

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NOTICE 624 OF 2021

INTERNATIONAL TRADE ADMINISTRATION COMMISSION

INITIATION OF AN INVESTIGATION INTO THE ALLEGED DUMPING OF SPADES AND SHOVELS OF A MAXIMUM BLADE WIDTH OF MORE THAN 150MM BUT NOT EXCEEDING 200MM ORIGINATING IN OR IMPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA AND THE ALLEGED DUMPING OF SPADES AND SHOVELS OF A MAXIMUM BLADE WIDTH OF MORE THAN 150MM BUT NOT EXCEEDING 320MM, PICKS, OTHER RAKES (EXCLUDING THOSE WITH NOT MORE THAN 8 PRONGS) AND OTHER FORKS, WITH A PRONG LENGTH EXCEEDING 150MM ORIGINATING IN OR IMPORTED FROM THE REPUBLIC OF INDIA

The International Trade Administration Commission of South Africa (the Commission) accepted an application alleging that spades and shovels of a maximum blade width of more than 150mm but not exceeding 200mm originating in or imported from the People's Republic of China (PRC) and spades and shovels of a maximum blade width of more than 150mm but not exceeding 320mm, picks, other rakes (excluding those with not more than 8 prongs) and other forks, with a prong length exceeding 150mm originating in or imported from the Republic of India (India) are being dumped in the Southern African Customs Union (SACU) market, causing material injury and threatening to cause material injury to the SACU industry concerned.

The applicant submitted sufficient evidence and established a *prima facie* case to enable the Commission to arrive at a reasonable conclusion that an investigation should be initiated on the basis of dumping, material injury, threat of material injury and causality.

THE APPLICANT

The application was lodged by Ussher Inventions (Pty) Ltd (trading as Lasher Tools) supported by Ottimo Products CC. Lasher Tools represents a major percentage by production volumes of the SACU producers for the subject products.

THE PRODUCTS

The products allegedly being dumped are spades and shovels, picks, other rakes (excluding those with not more than 8 prongs) and other forks, with a prong length exceeding 150mm.

The subject products originating in or imported from India are classifiable under the tariff subheadings 8201.10.05; 8201.10.10; 8201.30.03; 8201.30.90; and 8201.90.20. The subject product originating in or imported from the PRC is classifiable under tariff-subheading 8201.10.05.

THE ALLEGATION OF DUMPING

The allegation of dumping is based on the comparison between the normal value and the export price.

India

The normal values of the subject products were determined from domestic price quotations sourced from manufacturers in India.

The export prices for spades and shovels, picks and forks were determined from the South African Revenue Service (SARS) official import statistics.

The export price for rakes was determined based on the export price quotation obtained from the manufacturer of the subject product in India. The basis for using the export quotation was that tariff subheading 8201.30.90 is used to clear other products such as hoes which are not part of this investigation.

On this basis, the Commission found that there was *prima facie* proof of dumping.

PRC

The normal value of the subject product was determined from domestic price quotation sourced from a manufacturer in the PRC.

The export price for the subject product was determined from SARS official import statistics.

On this basis, the Commission found that there was *prima facie* proof of dumping.

THE ALLEGATION OF MATERIAL INJURY

The applicant submitted *prima facie* evidence to show that there is material injury as follows: price undercutting and price suppression. There is a decline in profits and net cash flow on spades and shovels classifiable under tariff subheading 8201.10.05.

The information also shows a decline in sales volumes and growth (except for spades and shovels classifiable under tariff subheading 8201.10.05 and forks); decline in market share (except for spades and shovels classifiable under tariff subheading 8201.10.10 and forks); decline in output (except for spades and shovels classifiable under tariff subheading 8201.10.05); decline productivity (except for rakes); decline in capacity utilisation (except for spades and shovels classifiable under tariff subheading 8201.10.05); and decline in number of employees (except for forks).

On this basis, the Commission found that there was *prima facie* proof of material injury.

THE ALLEGATION OF THREAT OF MATERIAL INJURY

The applicant submitted information indicating that increasing trends in global exports from China and offerings to the SACU market suggest that there is disposable capacity of exporters in China and India, significant increase of allegedly dumped imports into the SACU market which indicates the likelihood of substantially increased importation and that the subject products are entering the SACU market at prices that will have a suppressing effect on SACU prices and are likely to increase demand for further imports. The applicant stated that with the influx of the imports of the subject products, it appears that there is sufficient inventories to supply the importers.

On this basis, the Commission found that there was *prima facie* proof of threat of material injury to the SACU industry.

CAUSAL LINK

On this basis, the Commission found there was *prima facie* proof of material injury, threat of material injury to the SACU industry and that there is causal link between the alleged dumped imports, the material injury suffered by the SACU industry and threat of material injury to the SACU industry.

PERIOD OF INVESTIGATION

The period of investigation for purposes of determining dumping margin is from 01 May 2020 to 30 April 2021. The period of investigation for purposes of determining the material injury is from 01 May 2018 to 30 April 2021.

LEGAL PROCEDURAL FRAMEWORK

Having decided that there is sufficient evidence and a *prima facie* case to justify the initiation of an anti-dumping investigation, the Commission has begun an investigation in terms of section 16 of the International Trade Administration Act, 2002 (the ITA Act). The Commission will conduct its investigation in accordance with the relevant sections of the ITA Act, and the Anti-Dumping Regulations of the International Trade Administration Commission of South Africa (ADR) giving due regard to the World Trade Organisation Agreement on Implementation of Article VI of the GATT 1994 (the Anti-Dumping Agreement). Both the ITA Act and the ADR are available on the Commission's website (www.itac.org.za) or from the Trade Remedies section, on request.

PROCEDURES AND TIME LIMITS

In order to obtain the information it deems necessary for its investigation, the Commission will send non-confidential versions of the application and questionnaires to all known importers and exporters, and known representative associations. The trade representatives of the exporting countries have also been notified.

Importers and other interested parties are invited to contact the Commission as soon as possible in order to determine whether they have been listed and were furnished with the relevant documentation. If not, they should immediately ensure that they are sent the necessary documents.

The questionnaire has to be completed and any other representations must be made within the time limit set out below.

The Senior Manager: Trade Remedies II, should receive all responses, including non-confidential responses, not later than 30 days from the date hereof, or from the date on which the letter accompanying the abovementioned questionnaire was received.

Late submissions will not be accepted except with the prior written consent of the Commission. The Commission will give due consideration to written requests for an extension of not more than 14 days on good cause shown (properly motivated and substantiated), if received prior to the expiry of the original 30 day period. Merely citing insufficient time is not an acceptable reason for extension. Please note that the Commission will not consider requests for extension by the Embassy on behalf of exporters.

The information submitted by any party may need to be verified by the Investigating Officers in order for the Commission to take such information into consideration. The Commission may verify the information at the premises of the party submitting the information, within a short period after the submission of the information to the Commission. Parties should therefore ensure that the information submitted would subsequently be available for verification. It is planned that verification of the information submitted by the exporters within three to five weeks subsequent to submission of the information. This period will only be extended if it is not feasible for the Commission to do it within this time period or upon good cause shown, and with prior written consent of the Commission, which should be requested at the time of submission. It should be noted that unavailability of, or inconvenience to consultants will not be considered to be good cause.

Parties should also ensure when they engage consultants that they will be available at the requisite times, to ensure compliance with the above time frames. Parties should also ensure that all the information requested in the questionnaire response is provided in the specified detail and format.

The questionnaires are designed to ensure that the Commission is provided with all the information required to make a determination in accordance with the rules of Anti-Dumping Agreement. The Commission may therefore refuse to verify information that is incomplete or does not comply with the format in the questionnaire, unless the Commission has agreed in writing to a deviation from the required format. Failure to submit an adequate non-confidential version of the response that complies with the rules set out above under the heading *Confidential Information* will be regarded as an incomplete submission.

Parties, who experience difficulty in furnishing the information required, or submitting in the format required, are therefore urged to make written applications to the Commission at an early stage for permission to deviate from the questionnaire or provide the information in an alternative format that can satisfy the Commission's requirements. The Commission will give due consideration to such a request on good cause shown.

Any interested party may request an oral hearing at any stage of the investigation in accordance with Section 5 of the ADR, provided that the party indicates reasons for not relying on written submission only. The Commission may refuse an oral hearing if granting such hearing will unduly delay the finalisation of a determination.

Parties requesting an oral hearing shall provide the Commission with a detailed agenda for, and a detailed version, including a non-confidential version, of the information to be discussed at the oral hearing at the time of the request.

If the required information and arguments are not received in a satisfactory form within the time limit specified above, or if verification of the information cannot take place, the Commission may disregard the information submitted and make a finding on the basis of the facts available to it.

ADDRESS

The response to the questionnaire and any information regarding this matter and any arguments concerning the allegation of dumping, and the resulting material injury and/or threat of material injury must be submitted in writing to the following address:

Physical address

The Senior Manager: Trade Remedies II
International Trade Administration Commission
Block E – The DTI Campus
77 Meintjies Street
SUNNYSIDE
PRETORIA
SOUTH AFRICA

Postal address

The Senior Manager
Trade Remedies II
Private Bag X753
PRETORIA
0001
SOUTH AFRICA

Should you have any queries, please do not hesitate to contact the investigating officers, Ms. Thuli Nkomo at email address: tnkomo@itac.org.za, Mr Sandile Mantolo at email address: smantolo@itac.org.za and Ms Portia Mathebula at email address: pmathebula@itac.org.za