



**NOTIFICATION UNDER ARTICLE 12.1(A)
OF THE AGREEMENT ON SAFEGUARDS OF THE OPENING
OF AN INVESTIGATION AND THE REASONS FOR THIS ACTION**

**NOTIFICATION UNDER ARTICLE 12.4
OF THE AGREEMENT ON SAFEGUARDS BEFORE ADOPTION
OF A PROVISIONAL SAFEGUARD MEASURE REFERRED TO IN ARTICLE 6**

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

MADAGASCAR

Diapers and sanitary napkins

The following communication, dated October 26, 2023 and received on the same date, is distributed at the request of the delegation of Madagascar.

Pursuant to Article 12.1(a) and Article 12.4 of the Agreement on Safeguards, the Committee on Safeguards is notified of the initiation of a safeguard investigation into imports of diapers and napkins hygienic products in Madagascar and notified before taking the provisional safeguard measure referred to in Article 6 of this same agreement, on imports of diapers and sanitary napkins into Madagascar. It is also notified, in accordance with Article 9, footnote 2; of the agreement on safeguards, of the decision not to apply the envisaged safeguard measure to imports from developing countries.

**A- NOTIFICATION UNDER ARTICLE 12.1 (A) OF THE AGREEMENT ON SAFEGUARDS OF THE OPENING OF AN
INVESTIGATION AND THE REASONS FOR SUCH
ACTION**

Faced with imports of diapers and sanitary napkins in such increased quantities and detrimental to them, the national production industry submitted a request to the National Authority for Commercial Corrective Measures (ANMCC) through which it requests the application of a safeguard measure under Article

The examination of the said request resulted in the opening of a safeguard investigation targeting imports of diapers and sanitary napkins into Madagascar. Things to remember for the opening of the investigation are as follows:

1. Opening date

The investigation was opened on October 25, 2023, the date of publication of the public notice in the newspapers: "La Vérité" and "TARATRA".

2. Product considered

The product in question is "diapers and sanitary napkins", imported into Madagascar under the harmonized system code 96190000 entitled: "Sanitary napkins and tampons, diapers, swaddles and similar articles" of the Madagascar customs tariff.

3. Exporting countries

The main countries exporting diapers and sanitary napkins to Madagascar are Egypt, Turkey, China and Belgium.

4. Reasons justifying the opening of the investigation

The domestic industry producing similar and directly competitive products provided evidence of the existence of serious injury caused by the considerable increase in imports of diapers and sanitary napkins into Madagascar. The increase appeared both in absolute terms and in relative terms compared to national production during the period of the investigation, between August 2020 and July 2023. The situation of the national production industry is threatening in view of the notable and almost generalized deterioration of its performance indicators, notably production, sales, market share, use of production capacity, productivity and above all results. It is thus verified that all the conditions required for opening a safeguard investigation are met.

5. Duration of the investigation

The investigation will last approximately 9 months, extendable up to 12 months.

6. Other information

Interested parties must make themselves known to the ANMCC, the investigating authority, within 30 days from the date of opening of the investigation.

Any information or comments that interested parties would like to communicate as well as the request for a questionnaire must be sent to the ANMCC within 30 days from the date of opening of the investigation.

Public hearings may be organized by the ANMCC, either at the request of interested parties or ex officio, to enable interested parties to present evidence and, in particular, to have the opportunity to respond to presentations by other parties and to make their views known, and to defend their interests.

Responses to the questionnaire as well as other relevant information that the parties wish to communicate must be sent to the ANMCC no later than December 6, 2023.

Where the responses to the questionnaire as well as any additional information requested from interested parties in the context of this investigation are not provided within the specified deadlines, decisions will be based on the best information available.

The same applies to incorrect or incomplete information.

B- NOTIFICATION UNDER ARTICLE 12.4 OF THE SAFEGUARDS AGREEMENT BEFORE THE ADOPTION OF A PROVISIONAL SAFEGUARD MEASURE REFERRED TO IN ARTICLE 6

1. Product covered by the provisional safeguard measure

Diapers and sanitary napkins, imported into Madagascar under the harmonized system code 96190000 entitled: "Sanitary napkins and tampons, diapers, swaddles and similar articles" of the Madagascar customs tariff.

2. Form of the provisional safeguard measure

The provisional safeguard measure takes the form of an additional duty to the ad valorem customs duty at a rate of 27%.

3. Date envisaged for the imposition of the provisional measure

The provisional safeguard measure comes into force from October 25, 2023, date of publication of the related public notice.

4. Expected duration of the provisional safeguard measure

The provisional safeguard measure will be applied for a period of 200 days from the date of its entry into force.

5. Basis for the application of the provisional safeguard measure

According to Article 6 of the Agreement on Safeguards: "In critical circumstances where any delay would cause harm which would be difficult to repair, a Member may take a provisional safeguard measure after it has been determined preliminary that there is clear evidence that increased imports have caused or threaten to cause serious injury."

Indeed, during the period considered, the operational performance of the national industry deteriorated, due to a considerable drop in production and sales. This situation has led to financial fragility for the company, characterized by low profitability and cash flow problems. In other words, domestic industries are facing operational and financial problems that have jeopardized their viability. As a result, the industry is in a critical situation and is at risk of bankruptcy or closure.

Analysis of the data communicated by the industry makes it possible to determine the following:

I- UNEXPECTED DEVELOPMENTS IN CIRCUMSTANCES

According to the national industry, the unforeseen circumstance which led to the increase in imports of disposable baby diapers into Madagascar is materialized by an increase in production from Asian countries. Indeed, following the gradual lifting of the birth restriction, China saw its production capacity improve as well as its export volume to the rest of the world which reached 869,316 tonnes of baby diapers in 2022, including 554 tonnes to Madagascar. In addition, European countries, the main recipients of Chinese exports, have experienced a drop in the birth rate which has led to a reduction in imports of disposable baby diapers. China had to conquer other markets such as African countries, including Madagascar, in order to sell a large part of its production.

Regarding sanitary napkins, studies have been conducted on menstrual pads and it has been determined that disposable sanitary napkins contain harmful chemicals in low quantities. The risk incurred when using intimate protection (case of tampons and menstrual cups which are internal hygiene protection) is menstrual shock syndrome.

Following the publication of the results of these studies, producers of intimate protection were encouraged to focus heavily on quality and to reduce or even avoid chemical substances in these products. They were also recommended to indicate all their components on the packaging in order to better inform consumers. Furthermore, users are increasingly opting for organic products and this has led to a slowdown in the growth of the sanitary napkin market in the world, unlike that of Madagascar where imports have experienced a notable increase.

II- INCREASE IN IMPORTS

i. Evolution in absolute terms of imports

In absolute terms, the volume of imports of diapers and sanitary napkins follows an increasing trend during the study period from August 2020 until the end of July 2023. Note that the increase in the last year is very significant of the order of 22 index points compared to the base year.

ii. Evolution in relative terms of imports

In relative terms compared to national production, the sharp and sudden increase in imports is evident during the third year of the period considered. A rebound of 33 index points was recorded between the last two years. Over the entire period of the investigation, the increase in relative terms of imports is of the order of 52 index points.

III- SERIOUS DAMAGE

i- Rate of increase in imports

The query data showed that the volume of imports of the product considered increased in absolute and relative terms during the period considered. This increase produced a negative impact on most of the performance indicators of the national production industry as presented in the following subsections.

ii- Market share absorbed by imports

Compared to national consumption, the share occupied by imports increases each year during the period considered. This share has well exceeded half of national consumption since the second year.

iii- Sales

Total sales volume decreased during the study period. As a result, a deterioration of 10 index points is recorded between the first two years. The situation has worsened in the last year because the drop in sales is of the order of 17 index points compared to the base year.

iv- Production nationale

The production volume of the domestic industry decreased successively during the period considered. For the second year, a decrease of 12 index points compared to the first year is noted. Furthermore, this decrease is more pronounced in the third year with 19 index points.

in- Stocks

The stock increased by 68 index points between the first two years and by 115 index points over the entire study period. This indicates the difficulty of the national industry in selling its production.

we- Employment and productivity

The number of employees in the domestic industry increased by 31 index points during the study period. On the other hand, its productivity experienced a drop of 38 index points over this same period due to the drop in the total volume of its production.

vii- Utilization of production capacity

The national production industry finds it difficult to exploit its entire production capacity. In addition, the capacity utilization rate continues to decrease by 12 and 39 index points respectively in the 2nd and 3rd years, compared to the base year.

viii- Result

The result decreased by 27 index points in the second year. During the entire investigation period, the deterioration in the result of the industry reached 48 index points.

IV- CAUSAL LINK

The existence of a causal link between the increase in imports and the serious injury suffered by the domestic industry was established according to the following elements:

i. Effects of increased imports

The increase in imports coincides with the damage suffered by the domestic industry. Imported and similar domestic products marketed on the internal market offer a multitude of choices to consumers, but the increase in imports into Madagascar severely penalizes local producers.

ii. Effects of other factors**1. Demand contraction**

In general, local consumption of diapers and sanitary napkins has increased in the local market. These products are successful because a large proportion of consumers have adopted their use. The contraction of demand as a factor in the damage is then ruled out.

2. Technology used

The technology used in the manufacturing of the targeted product is identical whether the products are imported or manufactured locally since local manufacturers use recent machines. Therefore, this factor cannot be considered as the source of the damage.

3. Internal competition

The domestic industry is unable to fully exploit its production capacity. Despite the increase in national consumption, its production does not reach half of national demand. Therefore, internal competition cannot be considered as a factor of damage.

Based on all of the above, the Authority has come to the conclusion that the general and notable deterioration of all economic indicators of the national industry producing products similar to and directly competitive with "diapers and sanitary napkins" during the period considered is actually due to the increase in imports of this product into Madagascar. Therefore, any other factor analyzed other than the increase in imports has no connection with the serious injury caused to the domestic industry.

IN- OFFER OF CONSULTATIONS UNDER ARTICLE 12.4

In accordance with Article 12.4 of the Agreement on Safeguards, Madagascar is ready to consult on the provisional safeguard measure with Members having a substantial interest as exporters of the covered products.

VI- ADDITIONAL INFORMATION

Any requests for additional information and correspondence relating to this investigation should be addressed to:

Mr. Director General of ANMCC
Enceinte Ex-Conquête Antanimena, Antananarivo 101 - Madagascar
e-mail: dg@anmcc.mg / dg.anmcc@gmail.com
site web: <http://www.anmcc.mg/>

C- NOTIFICATION UNDER ARTICLE 9, FOOTNOTE 2, OF THE AGREEMENT ON BACKUPS

Below is the list of developing countries exempt from the provisional safeguard measure because their exports represent less than 3% of Madagascar's total imports of diapers and sanitary napkins and do not collectively contribute 9%. (Article 9.1 of the Agreement on Safeguards):

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