

Report No. 489

**INVESTIGATION INTO THE ALLEGED DUMPING OF
WHEELBARROWS ORIGINATING IN OR IMPORTED FROM THE
PEOPLE'S REPUBLIC OF CHINA (CHINA): PRELIMINARY
DETERMINATION**

The International Trade Administration Commission of South Africa herewith presents
its **Report No. 489: INVESTIGATION INTO THE ALLEGED DUMPING OF
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REPUBLIC OF CHINA (CHINA): PRELIMINARY DETERMINATION**



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INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF SOUTH AFRICA

INVESTIGATION INTO THE ALLEGED DUMPING OF WHEELBARROWS ORIGINATING IN OR IMPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA (CHINA): PRELIMINARY DETERMINATION

SYNOPSIS

On 20 June 2014, the Commission initiated the investigation into the alleged dumping of wheelbarrows originating in or imported from China. Notice of initiation of the investigation was published in Notice No.449 of *Government Gazette* No. 37740 dated 20 June 2014.

The application was lodged by Usher Inventions, trading as Lasher Tools, being the major producer of the subject product in the SACU, representing 96% of the SACU production.

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

On initiation of the investigation, the known manufacturers/exporters and the diplomatic representative of the subject product in the People's Republic of China (China) were sent foreign manufacturers/exporters questionnaires to complete. Importers of the subject product were also sent questionnaires to complete.

After considering all interested parties' comments, the Commission made a preliminary determination that the subject product, originating in or imported from China, was being dumped on the SACU market, causing material injury to the SACU industry.

As the Commission considered that the SACU industry will continue to suffer material injury during the course of the investigation if provisional payments are not imposed, it decided to request the Commissioner for South African Revenue Service (SARS) to impose the following provisional measures on imports of the subject product for a period of 24 weeks:

Tariff sub-heading	Country/manufacturer	Amount of provisional payment
8716.80.10	China: Manufactured by Qingdao Youhe	32.32%
	China: Manufactured by Qingdao Wantai	29.82%
	China (Excluding those manufactured by Qingdao Yongyi; Qingdao Youhe and Qingdao Wantai)	29.82%

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

APPLICATION AND PROCEDURE

1.1 LEGAL FRAMEWORK

This investigation is conducted in accordance with the International Trade Administration Act, 2002, and the International Trade Administration Commission of South Africa Anti-Dumping Regulations (ADR), having due regard to the World Trade Organisation 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 Usher Inventions, trading as Lasher Tools, being the major producer of the subject product in the SACU, representing 96% of the SACU production.

1.3 DATE OF ACCEPTANCE OF APPLICATION

The application was accepted by the Commission as being properly documented in accordance with Section 21 of the ADR on 10 June 2014.

Comments by Exploit Tools (Pty) Ltd

Exploit Tools stated that “the Application for remedial action against the alleged dumping of wheelbarrows manufactured/produced in China launched by Lasher Tools does not comply with the rules relating to confidential information and the deficiency affects our client’s ability to make meaningful representations”.

Response by the Applicant to Exploit Tools’ comments

In response to the above, the Applicant submitted that it wished to point out that it had supplied proper motivations why information is classified as confidential and where and why it could not be summarized or indexed.

Commission's consideration

In response to the above, the Commission stated that Section 35(2) (a) of the ITA Act prescribes that ITAC mediate between the party seeking the confidential information and the owner of the information. In line with this requirement, ITAC forwarded the request to the Applicant and the Applicant stated that its confidential information should not be released to any third party.

1.4 ALLEGATIONS BY THE APPLICANT

The Applicant alleged that imports of the subject product, originating in or imported from China were being dumped into the SACU market, thereby causing material injury to the SACU industry. The basis of the alleged dumping was that the goods were being exported to SACU at prices less than the normal value in the country of origin.

The Applicant further alleged that the dumping of the subject product from China was causing the SACU industry material injury in the form of:

- (a) Price suppression;
- (b) Declining selling prices;
- (c) Declining gross profit;
- (d) Declining market share;
- (e) Capacity utilization; and
- (f) Decline in growth.

1.5 INVESTIGATION PROCESS

The Commission initiated the investigation into the alleged dumping of wheelbarrows originating in or imported from China, pursuant to Notice No.449, which was published in the *Government Gazette* No. 37740 on 20 June 2014.

Prior to initiation of the investigation, the trade representative of the country concerned was notified of the Commission's intention to investigate in terms of Section 27.1 of the ADR. All known interested parties were informed and requested to respond to the questionnaires and the non-confidential version of

the application.

A revised application was received on 14 March 2014 subsequent to deficiency letters sent to the Applicant. The information submitted by the Applicant was verified on 31 March 2014.

1.6 INVESTIGATION PERIOD

The investigation period for dumping is from 01 February 2013 to 31 January 2014. The investigation period for injury involves evaluation of data for the period 01 July 2010 to 31 January 2014.

1.7 PARTIES CONCERNED

1.7.1 SACU industry

The SACU industry consists of one major manufacturer of the subject product, Usher Inventions, trading as Lasher Tools, and supported by Pabar (Pty), the only other manufacturer of the subject product in the SACU.

1.7.2 Foreign Manufacturers/Exporters

The following manufacturers/exporters responded in full to the Commission's exporter questionnaire:

- Qingdao Yonyi Metal Products Co. Ltd
- Qingdao Youhe Hand Truck Co. Ltd
- Qingdao Wantai Special Hand Truck Co. Ltd

The response date to the Commission's exporter questionnaire was 30 July 2014 with the exception of Sam's International, whose reasons were not considered as good cause since it is an agent of wheelbarrows into South Africa from China and not a manufacturer of the subject product.

Request for extension to submit a response to the Commission's exporter questionnaire was received from Qingdao Wantai on 21 July 2014 and extension was granted until 14 August 2014. Qingdao Wantai's response was submitted on 8 August 2014. On 13 August 2014 a deficiency letter was sent

to the exporter with a deadline of 20 August 2014. The response to the deficiency letter, which was found to be properly addressed, was received by the Commission on 25 August 2014. Since its response to the deficiency letter was received after the deadline, the Commission decided not to take the information into account for its preliminary determination. However, since Qingdao Wantai's response was properly documented and received prior to the investigating team's verification at Qingdao Youhe and Qingdao Yongyi in China, it was decided that the response submitted also be verified with other exporters in order to enable the Commission to take this information into account for its final determination. Verification of Qingdao Wantai was conducted during the period 27 to 29 October 2014. A verification report was sent out on 4 November 2014 and a response to the report was received on 5 November 2014.

Comments by the Applicant

The Applicant indicated that it wishes to highlight that the *Government Gazette* of 20 June 2014, initiating the investigation states that "Late submissions will not be accepted except with prior written consent of the Commission." In its response it requested the Commission not to act in breach of its obligations and disregard QWS response completely as it did not respond within the required time period.

On 28 July 2014, Qingdao Youhe and Qingdao Yongyi submitted requests for extension to submit responses to the Commission's exporter questionnaire and extensions were granted until 14 August 2014. Further extensions were requested and the deadline to submit full and complete responses was 21 August 2014. Responses were received on 21 August 2014 and deficiency letters were sent out on 28 August 2014. Full and complete responses were submitted on 4 September 2014. Verification of the information submitted was conducted during the period 20 to 24 October 2014. Verification reports were sent out on 5 November 2014 and responses to the reports were received on 11 November 2014.

1.7.3 Importers

The following SACU importers responded to the Commission's questionnaires:

- (a) Ezamvelo Trading CC;
- (b) K Carrim Wholesalers;
- (c) Marburg Hypersparses; and
- (d) Spar Group Limited.

The following importer response was deficient:

- (a) Ikhaya Tools.

On 30 July 2014, a response to the Commission's importer's questionnaire was received from Ikhaya Tools. A deficiency letter was sent to Ikhaya Tools and a response which was further found to be deficient was received on 18 August 2014. The Commission therefore decided not to take its information into account for the purposes of the preliminary determination.

The following is a summary of deficiencies in Ikhaya Tools' response:

- Not all copies of supporting documentation relating to shipments that entered the SACU market during the period of investigation were provided.
- Domestic sales information of the imported product was not provided.
- Some annexures to the confidential and the non-confidential applications were not attached in the electronic version.
- Confidentiality was not claimed and the sworn affidavit was also not attached.

On 4 and 14 August 2014, Spar Group Limited, Marburg Hypersparses, K Carrim Wholesalers and Ezamvelo Trading CC submitted full and complete

responses to the Commission's importer's questionnaire. Their information was verified on 2, 3 and 9 September respectively. Verification reports were forwarded on 9 September 2014.

A response to the importer's questionnaire was also received from Exploit Tools. However, as it only started importing during March 2014, the Commission informed it that it is not an interested party in this investigation.

Comments by Exploit Tools

In response to the Commission's letter dated 5 August 2014, Exploit Tools submitted that the Commission's decision not to recognise Exploit Tools as an interested party has serious consequences and inter alia deprives it access to the remedy provided for in Regulation 64 of the Anti-Dumping Regulations (ADR). It requested the Commission to provide reasons for dealing with this issue.

Response by the Applicant to Exploit Tools' comments

The Applicant stated that: "Exploit Tools is not an interested party as it did not import during the period of investigation from a Chinese manufacturer or trader in China. In this regard it does not believe that by accepting Exploit Tools as an interested party there would be any value added to the investigation as Exploit cannot supply any meaningful response with regard to dumping that took place from a specific Chinese manufacturer or trader".

Commission's consideration

In response to Exploit Tool's comments, the Commission stated that the period of investigation for determining dumping is 1 February 2013 to 31 January 2014. In its response to the Commission's questionnaire, no information with regards to imports during the period of investigation was provided. The information submitted shows that Exploit Tools only commenced importing the subject product in the SACU market on 28 March 2014, which is outside the investigation period.

In response to Exploit Tool's information submitted with regards to the Commission's importer questionnaire, the Commission submitted in its letters dated 30 July 2014 and 5 August 2014, that it understands that the inability to provide such pertinent information stems from the fact that it was not the importer of the subject product during the period of investigation. It was also stated that by accepting Exploit Tools as an interested party there would not be any value added to the investigation as Exploit cannot supply any meaningful response with regard to dumping that took place from a specific Chinese manufacturer. Information submitted by Exploit Tools was also relayed to the Applicant for comments.

- 1.8** The Commission took all interested parties' comments into account. Copies of the non-confidential versions are available on the public file. It should be noted that this report does not purport to present all comments received and considered by the Commission. However, some of the salient comments received from interested parties and the Commission's consideration of these comments are specifically included in this report.

1.9 PRELIMINARY DETERMINATION

The Commission made a preliminary determination that the subject product originating in or imported from China is being dumped on the SACU market, causing material injury to the SACU industry. Comments submitted by interested parties on the preliminary determination within the specified time periods, will be considered by the Commission prior to making its final determination and recommendation to the Minister of Trade and Industry.

2. PRODUCTS, TARIFF CLASSIFICATION AND DUTIES

2.1 IMPORTED PRODUCT

2.1.1 Description

The imported product is described as “wheelbarrows”, classifiable under tariff subheading 8716.80.10.

2.1.2 Tariff classification

The subject product is currently classifiable as follows:

Table 2.1.4: Tariff classification

Head	Sub Head	CD	Article Description	Stat Unit	Gen	EU	EFTA	SADC
8716			Trailers and semi-trailers; other vehicles, not mechanically propelled; parts thereof					
	8716.80		Other vehicles					
	8716.80.10		Wheelbarrows	unit	15%	Free	1.9%	Free

2.1.3 Possible tariff loopholes

The Applicant stated that it suspects that the product might in some instances be under-invoiced, imported in knock-down form and assembled in SACU. It also stated that it experiences problems with counterfeit goods that are imported and distributed. It further stated that some Chinese products are exported via Hong Kong, declaring it as country of origin.

2.1.4 Negligibility test

The volume of dumped imports into SACU shall be considered negligible if it accounts for less than 3% 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 2.1.4 : Import volumes as % of alleged dumped imports	Import volumes (Feb 2013 – Jan 2014)	Volume as a % of total imports
China	558 352	99%
Total imports	560 297	100%

The import statistics indicated that the volume of dumped imports from China account for 99 per cent of the total imports of the like product during the period of investigation for dumping.

The Commission made a preliminary determination that the imports from China are above the negligibility level.

2.1.5 Country of export

The subject product originates in and is exported from China.

2.1.6 Application/end-use

The imported product is used in the mining industry, building industry, agricultural industry and by households.

2.1.7 Production process

The production process involves the following:

Pan manufacturing: Consisting of blanking, drawing, clipping, folding of lip, making of bead wire, closing of lip embossing of pan and painting of pan.

Frame manufacturing: Consisting of tube bending, bending of nose, hole punching, final forming, welding, paint and punching.

Wheel manufacturing: Consisting of forming of discs, painting and tyre fitment.

Making of parts such as front stays cross stays, front bottom brace, back bottom brace and skid pads.

Assembly by bolting all parts together, labelling and packing.

2.2 SACU PRODUCT

2.2.1 Description

The SACU product is described as wheelbarrows.

Comments by Spar Group

Spar Group stated that the reason it imports the subject product is based mainly on the fact that the imported wheelbarrows have greater quality in terms of durability than the locally manufactured wheelbarrows. The bin is thicker while the frame is bigger and the wheel withstands heavy loads. The wheelbarrows therefore do not quickly get damaged, making them attractive for the construction and mining industries.

It also stated that the SACU produced product alone simply does not cater for each and every expectation and needs of different customers.

For Build-it and its customers (Build-it independent retailers), the imported wheelbarrows meet expectations and required quality requirements of the Build it brand. In fact, there are no wheelbarrows produced to the Spar Group's specifications in the domestic market).

Spar further stated that there are too few local manufacturers of the subject product. There is one dominant manufacturer, Lasher, which sells its own branded wheelbarrows. This poses a challenge particularly because the Spar Group requires wheelbarrows branded with the Build-it brand. Currently, only PVC wheelbarrows are branded while steel wheelbarrows are not. These will also be branded in the near future.

The Build-it brand and the Lasher brand of wheelbarrows compete in the same final markets. It is not ideal to source from Lasher as it will significantly constrain pricing decisions and will result in loss of any competitiveness. Importing a wheelbarrow of high quality with a Build-it brand allows the company to have a unique competitive advantage in meeting its customer needs.

The company goes to great lengths to continuously improve and protect the brand associated with its wheelbarrows. To this end, the Spar Group cooperates with the manufacturers producing its subject products to ensure its quality expectations are met.

Response by the Applicant to Spar Group's comments

The Applicant stated that with regards to the above, Build-it requires wheelbarrows branded with the Build-it brand. It is common fact that the only issue in buying branded wheelbarrows from China is lower prices and it therefore adds to the Chinese imports, (volume-dumped) which indicates price undercutting and therefore results in material injury to the local manufacturer.

2.2.2 Application/end-use

The SACU product is used in the mining industry, building industry, agricultural industry and by households.

2.2.3 Tariff classification

The SACU product is classified under tariff subheading 8716.80.10.

2.2.4 Production process

The production process involves the following:

Pan manufacturing: Consisting of blanking, drawing, clipping, folding of lip,

making of bead wire, closing of lip embossing of pan and painting of pan.

Frame manufacturing: Consisting of tube bending, bending of nose, hole punching, final forming, welding, paint and punching.

Wheel manufacturing: Consisting of forming of discs, painting and tyre fitment.

Making of parts such as front stays cross stays, front bottom brace, back bottom brace and skid pads.

Assembly by bolting all parts together, labelling and packing.

2.3 LIKE PRODUCTS ANALYSIS

2.3.1 General

In order to establish the existence and extent of injury to the SACU industry, it is necessary to determine at the outset whether the products produced by the SACU industry are like products to those originating in or imported from China.

2.3.2 Analysis

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

Table 2.3.2: Like product determination

	Imported product	SACU product
Raw materials	Steel frame, steel pan and rubber wheels.	Steel frame, steel pan and rubber wheels.
Physical appearance	The Applicant does not have detailed technical characteristics of the foreign produced product. It stated that it is expected to be similar to that of the locally produced product. The Applicant has provided brochures in this regard.	The Applicant has provided brochures in this regard.
Tariff classification	8716.80.10	8716.80.10
Production process	<p>Pan manufacturing: Consisting of blanking, drawing, clipping, folding of lip, making of bead wire, closing of lip embossing of pan and painting of pan.</p> <p>Frame manufacturing: Consisting of tube bending, bending of nose, hole punching, final forming, welding, paint and punching.</p> <p>Wheel manufacturing: Consisting of forming of discs, painting and tyre fitment.</p> <p>Making of parts such as front stays cross stays, front bottom brace, back bottom brace and skid pads.</p> <p>Assembly: Bolting all parts together, labelling and packing.</p>	<p>Pan manufacturing: Consisting of blanking, drawing, clipping, folding of lip, making of bead wire, closing of lip embossing of pan and painting of pan.</p> <p>Frame manufacturing: Consisting of tube bending, bending of nose, hole punching, final forming, welding, paint and punching.</p> <p>Wheel manufacturing: Consisting of forming of discs, painting and tyre fitment.</p> <p>Making of parts such as front stays cross stays, front bottom brace, back bottom brace and skid pads.</p> <p>Assembly: Bolting all parts together, labelling and packing.</p>
Application or end use	The subject product is used in mining industry, building industry, agricultural industry and by households.	The subject product is used in mining industry, building industry, agricultural industry and by households.

The Commission noted that in addition to imports of steel wheelbarrows, pvc wheelbarrows were also imported from one of the exporters (Qingdao Taifa

Group Import & Export Co. Ltd) who did not cooperate in the investigation. The matter was raised with the Applicant who confirmed that both pvc and steel wheelbarrows are like products for purposes of comparison.

Comments by Qingdao Yongyi

Qingdao Yongyi stated that it does not sell any products in the domestic market. Its market is alleged to be primarily wheelbarrows that have a load capacity of 100kg, 130kg, 160kg and 170kg. The wheelbarrows have a tray, which is attached to a metal frame and one wheel. The wheelbarrows have been designed to be loaded and pushed by a person over short distance. The wheelbarrow's advantage is that loads can be lifted and carried close to the ground.

It also pointed out that as there are no wheelbarrows sold in their domestic market a comparison between the product exported to SACU and the product sold on domestic market cannot be made. It alleged that the wheelbarrows sold to other countries outside of SACU and the ones sold to SACU are identical when the same models are compared.

Comments by the Applicant to Qingdao Yongyi response

In response to Qingdao Yongyi's comments, the Applicant stated that in terms of Section 32 (2) (b) (i) and (ii) of International Trade Administration Act (Act No. 712002) ("**ITA Act**"),

(b) "normal value" in respect of any goods, means-

i) the comparable price paid or payable in the ordinary course of trade for the like goods intended for consumption in the exporting country or country of origin; or

(ii) in the absence of information on a price contemplated in subparagraph (i), either-

(aa) the constructed cost of production of the goods in the country of origin when destined for domestic consumption, plus a reasonable addition for selling, general and administrative costs and profit; or

(bb) the highest comparable price of the like product when exported to an appropriate third or surrogate country, as long as that price is representative;"

