
GENERAL NOTICE

NOTICE 2318 OF 2000

BOARD ON TARIFFS AND TRADE

NOTICE OF INVESTIGATION INTO THE ALLEGED DUMPING OF PVC BASED ROLL GOODS ORIGINATING IN OR IMPORTED FROM GERMANY, NETHERLANDS, INDIA AND THAILAND AND SUBSIDISED EXPORT OF PVC BASED GOODS ORIGINATING IN OR IMPORTED FROM INDIA.

The Board on Tariffs and Trade (the Board) received a petition alleging that the subject products, originating in or imported from Germany, India, the Netherlands and Thailand were being dumped on the Southern African Customs Union (SACU) market, and such imports were thereby causing material injury to the SACU industry and that the subject products, originating in or imported from India were being subsidised by the Indian Government and that the SACU industry was suffering material injury as a result.

THE PETITIONER

The petition was lodged by Vynide (Pty) Ltd the major domestic manufacturer of the product under investigation 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 it 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 petitioner also 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 against India on the subsidisation of exports.

THE PRODUCT

The product allegedly being dumped is described as self-adhesive and other plates, sheets, film and foil, of polymers of vinyl chloride, commonly referred to as self-adhesive PVC, rigid PVC, flexible PVC, and cellular PVC, classifiable under tariff subheadings 3919.90.30, 3920.41, 3920.42 and 3921.12. In the case of self-adhesive PVC, products with a top skin thickness less than 0,075 microns are excluded.

The investigation will cover the following products for the countries as specified in the table below:

Tariff heading	Product description	Countries
3919.90.30	Self adhesive PVC,with a top skin thickness not less than 0,075 microns	Germany
3920.41	Rigid PVC	Germany
3920.42	Flexible PVC	Netherlands Thailand India
3921.12	Cellular PVC	Germany India

THE ALLEGATION OF DUMPING AND SUBSIDISATION

The allegation of dumping is based on the comparison between the normal values in Germany, India, the Netherlands and Thailand and the export prices from Germany, India, the Netherlands and Thailand. The normal values for Germany, the Netherlands and India were based on cost build-ups for specific products calculated from international prices for materials used in these products, plus nett profits, fixed and overhead costs which for Germany and the Netherlands were obtained from an European PVC film company's financial statements, and for India from a financial cost

publication for plastic sheeting produced in India. The normal value for Thailand was obtained from a sales invoice for a specific product. The export prices for the products were determined from sales of like products to the first independent buyer in SACU back to the ex-factory price in the country of origin or export. On this basis, the Board found that there was *prima facie* proof of dumping.

The Petitioner also alleges that it suffers material injury caused by subsidies provided by the Indian Government to Indian manufacturers and exporters with regard to two subsidy schemes, namely the Duty Entitlement Passbook Scheme and the Income Tax Exemption Scheme which under section 10A, 10B and 80 HHC of the Income Tax Act allows for exemption of corporate tax on export earnings. On the basis of the information regarding these schemes which was submitted by the Petitioner, the Board found that there was *prima facie* proof of subsidisation.

THE ALLEGATION OF MATERIAL INJURY AND CAUSAL LINK

The Petitioner alleges and submitted sufficient evidence to show that it suffered from price undercutting and suppression, and that there is a decline in sales, output, and capacity utilisation. It was also alleged that the increase in market share of the alleged dumped goods has been at the expense of a decrease in the market share of the SACU product. On this basis the Board found that there was *prima facie* proof of material injury and causal link.

PERIOD OF INVESTIGATION

The period of investigation for purposes of determining dumping from the respective exporting countries or countries of origin will be from 1 January 1999 to 28 February 2000. The period for establishing subsidisation of the goods exported from India will be 1 January 1999 to 31 December 1999. The period of investigation for purposes of determining injury will be for the years 1997 and 1998 and from January 1999 to 28 February 2000. If there are subsequent events that are relevant to injury the Board may later request and consider 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 on dumping 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). The Board will conduct its investigation on subsidies in accordance with the BTT Act and the Agreement on Subsidies and Countervailing Measures (SCM Agreement). Copies of the Anti-Dumping Agreement and the SCM Agreement are 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 and non-confidential versions of the petition 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 questionnaires have 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 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.

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.

If a party considers that any document of another party, on which that party is submitting representations, does not comply with the above rules and that such deficiency affects that party's ability to make meaningful representations, the details of the deficiency and the reasons why that party's rights are so affected must be submitted to the Board in writing forthwith (and at the latest 14 days prior to the date on which that party's submission is due). Failure to do so timeously will seriously hamper the proper administration of the investigation, and such party will not be able to subsequently claim an inability to make meaningful representations on the basis of the failure of such other party to meet the requirements.

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
Corner of Church and Prinsloo Streets
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 on which the letter accompanying the above-mentioned review questionnaire was received. The said letter shall be deemed to have been received seven days after the day of its dispatch.

Late submissions will not be accepted except with the prior written consent of the Board. The Board will give due consideration to written requests by the interested parties 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. 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 also 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 applicable 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 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 "Confidential Information" 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 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 shown.

Oral representations to the Board by exporters of the product concerned may also be made on written request to the Board at least seven days prior to the expiry date of the original 30 days period to respond 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 for manufacturers/exporters and 30 minutes for importers.

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, Mr Jan Heukelman at telephone (012) 310-9817 and Mr Johan Böning at (012) 310 9540.
