terms and relative to production, the dumped imports from Zimbabwe have contributed to the decline in the SACU industry's market share, in a declining SACU market, and to some extent reflecting a shift from the SACU product to the relatively cheap dumped imports from Zimbabwe. Therefore, there was a correlation between the increase in imports volume from Zimbabwe and the decline in sales and production volume of the Applicant.*
- *The Zimbabwean imports are growing in the SACU market and definitely are threatening to cause material injury to the SACU industry, and if they are allowed to continue unchecked, the threat will adversely impact the existence or viability of the SACU industry.*

*Therefore, the Commission is of the view that there is a causal link between the alleged dumped imports and the material injury suffered by the SACU industry and the threat of material injury experienced by the SACU industry. There are also no other factors that sufficiently detract from the material injury and threat of material injury.*

### **Comments by interested parties**

- a) The interested parties stated that there is no basis for the Applicant to claim that it requires a level playing field in which there is steadiness in demand as the Applicant is the sole SACU producer and its market share in respect of BCY over the injury investigation period ranged from 99.65% in 2020 to 95.46% in 2022.
- b) Applicant is requested to provide the basis for the unsuppressed selling price and how it was calculated.
- c) Covid-19 - The interested parties stated that the South African economy was shut down due to Covid-19 human infections in February/March 2020. The economy was gradually reopened after the state of national disaster was lifted on 5 April 2022. However, it took time for economic activity to recover to pre-pandemic levels, and the entire injury investigation period falls within the period where Covid-19 negatively affected economic activity.

Riots and looting in Kwa-Zulu Natal and Gauteng have led to a nationwide bread shortage, causing critical supply issues for bakeries in the economic hubs of SACU.

The N3 closures have posed challenges in obtaining yeast from Durban to Gauteng bakeries and riots at Durban harbour have hindered wheat imports to KwaZulu-Natal millers for flour production.

Tiger Brands, the owner of Albany bread, is facing challenges in delivering bread in KwaZulu-Natal and Gauteng, particularly in gaining safe access to riot-hit areas.

- d) Interested parties stated that load-shedding, increasing input costs, poor infrastructure, and high labour costs have led to significant losses and increased production costs for the active yeast market, including bakeries. The inability of Eskom to provide reliable energy has negatively affected energy users, businesses, and consumers, resulting in losses and increased production costs.

Power outages due to load shedding caused loaves to be damaged and lost, and disposing of many loaves after a power loss was not uncommon. The modern plant bakery is fully automated, with time-sensitive environments, forcing plant bakeries to invest in massive generators at a significant capital expense. The diesel cost to run the generator is a significant concern, as electricity production from a generator is eight times more expensive than Eskom power. Small to medium bakeries have been severely affected by load shedding due to their inability to obtain finance for generators. They need to plan and time their production carefully to shut down their operation before load shedding commences to eliminate loaf damages.

### **Comments by the Applicant**

- a) The Applicant stated that the application relates to the dumped subject product contribution of the total SACU BCY market, which is where the focus should remain. The Applicant further stated that the total SACU active yeast market is irrelevant to the Application. The Applicant further stated that the dumped BCY product from Zimbabwe contribution of the total SACU BCY market is not of a *de minimis* nature.
  
- b) The Applicant provided that in 2020, the landed price of the dumped imported product from Zimbabwe did not undercut the Anchor Yeast BCY selling price on the level where it was directly competing with Anchor Yeast in the SACU market. The Applicant's cost of production was a certain percent of the selling price and was able to set its price and sell without having to compete with a dumped imported BCY product from Zimbabwe.

The Applicant further provided that in 2021 the dumped import volume from Zimbabwe increased, with the BCY product that was more regularly offered at low prices in the SACU market and it was directly competing with Anchor Yeast. Therefore, as a result of the increasing dumped imports that followed in 2021 and 2022, Anchor Yeast could not increase its selling prices to the required level, to maintain the percent cost to price ratio of 2020, to adequately recovering costs increases in 2021 and 2022.

The Applicant stated that the indicated unsuppressed selling prices are the calculated results of each respective year's cost of production (ex-factory) of the Anchor Yeast BCY product that were directly competing with the dumped imported product from Zimbabwe, following the cost of production being divided by a certain percent. These respective calculated results indicate each year's unsuppressed selling price, with a certain percent cost price ratio principle being applied.

- c) The Applicant stated that during Covid-19("C-19") it continued to serve all bakeries and only quick serve customers (such as the fast foods retail) were impacted through the restriction on prepared meals that were not allowed for a 6-week period. The Applicant further stated that all its other clients continued to bake through C-19 as the nature of the baking was considered an essential service. Anchor Yeast submits that its sales did not decline much in the time as Parties would like to suggest. In fact, all bakeries supplying essential goods were allowed to continue throughout C-19 in terms of the South African Government ("Government") regulations.

The Applicant further point out that during C-19, the supply of maize, potatoes and other starched were impacted more than bread, in terms of pricing increasing as well as supply chain challenges and people bought the cheapest product as they couldn't work.

The Applicant stated that it continued to supply all plant bakeries as well as retail and independent bakeries throughout the period. Product was rationed by delivering lower quantities, but with more frequent deliveries, so customers did not run out.

The Applicant further stated that the Government provided assistance to transport yeast with flights to Johannesburg and Cape Town and armed support was present to provide security to Anchor Yeast vehicles from Durban to other locations and alternative routes were used.



The Applicant stated that there was collaboration with significant customers for security coordination and delivery vehicles within the food industry travelled in convoys and with route alternations. The Applicant further stated that lower availability of bread occurred in KwaZulu-Natal due to the risk of delivery and looting of stores for only a few days in the risk areas, but then quickly went back to normal. Anchor Yeast submits that a shrinkage in BCY sales that relate to the riots did not occur, as claimed by the Parties.

**Commission's consideration**

- a) *The Commission considered that businesses should compete fairly on a level playing field, irrespective of market share or dominance.*
- b) *The Applicant provided the basis and calculations for the unsuppressed selling price.*
- c) *The Commission is in agreement with the Applicant that their service was regarded as essential during Covid-19 and this is supported by the fact that there was no shortage of bread during that period.*
- d) *The Applicant explained to the Commission during verification that it is not affected by load shedding as it is located in an area which is exempted from load shedding. Furthermore, the Applicant explained that it has also invested in solar power. The Commission also considered that it is common knowledge that there is load shedding. However, some if not most of the industrial areas are exempted from load shedding.*

Based on the information above, the Commission made a preliminary determination that there is a causal link between the alleged dumped imports and material injury and a threat of material injury experienced by the SACU industry and there were no other factors sufficiently detracting from causal link.



## 8. SUMMARY OF FINDINGS

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### 8.1 Dumping

The Commission made a preliminary determination that dumping of active yeasts (baker's compressed yeast) originating in or imported from the Republic of Zimbabwe is taking place. A dumping margin of 144.02 percent was determined.

### 8.2 Material Injury

The Commission found that the Applicant was experiencing material injury in the form of:

- Price undercutting;
- Price suppression;
- Declining sales volume;
- Decrease in market share;
- Decline in output;
- Declining productivity;
- Declining employment;
- Declining profits;
- Declining net cash flow;
- Declining return on investment;
- Increase in inventory;
- Declining utilisation of production capacity; and
- Slowdown in growth

Based on this information, the Commission made a preliminary determination that the SACU industry is experiencing material injury.

### 8.3 Threat of Material Injury

The Commission made a preliminary determination that a threat of material injury to the SACU industry exists.

### 8.4 Causal Link

The Commission made a preliminary determination that there is a causal link between the alleged dumped imports and material injury and a threat of material injury experienced by the SACU industry and there were no other factors sufficiently detracting from causal link.

## 9. PROVISIONAL PAYMENTS

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The Commission found that all requirements for the imposition of a provisional duty have been fulfilled.

### 9.1 Price disadvantage

Price disadvantage is the extent to which the imported product (landed cost) is lower than the unsuppressed and undepressed ex-factory selling price of the SACU product.

### 9.2 The Lesser duty rule

ADR 1 provides that the lesser duty means that the provisional payment or Anti-Dumping duty imposed at a lesser of the margin of dumping or the margin of injury, which is deemed sufficient to remove the injury caused by the dumping.

ADR 17 provides that the Commissions shall consider applying the lesser duty rule if both the cooperating exporter responds fully with its related importer.

The dumping duty expressed as percentage of FOB export price is more than the price disadvantage expressed as percentage of FOB export price.

#### **Commission's consideration**

*The Commission considered not applying the lesser duty as the exporter and importer are related or practically one company. The relationship is in such that they are applying transfer pricing when making sales to each other. A lesser duty in such transfer pricing practices has the potential of making the duty irrelevant or not removing injury.*

### 9.3 Summary

The Commission made a preliminary determination to apply the following provisional duties:

**Table 9.3: Provisional Duties**

| HS codes and description | Country of origin    | Producer/ exporter            | Provisional duties        |
|--------------------------|----------------------|-------------------------------|---------------------------|
| 2102.10 Active yeast     | Republic of Zimbabwe | Lesaffre Zimbabwe (Pvt) Ltd   | 132.20% <i>Ad Valorem</i> |
|                          |                      | All other producers/exporters | 132.20% <i>Ad Valorem</i> |

## 10. DETERMINATION

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The Commission made a preliminary determination that:

- dumping of the subject product originating in or imported from the Republic of Zimbabwe is taking place;
- there is material injury and threat of material injury to the SACU industry; and
- there is causal link between the alleged dumped imports and the material injury and threat of material injury experienced by the SACU industry.

The Commission decided that provisional measures be imposed for 6 months pending the finalisation of the investigation on the alleged dumping of the subject product originating in or imported from the Republic of Zimbabwe as per table 9.3 above.

Interested parties are invited to submit comments and make representations on the preliminary determination within the specified time periods, which the Commission will consider prior to making its final determination and recommendation to the Minister of Trade, Industry and Competition.