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DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

GENERAL NOTICE 795 OF 2022

INTERNATIONAL TRADE ADMINISTRATION COMMISSION

NOTICE OF INITIATION OF AN INVESTIGATION INTO THE ALLEGED DUMPING OF NEW PNEUMATIC TYRES OF RUBBER OF A KIND USED ON MOTOR CARS (CLASSIFIABLE UNDER TARIFF SUBHEADINGS HS 4011.10.01, HS 4011.10.03, HS 4011.10.05, HS 4011.10.07, AND HS 4011.10.09) AND ON BUSES OR LORRIES (CLASSIFIABLE UNDER TARIFF SUBHEADINGS HS 4011.20.16, HS 4011.20.18, AND HS 4011.20.26) ORIGINATING IN OR IMPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA

The International Trade Administration Commission of South Africa (the Commission) accepted an application alleging that new pneumatic tyres of rubber of a kind used on motor cars and on buses or lorries originating in or imported from the People's Republic of China are being dumped into 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 South African Tyre Manufacturers Conference (SATMC) (the Applicant), an industry body or trade association of the SACU industry. The SATMC members Bridgestone, Continental, Goodyear, and Sumitomo together constitute 100% of the domestic production of the subject products in SACU. The four members of SATMC provided injury information in this regard, and they constitute a major proportion of the total SACU production.

THE PRODUCT

The product allegedly dumped is new pneumatic tyres of rubber of a kind used on motor cars (classifiable under tariff subheadings HS 4011.10.01, HS 4011.10.03, HS

4011.10.05, HS 4011.10.07, and HS 4011.10.09) and on buses or lorries (classifiable under tariff subheadings HS 4011.20.16, HS 4011.20.18, and HS 4011.20.26) originating in or imported from the People's Republic of China.

THE ALLEGATION OF DUMPING

The allegation of dumping is based on the comparison between the normal value and the export price from the People's Republic of China. The normal value of the subject

THE ALLEGATION OF MATERIAL INJURY

The Applicant submitted *prima facie* evidence to show there is price undercutting. The applicant's information also indicated a decline in sales volumes, decline in output, decline in capacity utilisation, decline in market share, productivity, employment, and slowdown in growth.

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 global exports from China and offerings to the SACU market suggest that exporters in China have disposable capacity, 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 depressing and 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 August 2020 to 31 July 2021. The period of investigation for purposes of determining material injury is from 01 August 2018 to 31 July 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 country has 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 copies of the 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 to do the 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 the prior written consent of the Commission, which should be requested at the time of the 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 the 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* and in the questionnaire 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.

CONFIDENTIAL INFORMATION

Please note that if any information is considered to be confidential then a non-confidential version of the information must be submitted for the public file, simultaneously with the confidential version. In submitting a non-confidential version, the following rules are strictly applicable, and parties must indicate:

- where confidential information has been omitted and the nature of such information;
- reasons for such confidentiality;
- a summary of the confidential information which permits a reasonable understanding of the substance of the confidential information; and
- in exceptional cases, where information is not susceptible to summary, reasons must be submitted to this effect.

This rule applies to all parties and to all correspondence with and submissions to the Commission, which unless indicated to be confidential and filed together with a non-confidential version, will be placed on the public file, and be made available to other interested parties.

If a party considers that any document of another party, on which that party is submitting representations, does not comply with the above rules and that such deficiency affects that party's ability to make meaningful representations, the details of the deficiency and the reasons why that party's rights are so affected must be submitted to the Commission in writing forthwith (and at the latest 14 days prior to the date on which that party's submission is due). Failure to do so timeously will seriously hamper the proper administration of the investigation, and such party will not be able to subsequently claim an inability to make meaningful representations on the basis of the

failure of such other party to meet the requirements.

Subsection 33(1) of the ITA Act provides that any person claiming confidentiality of information should identify whether such information is *confidential by nature* or is *otherwise confidential* and, any such claims must be supported by a written statement, in each case, setting out how the information satisfies the requirements of the claim to confidentiality. In the alternative, a sworn statement should be made setting out reasons why it is impossible to comply with these requirements.

Section 2.3 of the ADR provides as follows:

"The following list indicates "information that is by nature confidential" as per section 33(1) (a) of the Main Act, read with section 36 of the Promotion of Access to Information Act (Act 2 of 2000):

(a) management accounts;
(b) financial accounts of a private company;
(c) actual and individual sales prices;
(d) actual costs, including cost of production and importation cost;
(e) actual sales volumes;
(f) individual sales prices;
(g) information, the release of which could have serious consequences for the person that provided such information; and
(h) information that would be of significant competitive advantage to a competitor; Provided that a party submitting such information indicates it to be confidential."

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

Enquiries may be directed to the investigating officers, Mr Siphumelele Edwin Mkwanazi at email address: emkwanazi@itac.org.za and Ms Portia Mathebula at email address: pmathebula@itac.org.za

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