

NOTICE 1376 OF 1998**BOARD ON TARIFFS AND TRADE****NOTICE OF INITIATION OF AN INVESTIGATION INTO THE ALLEGED DUMPING OF ACETAMINOPHENOL ORIGINATING IN OR IMPORTED FROM FRANCE, THE UNITED STATES OF AMERICA AND THE PEOPLE'S REPUBLIC OF CHINA**

The Board on Tariffs and Trade received a petition that acetaminophenol, originating in or imported from France, the United States of America and the People's Republic of China (PRC) is being dumped on the Southern African Customs Union (SACU) market, causing material injury (or threat of material injury) to the SACU industry concerned.

The petitioner

The petition was lodged by Fine Chemicals Corporation (Pty) Ltd, which is the only domestic manufacturer of acetaminophenol in the SACU. The petitioner alleges that it cannot compete with the low prices charged by the importers and that the allegedly dumped products are causing material injury and/or a threat of material injury. The petitioner submitted sufficient evidence and established a *prima facie* case to enable the Board to arrive at a reasonable conclusion that an investigation should be initiated on the basis of dumping, material injury (or threat of material injury), and causality.

The product

The product allegedly being dumped as acetaminophenol, classifiable under tariff subheading 2924.29.90, originating in or imported from the countries stated above.

The allegation of dumping

The allegation of dumping is based on the comparison between the normal value in and the export from the respective countries, as follows:

United States of America

The export price for the USA was determined based on a quote obtained from the importer acting as agent for the American manufacturer. The normal value for the USA was obtained from the price list of the American manufacturer.

France

The export price for France was based on the f.o.b. price of the imported acetaminophenol, as calculated from the import statistics obtained from the South African Revenue Services. The normal value for France was obtained from a quote given to a retailer in France by the manufacturer in France.

People's Republic of China

PRC is regarded as a non-market economy. The USA was therefore nominated by the Petitioner as the third "surrogate" country as it was alleged that normal value information that will be verifiable is available in this country which has an industry at a similar level of development to that of PRC. The normal value was determined on the basis of a price list of the manufacturer of acetaminophenol in the USA and the export price was obtained from a quote given by the manufacturer of acetaminophenol in the PRC.

The normal values obtained were compared to the export prices from the relative countries and on this basis the Board found that there was *prima facie* proof of dumping in respect of each named country.

The allegation of material injury (or threat of material injury) and causal link

The petitioner alleges and submitted sufficient evidence to show that the imports in question are suppressing and depressing its selling prices, and are gaining market share at the expense of the SACU industry. It is further alleged that the prices at which these imports are sold in South Africa result in lower profit margins and/or losses being incurred by the petitioner. On this basis the Board found that there was *prima facie* proof of material injury (or threat of material injury) and causal link.

Period of investigation

The period of investigation for purposes of determining the dumping margins in the respective exporting countries or countries of origin will be from June 1997 to May 1998. The period of investigation for purposes of determining injury will be for the years 1994/95, 1995/96, 1996/97 and for the period September 1997 to February 1998. If there are subsequent events that are relevant to injury the Board may later request further, more recent information.

Procedural framework

Having decided that there is sufficient evidence and a *prima facie* case to justify the initiation of an investigation, the Board has begun an investigation in terms of section 4 of the Board on Tariffs and Trade Act, 1986 (the BTT Act). The Board will conduct its investigation in accordance with the BTT Act and the World Trade Organisation Agreement on Implementation of Article VI of the GATT 1994 (the Anti-Dumping Agreement). A copy of the Anti-Dumping Agreement is available from the Board's office on request.

In order to obtain the information it deems necessary for its investigation, the Board will send non-confidential versions of the petition and questionnaires to all known importers and exporters, and known representative associations. The trade representatives of the exporting countries have also been notified. Importers, exporters and other interested parties are invited to contact the Board as soon as possible in order to determine whether they have been listed and have been sent the relevant documents. If not, they should immediately ensure that they are sent copies. The questionnaire has to be completed and any other representations must be made within the time limit set out below.

Non-market economy countries

It should be noted that there is a different questionnaire for exports from non-market economy countries. Please ensure that you are responding to the correct questionnaire.

Confidential information

Please that that if any information is considered to be confidential then a non-confidential version of the information must be submitted for the public file, simultaneously with the confidential version. In submitting a non-confidential version the following rules are strictly applicable and parties must indicate:

- where confidential information has been omitted and the nature of such information;
- reasons for such confidentiality;
- a summary of the confidential information which permits a reasonable understanding of the substance of the confidential information; and
- in exceptional cases, where information is not susceptible to summary, reasons must be submitted to this effect.

Address

The response to the questionnaire and any information regarding this matter and any arguments concerning the allegation of dumping and the resulting material injury must be submitted in writing to the following address:

Physical address

The Director: Dumping Investigations
Room 1601
Fedlife Building
PRETORIA
SOUTH AFRICA

Postal address

The Director: Dumping investigations
Private Bag X753
PRETORIA
0001
SOUTH AFRICA

Procedures and time limits

All responses, including non-confidential copies of the responses, should be received by the Director: Dumping Investigations not later than 30 days from the date hereof or from the date that on which the letter accompanying the above-mentioned questionnaire was received. The said letter shall be deemed to have been received seven days after the day of its dispatch.

It should be noted that the investigation process is complex and the Board is subject to strict time limits within which to complete the investigation. Late submissions will therefore not be accepted except with the prior written consent of the Board. The Board will give due consideration to written requests for an extension of not more than 14 days on good cause shown (properly motivated and substantiated), if received prior to the expiry of the original 30-day period.

The information submitted by any party may need to be verified by the investigating officers in order for the Board to take such information into consideration. The Board may verify the information at the premises of the party submitting the information, within a short period after the submission of the information to the Board. Parties should therefore ensure that the information submitted will subsequently be available for verification. Parties should also ensure that all the information requested in the questionnaire is provided and in the specified detail and format. The questionnaires are designed to ensure that the Board is provided with all the information required to make a determination in accordance with the rules of Anti-Dumping Agreement. The Board may therefore refuse to verify information that is incomplete or does not comply with the format in the questionnaire, unless the Board has agreed in writing to a deviation from the required format. (A failure to submit an adequate non-confidential version of the response that complies with the rules set out above, will be regarded as an incomplete submission.)

Parties that experience difficulty in furnishing the information required, or in the format required, are therefore urged to make written applications to the Board at an early stage for permission to deviate from the questionnaire or provide the information in an alternative format that can satisfy the Board's requirements. The Board will give due consideration to such a request on good cause down.

If the required information and arguments are not received in a satisfactory form within the time limit specified above, or if verification of the information cannot take place, the Board may disregard the information submitted and make provisional or final findings on the basis of the facts available to it.

Enquiries may be directed to the investigating officers, Ms C. Grove at telephone (012) 310-9815 and Mr F. Dubbelman at telephone (012) 310-9816.

[BTT Ref. T5/2/6/2/1]