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Committee on Safeguards

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**NOTIFICATION, UNDER ARTICLE 12.1(B) OF THE AGREEMENT ON SAFEGUARDS,  
OF A FINDING OF SERIOUS INJURY OR THREAT THEREOF  
CAUSED BY INCREASED IMPORTS**

**NOTIFICATION UNDER ARTICLE 12.1(C) OF THE AGREEMENT ON SAFEGUARDS  
ON TAKING A DECISION TO APPLY A SAFEGUARD MEASURE**

**NOTIFICATION UNDER ARTICLE 9, FOOTNOTE 2,  
OF THE AGREEMENT ON SAFEGUARDS**

MADAGASCAR

*Paints*

The following communication, dated and received on 10 March 2023, is being circulated at the request of the delegation of Madagascar.

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In accordance with Articles 12.1(b) and 12.1(c) of the Agreement on Safeguards, Madagascar hereby notifies the Committee on Safeguards of a finding of serious injury or threat thereof caused by increased imports, and of the decision to apply a safeguard measure on imports of paints. Madagascar also wishes to notify the Committee, under Article 9, footnote 2, of the Agreement, of its decision not to apply the proposed safeguard measure to imports from developing countries.

Pursuant to Article 12.3 of the Agreement on Safeguards, Madagascar is prepared to consult with those Members having a substantial interest as exporters of the product concerned.

**1 NOTIFICATION, UNDER ARTICLES 12.1(B) AND 12.1(C) OF THE AGREEMENT ON  
SAFEGUARDS, OF A FINDING OF SERIOUS INJURY OR THREAT THEREOF CAUSED BY  
INCREASED IMPORTS, AND OF THE DECISION TO APPLY A SAFEGUARD MEASURE**

**1.1 Evidence of serious injury or threat thereof caused by increased imports**

**A. INCREASE IN IMPORTS**

**i. Unforeseen developments**

The massive increase in paint imports is the result of unforeseen developments reflected in the following series of factors:

On the one hand, the implementation of post-COVID-19 economic recovery policies has led to the very rapid resumption of exports from the main paint-exporting countries.

On the other hand, there is a new trend towards using powder paints in developed countries owing to the benefits they offer in terms of durability, aesthetics, design and the environment. This change has boosted exports of liquid paints to African countries, including Madagascar. Moreover, bans on

lead paint, which have been implemented in a number of countries owing to its toxicity, have led systematically to the export of lead paint to countries where it is not yet banned.

## **ii. Absolute change in imports**

Imports of paint to Madagascar have increased significantly in the period under consideration. They initially rose by 10 index points between 2018 and 2019, before a sharp and massive increase of around 15 index points compared to the previous year was recorded in 2021. Finally, the upward trend in imports continued between January and July 2022, with an increase of 8 index points compared to the same period in 2021.

## **iii. Increase in imports relative to domestic production**

During the period under consideration, the volume of paints produced locally remained less than half of the volume imported. The increase in imports is much more significant in relative terms compared to domestic production as they grew by 26 index points in 2021 and 20 index points for the first seven months of 2022.

# **B. SERIOUS INJURY**

The determination of serious injury to the domestic paints industry was based on all relevant factors of an objective and quantifiable nature having a bearing on the situation of that industry. On the basis of the data available to the Authority, an analysis was conducted of the serious injury suffered by the domestic industry.

## **i. Rate of increase in imports**

Data from the investigation showed that the volume of paint imports increased between 2018 and 2021. In general, there has been a sharp and significant rise in recent years, in particular between 2020 and 2021, and between January and July 2022 compared to the same period in 2021, in both absolute and relative terms compared to domestic production. This situation has a negative impact on the performance indicators of the domestic industry.

## **ii. Share of the domestic market taken by imports**

Imported paints have monopolized the domestic market during the period of analysis. Between 2020 and 2021, the domestic industry lost a considerable market share of 32 index points, while imports gained 14 index points. In the first seven months of 2022, local producers saw their share decline by 16 index points.

## **iii. Domestic production**

Despite an increase of 10 index points in the volume of domestically produced paint in 2019 compared to 2018, a continuous and ever worsening decline has been recorded since 2020. Production was down 2 index points in 2020 and 12 index points in 2021, meaning that there was a decline of 12 index points between 2019 and 2021. Finally, the first seven months of 2022 saw a 10-index-point drop compared to the same period in 2021.

## **iv. Changes in sales levels**

Sales fell by 6 index points in 2020 compared to 2019. Then in 2021, they decreased sharply by 30 index points in a single year. For the period from January to July 2022, a decline of 14 index points was recorded compared to the same period in 2021.

## **v. Production capacity utilization rate**

The domestic industry's production capacity was relatively stable over the investigation period, with a capacity utilization rate not exceeding 30%. The rate fell sharply by 10 index points in 2022.

## **vi. Employment**

Despite the steady decline in production volume, the domestic industry has tried to boost employment by increasing staffing levels. As a result, the workforce increased by 17 index points between 2018 and 2021. However, the 7-index-point decrease in the number in the first seven months of 2022 compared to the same period in 2021 indicates the difficulties of finding long-term solutions to the situation in the face of import pressures.

## **vii. Productivity**

Productivity changes are in line with those seen in production volume. Indeed, between 2018 and 2019, the domestic industry's productivity increased slightly, as did domestic production. However, the drop in production since 2020 has led to a 19-index-point decline in productivity between 2019 and 2021. This situation prompted the domestic industry to review its workforce in 2022, with a decrease of 3 index points recorded for the first seven months of 2022 compared to the same period in 2021.

## **viii. Profitability**

Profitability is the indicator that is most affected and has greatly suffered from increased imports throughout the period under review. This situation is a source of concern to the domestic industry as its profits decreased by 34 index points between 2018 and 2021, and continued to fall in 2022, with a reduction of 30 index points in the first seven months of the year.

## **C. CAUSAL LINK**

### **i. Effects of increased imports**

Increased imports have led to a general and significant deterioration in the economic conditions of the domestic paint industry in Madagascar, particularly in terms of production, sales, turnover, market share and productivity, despite a slight decline in imports in 2020 as a result of the COVID-19 pandemic. This deterioration resulted in a considerable decline in the estimated profitability, which fell to 34% in only four years, i.e. during the investigation period. As a result, the development of the domestic industry's activities has been severely inhibited by the imports, which have continually dominated the domestic paint market in Madagascar. Since 2021, the market share of imports has exceeded 75%.

### **ii. Other causal factors**

#### **– Contraction in demand or changes in consumption patterns**

During the investigation period, national demand for paint was more or less stable, following an increase of 10 index points between 2018 and 2019 despite the COVID-19 context. Unlike imports, the domestic industry has been unable to take advantage of this stability in demand as it lost a significant part of its market share from one year to the next. It is therefore held that the injury to the domestic industry cannot be attributed to a contraction in domestic market demand.

#### **– Competition among domestic producers**

Competition between domestic producers cannot be considered the cause of the injury to the domestic industry as the producers are located in different geographical areas and their capacity to cover the entire country is very limited owing to their economic difficulties. In addition, each of these producers tends to target different categories of consumers through their product ranges.

#### **– Technological developments**

The production processes and raw materials used for local and imported paints are identical. Apart from artisanal producers, local industries are using advanced technologies to produce high-quality paints identical to imported ones. In addition, they often organize training to build the capacities of their workforce and to adapt continuously to the latest technologies. The factors relating to the

development of production-related technologies therefore cannot be a cause of the injury to the domestic industry

– **Export performance**

As domestic producers only target the domestic market, their entire output is intended for local consumption. None of the paint producers export their product. The serious injury to the domestic industry therefore cannot be the result of poor export performance.

– **Product quality**

The quality of domestically produced paints cannot be considered a factor in the injury to the domestic industry because of the highly diversified range and quality of its products, which are suited to all categories of consumers in Madagascar and all kinds of media, such as car paints, building paints, industrial paints and so on.

## **1.2 Precise description of the product involved**

Oil and water paints under Madagascar customs tariff codes 3208 and 3209.

## **1.3 Precise description of the proposed measure**

The definitive safeguard measure will take the form of a tariff rate quota of 3,000 tonnes, in excess of which an additional annual fixed duty of 18% must be paid.

## **1.4 Proposed date of introduction of the measure**

The definitive safeguard measure will enter into force on the date of publication of the related public notice.

## **1.5 Expected duration of the measure**

The duration of the definitive safeguard measure is four years. As the provisional safeguard measure was not applied, the duration is counted from the entry into force of the definitive measure.

## **1.6 Proposed date for the review (under Article 7.4)**

The review, under Article 7.4 of the Agreement on Safeguards, will be held not later than the mid-term of the definitive measure.

## **1.7 Expected timetable for progressive liberalization of the measure**

<b>Period of application of safeguard measure</b>	<b>Quota (additional duty at a rate of 0%)</b>	<b>Rate of additional duty applied to out-of-quota imports</b>
March 2023 – February 2024	3,000 tonnes	18%
March 2024 – February 2025	3,250 tonnes	
March 2025 – February 2026	3,500 tonnes	
March 2026 – February 2027	3,750 tonnes	

## **1.8 Adjustment plan**

The domestic industry has submitted an adjustment plan, outlining the measures it plans to take to facilitate the adjustment of the domestic industry to the competitive conditions with the imports.

## **1.9 Date of prior consultation with the Members having a substantial interest as exporters of goods**

In accordance with Article 12.3 of the WTO Agreement on Safeguards, Madagascar is prepared to hold consultations with Members having a substantial interest as exporters of the product concerned.

Requests for consultations should be sent to the Director-General of the National Authority for Trade Remedies (ANMCC) at the following email addresses: [dq@anmcc.mg](mailto:dq@anmcc.mg) and [dq.anmcc@gmail.com](mailto:dq.anmcc@gmail.com).

## **2 NOTIFICATION UNDER ARTICLE 9, FOOTNOTE 2, OF THE AGREEMENT ON SAFEGUARDS OF NON-APPLICATION OF A SAFEGUARD MEASURE TO DEVELOPING COUNTRIES**

### **2.1 Description of the measure**

The definitive safeguard measure will take the form of a tariff rate quota of 3,000 tonnes, in excess of which an additional annual fixed duty of 18% must be paid.

### **2.2 Products subject to the measure**

Oil and water paints under Madagascar customs tariff codes 3208 and 3209.

### **2.3 Developing countries to which the measure is not applied under Article 9.1 of the Agreement on Safeguards**

*Afghanistan; Albania; Angola; Antigua and Barbuda; Argentina; Armenia; Bahrain; Bangladesh; Barbados; Belize; Benin; Bolivia, Plurinational State of; Botswana; Brazil; Brunei Darussalam; Burkina Faso; Burundi; Cabo Verde; Cambodia; Cameroon; Central African Republic; Chad; Chile; Colombia; Congo; Costa Rica; Côte d'Ivoire; Cuba; Democratic Republic of the Congo; Djibouti; Dominica; Dominican Republic; Ecuador; El Salvador; Eswatini; Fiji; Gabon; Gambia; Georgia; Ghana; Grenada; Guatemala; Guinea; Guinea-Bissau; Guyana; Haiti; Honduras; Indonesia; Israel; Jamaica; Jordan; Kazakhstan; Kenya; Kuwait; Kyrgyz Republic; Lao People's Democratic Republic; Lesotho; Liberia; Malawi; Malaysia; Maldives; Mali; Mauritania; Mauritius; Mexico; Moldova; Mongolia; Montenegro; Morocco; Mozambique; Myanmar; Namibia; Nepal; Nicaragua; Niger; Oman; Pakistan; Panama; Papua New Guinea; Paraguay; Peru; Philippines; Qatar; Rwanda; Saint Kitts and Nevis; Saint Lucia; Saint Vincent and the Grenadines; Samoa; Saudi Arabia; Senegal; Seychelles; Sierra Leone; Solomon Islands; Sri Lanka; Suriname; Tajikistan; Tanzania; Thailand; The former Yugoslav Republic of Macedonia; Togo; Tonga; Trinidad and Tobago; Uganda; Ukraine; United Arab Emirates; Uruguay; Vanuatu; Venezuela; Viet Nam; Yemen; Zambia; Zimbabwe.*

### **2.4 Further information**

Information on the decision to apply the definitive safeguard measure to the products concerned may be obtained from:

Monsieur Le Directeur Général de l'ANMCC  
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Email: [dq.anmcc@gmail.com](mailto:dq.anmcc@gmail.com) / [dq@anmcc.mg](mailto:dq@anmcc.mg)  
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