REPORT NO. 688

INCREASE IN THE GENERAL RATE OF CUSTOMS DUTY ON ARTICULATED DUMP TRUCKS WITH A GROSS VEHICLE MASS EXCEEDING 50 TONNES

The International Trade Administration Commission presents its **REPORT NO. 688: INCREASE IN THE GENERAL RATE OF CUSTOMS DUTY ON ARTICULATED DUMP TRUCKS WITH A GROSS VEHICLE MASS EXCEEDING 50 TONNES**.

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CHIEF COMMISSIONER

PRETORIA

04/04/2022

REPUBLIC OF SOUTH AFRICA

INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF SOUTH AFRICA

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Synopsis

Bell Equipment Company SA (Pty) Ltd, (herein referred to as “Bell Equipment” or the “applicant”) applied for an increase in the rate of customs duty applicable on Articulated Dump Trucks (“ADTs”) with a gross vehicle mass (“G.V.M.”) exceeding 50 tonnes classifiable under tariff subheading 8704.10.90 from free of duty to 10% *ad valorem,* by way of creating a new 8-digit tariff subheading.

The International Trade Administration Commission (“ITAC” or “Commission”) considered the application in light of the information at its disposal. In particular, the Commission considered the following factors:

- In terms of industrial policy, the subject products, which fall within the yellow metals sector, occupy a strategic position in the domestic value chain given that they support many local component manufacturers;

- There are two Original Equipment Manufacturers (“OEMs”) of the subject products within the SACU region;

- In terms of the tariff structure, smaller ADTs with a G.V.M. not exceeding 50 tonnes, classifiable under tariff subheading 8704.10.25, currently enjoy tariff protection of 10% *ad valorem* whilst larger ADTs (with a G.V.M. exceeding 50 tonnes) attract zero duty;

- The domestic market is however experiencing a shift in terms of the market requirements with larger sized ADTs, the subject products, becoming more popular relative to their smaller sized counterparts. As such, the lack of tariff protection on the subject products exposes the domestic manufacturers to fierce foreign completion;

- The significant volume of imports into the SACU industry has resulted in the displacement of local production of the subject product;

- The decline in domestic production and excess dedicated domestic production capacity;

- The significant number of jobs supported by the domestic industry manufacturing the subject products;

- Significant investment by the domestic industry on capital equipment dedicated to the manufacture of the subject products; and

- Reciprocal commitments pertaining to job creation and investment.

The Commission concluded that tariff support of 10% *ad valorem* would enable the domestic industry to grow its market share, increase economies of scale. This should enhance the competitive position of the domestic industry *vis-à-vis* imports of the similar product into the SACU market. In addition, tariff support should result in the retention and/or creation of direct and indirect jobs (component suppliers).

The Commission recommended that the rate of customs duty applicable to ADTs with a G.V.M. exceeding 50 tonnes classifiable under tariff subheading 8704.10.90 be increased from free of duty to 10% *ad valorem*, by way of creating additional 8-digit tariff subheadings.

The Commission further recommended that the duty be reviewed after a period of three (3) years from the date of implementation to determine the performance of the domestic industry unless otherwise determined by the Commission.

THE APPLICATION AND TARIFF POSITION

1. Bell Equipment applied for an increase in the rate of customs duty applicable on ADTs with a G.V.M. exceeding 50 tonnes classifiable under tariff subheading 8704.10.90, from free of duty to 10% *ad valorem*, by way of creating additional 8-digit tariff subheadings.

2. Bell Equipment is a 51% black-owned South African engineering and manufacturing company with its head office and main manufacturing facility based in Richards Bay, KwaZulu-Natal Province. The applicant is an OEM and distributor of a wide range of heavy equipment for the construction, mining, quarrying, sugar, forestry and waste handling industries. The ADT is the applicant's core OEM product.

3. As motivation for the application, Bell Equipment stated, *inter alia*, the following reasons:

   - The general economic decline and uncertainty that exist in South Africa and Sub-Saharan Africa make it difficult to maintain production volumes at a level where current facilities and work force are justified;

   - The domestic industry has, over the years, lost its domestic market share to foreign OEMs which are not subject to territorial and distribution restrictions and often have access to cheap export credit finance facilities from their countries;

   - The loss of sales to importers has a negative impact on the employment levels across the value chain; and

   - The imposition of a 10% import tariff will assist domestic manufacturers to be more price competitive, retain current jobs and provide an opportunity to capture additional market share and boost employment across the value chain.

4. On 29 January 2021 the Commission published the application in Government Gazette No. 44108 as Notice 25 of 2021 for interested parties to comment. Deliberations following the publication revealed that the scope of the application was too broad. Subsequently, on 01 December 2021 the Commission re-published the application with a narrower scope in the Government Gazette No. 45571 as Notice 702 of 2021 as follows:

"***Increase in the rate of customs duty on dumpers designed for off-highway use: other, classifiable under tariff subheading 8704.10.90 from free of duty to 10% ad valorem, by way of the creation of a new 8-digit tariff subheading 8704.10.30, as follows:***

"Articulated dumpers with a G.V.M. exceeding 50t, as defined in Additional Note 5 to Chapter 87";

THE CREATION OF A NEW 8-DIGIT SUBHEADING 8704.10.20, WITH NO DUTY IMPLICATION, AS FOLLOWS:

"Articulated dumpers with G.V.M. not exceeding 50t, as defined in Additional Note 5 to Chapter 87";

THE AMENDMENT OF SUBHEADING 8704.10.25, AS FOLLOWS:

"Other, with a G.V.M. not exceeding 50t"; and

THE INSERTION OF AN ADDITIONAL NOTE 5 TO CHAPTER 87 –

"For the purposes of tariff subheadings 8704.10.20 and 8704.10.30, articulated dumpers are vehicles consisting of two distinct sections namely, a two-wheeled motor-driven front chassis and a two or four-wheeled rear chassis connected to one another by a pivoting articulation joint for steering."

5. The existing tariff structure for the subject products is depicted in Table 1 below:

Table 1: Current tariff structure for the subject products

Tariff Heading	Tariff Subheading	Description	Statistical Unit	Rate of duty					
				General	EU/UK	EFTA	SADC	MERCOSUR	AfCFTA
87.04		Motor vehicles for the transport of goods:							
	8704.10	Dumpers designed for off-highway use:							
	8704.10.25	G.V.M. not exceeding 50 t	U	10%	5%	10%	free	10%	10%
	8704.10.90	Other	U	Free	Free	Free	Free	Free	Free

Source: SARS, (2021)

6. The subject products are currently imported free of duty and the World Trade Organisation ("WTO") bound rate applicable to the subject products is 50% *ad valorem*.

7. The subject products are currently classified under tariff subheading 8704.10.90. The tariff subheading incorporates other products that are not subject to this investigation. In this regard, the South African Revenue Service ("SARS") provided 8-digit tariff subheadings for administration purposes, as shown in Table 2 below.

8. Table 2 below shows the requested tariff structure for the subject products as follows:

Table 2: Requested tariff structure for the subject products

Tariff Heading	Tariff Subheading	Description	Statistical Unit	Rate of duty					
				General	EU/UK	EFTA	SADC	MERCOSUR	AfCFTA
87.04		Motor vehicles for the transport of goods:							
	8704.10	Dumpers designed for off-highway use:							
	8704.10.20	Articulated dumpers with G.V.M. not exceeding 50t, as defined in Additional Note 5 to Chapter 87	U	10%	5%	10%	Free	10%	10%
	8704.10.25	Other, with G.V.M not exceeding 50 t	U	10%	5%	10%	Free	10%	10%
	8704.10.30	Articulated dumpers with a G.V.M. exceeding 50t, as defined in Additional Note 5 to Chapter 87	U	10%	-	-	-	-	-
	8704.10.90	Other	U	Free	Free	Free	Free	Free	Free

Source: Applicant, 2021

INDUSTRY AND MARKET

9. The subject products are off-road dump trucks with a G.V.M. exceeding 50 tonnes classifiable under tariff subheading 8704.10.90 and are mainly used in the mining and construction sectors.

10. There are only two OEMs which manufacture off-road dump trucks, namely, Bell Equipment and Desmond Equipment. Both OEMs have their manufacturing operations in KwaZulu-Natal, with Bell Equipment's plant in Richards Bay and Desmond Equipment's in Port Shepstone.

11. Although about 70% of domestic production is exported, the SACU OEMs remain minor players in the global yellow metal sector, accounting for approximately 0.78% of the total yellow metal's global output sales. The SACU market is a significant ADT market, with over 30% of the total ADT products volumes by the applicant sold in the domestic market.

12. The investigation found that the domestic market has been experiencing a shift in terms of the market requirements with larger sized ADTs, the subject products, becoming the popular products relative to their smaller sized counterparts.

13. Challenges facing the domestic industry include the high costs of market entry, low levels of transformation, high level of labour cost, high energy costs, very low domestic manufacturing activities and less than optimal tariff regime.

14. The known importers and distributors of the subject products, amongst others, include, Barloworld Equipment, Babcock, Doosan, and Komatsu.

15. In terms of the imports of the subject products into the SACU, the statistics cannot be separately analysed since the data also includes imports of other products not part of this investigation.

COMPETITIVE POSITION

16. The Commission found that the loss in production volumes; low capacity utilisation as well as substantial decline in profit margins suggest that the increased import competition has resulted in an unfavourable operating environment for the industry manufacturing the subject products.

COMMENTS

17. Comments in support of the application were received from, the Department of Trade, Industry and Competition, as well as Trade and Investment KwaZulu Natal. Their support centred around the fact that the South African Yellow industry metals is one of least protected. They further indicated that the duty increase will allow local manufacturers to significantly improve their competitive position against low-priced imports thereby ensuring economic viability and sustainability of the sector, protect investments and retain current employment levels.

18. Comments objecting to the application were received from the Embassy of Japan; EXXARO; Mineral's Council; Waldick Jansen van Rensburg Inc representing Mynbou Rigs Afrika (Pty) Ltd; XA International Trade Advisors on behalf of Babcock Africa Services (Pty) Ltd, Barloworld Equipment Southern Africa, a division of Barloworld SA (Pty) Ltd, Hitachi Construction Machinery Southern Africa Co (Pty) Ltd, Komatsu and Liebherr-Africa (Pty) Ltd; South Africa (Pty) Ltd; Botswana Ministry of Investment, Trade and Industry; The Committee for European Construction Equipment (CECE); Anglo Corporate Services South Africa (Pty) Ltd; Moolmans, a division of Aveng (Africa) (Pty) Ltd; Japan Construction Equipment Manufacturers Association.

19. The objection by the interested parties cited, amongst others, the following: the scope of the application has been narrowed, however, there are still other ADTs not produced by the applicant; the proposed duties will have a cost-raising effect on operation costs for end users; the domestic products manufactured by the applicant are cheaper compared to imports; imports of the subject products have not been increasing over the recent period; and that the applicant will increase its prices to the end users pursuant to an increase in customs duties should it be supported. According to the objectors, the claim by the applicant that importers have access to cheaper products is not necessarily true since the cost of financing for importers is also not cheap as claimed by the applicant.

FINDINGS

20. The Commission considered all the relevant information at its disposal. In particular, the Commission considered the factors set out below.

21. The ongoing yellow metal strategy has recommended the review of tariffs, applicable to imports of final products to incentive the local assembly of yellow metal products relative to full vehicle imports;

22. In terms of industrial policy, the subject products, which fall within, the yellow metals sector occupy a strategic position in the domestic value chain given they support many local component manufacturers;

23. There are two OEMs producing the subject products within the SACU region;

24. In terms of the tariff structure, smaller ADTs with a G.V.M. not exceeding 50 tonnes classifiable under tariff subheading 8704.10.25 currently enjoy tariff protection of 10% *ad valorem* whilst larger ADT (with a G.V.M. exceeding 50 tonnes) attract zero duty;

25. The domestic market is however experiencing a shift in terms of the market requirements with larger sized ADTs, the subject products, becoming more popular relative to their smaller sized counterparts. As such, the lack of tariff protection on the subject products exposes the domestic manufacturers to fierce foreign completion;

26. The significant portion of imports into the SACU market has resulted in the displacement of local production of the subject product;

27. There has been a decline in domestic production, which has resulted in excess dedicated domestic production capacity;

28. There is a significant number of jobs supported by the domestic industry manufacturing the subject products;

29. There is significant investment by the domestic industry on capital equipment dedicated to the manufacture of the subject products; and

30. There are reciprocal commitments pertaining to job creation and investment.

31. The Commission concluded that tariff support of 10% ad valorem would enable the domestic industry to grow its market share, increase economies of scale. This should enhance the competitive position of the domestic industry vis-à-vis imports of the similar product into the SACU market. In addition, tariff support would result in the retention and/or creation of direct and indirect jobs (component suppliers).

RECOMMENDATION

32. In light of the foregoing, the Commission recommends that the rate of customs duty applicable on ADTs with a G.V.M. exceeding 50 tonnes classifiable under tariff subheading 8704.10.90 be increased from free of duty to 10% *ad valorem,* by way of creating a new 8-digit tariff subheading. The Commission further recommends that the duty be reviewed after a period of three (3) years from the date of implementation to determine the performance of the domestic industry unless otherwise determined by the Commission.