

ITAC imposes anti-dumping duty on frozen chips

Trade lawyers Hilton Lambert note that ITAC has confirmed that the European Union has been dumping frozen potato chips into the South African market, and that it will be taking corrective action by imposing definitive anti-dumping duties as of 17 May 2023. The announcement comes just one day before the statutory 18-month cut-off point within which an anti-dumping investigation has to be completed. ITAC has found that the dumping by European frozen chip manufacturers has been highly injurious and predatory upon the domestic potato value chain, and as such has imposed anti-dumping duties against Belgium at a rate of 67.33%, the Netherlands at a rate of 239.1%, and against Germany at a rate of 181.05%. This said, it is noted that several individual European companies will face duties well lower than these general country specific duties.

Dumping is a practice where a company exports a product at a lower price than the normal price values in its domestic market, or at below its average cost of production. This is considered illegal under World Trade Organization (WTO) rules if it causes harm to the domestic industry of the importing country. It is important to note that anti-dumping measures are not a protectionist policy, but rather a remedial tool that governments can use to ensure fair trade where trade has found to be unfair and hence to prevent injury to their industries. In the South African case, the anti-dumping duties will not cause imports to cease. Imports will certainly continue, but at more reasonable and market related (as opposed to dumped) import prices.

Mid-way into the ITAC investigation the European exporters gave up trying to deny that they were dumping and focused on a defence that their (illegal) behaviour should be considered as acceptable as this served to provide lower prices for consumers eating fast foods. If this logic was sound, then the next iteration in this argument would be to condone other illegal actions that lower prices for consumers.

This is not the first time that European exporters have been found to be dumping in South Africa, they are repeat offenders. It is also notable that South Africa is not the only developing country that has been targeted by European frozen potato chip dumpers. Europe has also faced anti-dumping duties on frozen chips and other processed potato products in other developing countries such as Brazil, Colombia and China. Aside from dumping, it is also common cause that European exports also benefit from a generous European agricultural subsidy regime, where South Africa has no equivalent.

The duties announced will stabilise the local market and encourage local manufacturers to release capex funding into new capacity investments. The stability will also give rise to more consistent frozen chip supplies at fair and competitive domestic prices. The local industry still faces other pressing challenges to production efficiency, where it hopes for positive government action. Foremost of those challenges are electricity and water supplies. It is imperative that these public utility crises are not allowed to escalate into a wider food crisis.

Here is the link for the ITAC report:

[http://www.itac.org.za/upload/document_files/20230517113134_Report-706 - Investigation-into-alleged-dumping-of-frozen-potato-chips -Final-determination.pdf](http://www.itac.org.za/upload/document_files/20230517113134_Report-706_-_Investigation-into-alleged-dumping-of-frozen-potato-chips_-_Final-determination.pdf)

