
GENERAL NOTICE

NOTICE 2445 OF 1999

BOARD ON TARIFFS AND TRADE

NOTICE OF INITIATION OF AN INVESTIGATION INTO THE ALLEGED DUMPING OF MEAT OF FOWLS OF THE SPECIES *GALLUS DOMESTICUS* ORIGINATING IN OR IMPORTED FROM THE UNITED STATES OF AMERICA.

The Board on Tariffs and Trade received a petition alleging that meat of fowls of the species *gallus domesticus* originating in or imported from United States of America (USA) is being dumped on the Southern African Customs Union (SACU) market, causing material injury to the SACU industry concerned.

THE PETITIONER

The petition was lodged by Rainbow Farms (Pty) Limited, supported by the South African Poultry Association, on behalf of the SACU industry. 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. 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 and causality.

THE PRODUCT

The product allegedly being dumped is meat of fowls of the species *gallus domesticus* (hereafter referred to as *chickens*), frozen, preserved or prepared, either whole chickens, not cut in pieces, or cuts, consisting of drumsticks, thighs, backs and other portions supplied jointly or separately and referred to as chicken portions and classifiable under tariff subheadings 0207.12 or 0207.14.90, or 1602.32.90.

THE ALLEGATION OF DUMPING

The allegation of dumping is based on the comparison between the normal value in and the export price from the USA. The normal value was based on information obtained from United States Department of Agriculture Weekly, an official publication, and the Urner Barry daily publications, a reputable private sector publication. The export price was based on import statistics obtained from the South African Revenue Service. On this basis the Board found that there was *prima facie* proof of dumping.

THE ALLEGATION OF MATERIAL INJURY

The petitioner alleged and submitted sufficient evidence to show price suppression, price undercutting, negative return on investment, and negative cash flow effects. It is further alleged that the prices at which these imports are sold in SACU have resulted in lower profit margins and losses being incurred by the petitioner. The Board found that there was sufficient evidence for a *prima facie* case of material injury.

PERIOD OF INVESTIGATION

The period of investigation for purposes of determining the dumping margin in the exporting country of origin will be from 1 August 1998 to 31 July 1999. The period of investigation for purposes of determining injury will be from 1 April 1996 to 31 July 1999. However, the Board will request further injury information to cover the period 1 April 1993 to March 1996 as well, which it will consider in its injury analysis. If there are subsequent events that are relevant to the injury analysis the Board may later request and consider further, more recent information in determining injury.

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 the 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 questionnaires to all known importers and exporters, and known representative associations. The trade representative of the exporting country has been notified. Importers, exporters and interested parties are invited to contact the Board as soon as possible in order to determine whether they have been listed and received a questionnaire. If not, they should request a copy of the questionnaire as soon as possible. The questionnaire has to be completed, and any other representations must be made, within the time limit set out below.

CONFIDENTIAL INFORMATION

Please note 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 in each instance.
- Reasons for such confidentiality in each instance.
- A summary of the confidential information which permits a reasonable understanding of the substance of the confidential information in each instance.
- In exceptional cases, where information does not lend itself to a non-confidential summary, reasons must be submitted to this effect.

This rule applies to all correspondence with and submissions to the Board, which unless indicated to be confidential and filed together with a non-confidential version, will be placed on the public file and be made available to other interested parties.

ADDRESS

The response to the questionnaire and any information regarding this matter, as well as 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
Corner of Church and Prinsloo Streets
PRETORIA
SOUTH AFRICA

Postal address

The Director : Dumping Investigations
Private Bag X753
PRETORIA
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SOUTH AFRICA

PROCEDURES AND TIME LIMIT

All responses, including non-confidential copies of the responses, must be received by the Director: Dumping Investigations not later than 30 days following the date of publication of this notice or, in the case of parties known to be interested, 30 days following the date on which the letter accompanying the above-mentioned questionnaire is received, and not later than 16:00 on the due date. The said letter shall be deemed to have been received seven days after the date of its dispatch.

It should be noted that the investigation process is complex and that 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 substantiated), if such requests are received prior to the expiry of the original 30-day period. Merely citing insufficient time is not an acceptable reason for extension.

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. It is planned to do the verification of the information submitted by the exporters within three to five weeks subsequent to submission of the information. This period will only be extended if it is not feasible for the Board to do it within this time period or upon good cause shown, and with the prior written consent of the Board, which should be requested at the time of the submission. (It should be noted that unavailability of or inconvenience to consultants will not be considered to be good

cause) . Parties should therefore ensure when they engage consultants that they will be available at the requisite times, to ensure compliance with the above time frames. Parties should also ensure that all the information requested in the questionnaire is provided 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 the 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 under the heading "Procedure" will be regarded as an incomplete submission.)

Parties who experience difficulty in furnishing the information required, or submitting it 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 to provide the information in an alternative format that will satisfy the Board's requirements. The Board will give due consideration to such a request on good cause shown.

Oral representations to the Board may also be made on written request to the Board at least seven days prior to the expiry date of the original 30 day period and by prior arrangement with the Directorate. Such oral representations must be made within the same period as the written representations, unless prior written consent of the Board has been obtained for the oral representations to be made at a later date, which shall in any event not be later than 14 days after the written representations have been submitted. Oral representations will be limited to one hour.

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 for reasons referred to above, the Board may disregard the information of that party and make provisional or final findings on the basis of the facts available to it.

Enquiries may be directed to the investigating officers, Mr T.P. Botha at telephone (012) 310-9618, Mr T Tau, at 310-9696 or Mr E Mogashoa at 310-9708

[BTT Ref. T5/2/16/3/6]