

NOTICE 3274 OF 2000
BOARD ON TARIFFS AND TRADE

NOTICE OF INITIATION OF AN INVESTIGATION INTO THE ALLEGED SUBSIDISED EXPORT OF ROPES AND CABLES, OF STRANDED WIRE OF IRON OR STEEL, EXCLUDING BRASS PLAITED REINFORCING CORD AND CONVEYER BELT CORD ORIGINATING IN OR IMPORTED FROM INDIA AND KOREA

The Board on Tariffs and Trade (the Board) received a petition alleging that ropes and cables, of stranded wire of iron or steel, excluding brass plaited reinforcing cord and conveyer belt cord, originating in or imported from India and South Korea are being exported at subsidised prices to 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 Haggie Rand, the 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 subsidised 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 subsidisation, material injury (or threat of material injury), and causality.

THE PRODUCT

The product allegedly being subsidised is stranded wire ropes, cables, plaited bands, slings and the like of iron or steel not electrically insulated, commonly identified or referred to as wire rope and cables, but excluding brass plaited reinforcing cord used in the manufacturing of tyres, conveyer belt cord, and single bronze bead wire, and classifiable under tariff subheadings 73.12, 7312.10, 7312.10.15, 7312.10.20, 7312.10.25, 7312.10.40, 7312.10.90 and 7312.90 originating in or imported from India and South Korea.

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

TARIFF SUBHEADING	DESCRIPTION	COUNTRIES
73.12	Stranded wire ropes, cables, plaited bands and the like, of iron or steel, not electrically insulated:	India and South Korea
7312.10	Stranded wire, ropes and cables	India and South Korea
7312.10.15	Stranded wire, of wire which is plated, coated or clad with tin	India and South Korea
7312.10.20	Other stranded wire	India and South Korea
7312.10.25	Ropes and cable, of wire which is not plate, coated or clad	India and South Korea
7312.10.40	Ropes and cables, of wire which is plated, coated or clad with zinc	India and South Korea
7312.10.90	Other	India and South Korea
7312.90	Other	India and South Korea

THE ALLEGATION OF SUBSIDISED EXPORT

INDIA

The allegation of subsidised exports from India is based on the following documents submitted by the Petitioner, indicating that certain subsidy programmes are available to exporters from India:

- Extract from the Government of India's Export and Import Policy 1 April 1997 -31 March 2002.
- Extract from the Economist Times 11 August 1997 "Major concessions for EOU's to boost Exports" Softer credit terms for exports.
- Pepsi Handbook of Indian Exports: Export houses, EOU's and EPZ's.

- Extracts from "Doing Business In India" Price Waterhouse.
- European Commission Regulation (EC) No 1204/98 of June 1998 Official Journal 11.6.98.
- European Commission Regulation (EC) No 1264/98 of 5 October 1998 Official Journal 9.10.98.
- European Commission Regulation (EC) No 1556/98 of 17 July 1998 Official Journal 18.7.98.
- Notice of Initiation of Anti-Subsidy Proceedings concerning imports of stainless steel wire having a diameter of 1 mm or more originating in India and the Republic of Korea. European Official Journal 25.6.98.

On this basis, the Board found that there was *prima facie* proof that the subject products exported from India were subsidised. The Board decided to investigate the following subsidies:

(1) *Passbook Scheme*

There was *prima facie* evidence that the Passbook Scheme constitutes a subsidy in terms of Article 1(a)(1)(ii) of the World Trade Organisation Agreement on Subsidies and Countervailing Measures (SCM Agreement), and that the Passbook Scheme is countervailable in terms of Article 3.1(a) of the SCM Agreement.

(2) *Exporters are granted a "waste factor" under which the rebate of import duties is for a higher volume than the actual volume of raw material used.*

The Board found that there was *prima facie* evidence that the programme constitutes a subsidy in terms of Article 1(a)(1)(ii) of the SCM Agreement, and that the subsidy is countervailable in terms of Article 3.1(a) of the SCM Agreement.

(3) *Duty Entitlement Passbook Scheme (DEPB)*

The Board decided both the DEPB on pre-export basis and the DEPB on post-

export basis will be investigated.

The Board found that there was *prima facie* evidence that the DEPB constitutes a subsidy in terms of Article 1(a)(1)(ii) of the SCM Agreement, and that the DEPB is countervailable in terms of Article 3.1(a) of the SCM Agreement.

(4) *Income Tax Exemption Scheme (ITES)*

The Board found that there was *prima facie* evidence that the ITES constitutes a subsidy in terms of Article 1(a)(1)(ii) of the SCM Agreement, and that the ITES is countervailable in terms of Article 3.1(a) of the SCM Agreement.

(5) *ECGS, which includes an interest rate on export sales two percent points lower than normal.*

The Board found that there was *prima facie* evidence that the programme constitutes a subsidy in terms of Article 1(a)(1)(ii) of the SCM Agreement, and that the subsidy is countervailable in terms of Article 3.1(a) of the SCM Agreement.

(6) *ECGS, under which the government bears the risk of non-payment on behalf of the exporters.*

The Board found that there was *prima facie* evidence that the programme constitutes a subsidy in terms of Article 1(a)(1)(i) of the SCM Agreement, and that the subsidy is countervailable in terms of Article 3.1(a) of the SCM Agreement.

KOREA

The allegation of subsidised exports from Korea is based on the following documents submitted by the Petitioner, indicating that certain subsidy programmes are available to exporters from Korea.

(1) Notice of initiation of Anti-Subsidy proceedings concerning imports of stainless

- steel wire having a diameter of less than 1 mm originating in India and the Republic of Korea. European Official Journal 25.6.98
- (2) Notice of initiation of Anti-Subsidy proceedings concerning imports of stainless steel wire having a diameter of 1 mm or more originating in India and the Republic of Korea. European Official Journal 25.6.98
 - (3) Subsidies in Korea: European Commission Anti-subsidy petition Stainless steel wire with a diameter of 1mm or more 06/05/1998.

On this basis, the Board found that there was *prima facie* proof that the subject products exported from Korea were subsidised. The Board decided to investigate the following subsidies:

- (1) *Long term financing at preferential rates for exporters.*

The Board found that there was *prima facie* evidence that the programme constitutes a subsidy in terms of Article 1(a)(1)(ii) of the SCM Agreement, and that the subsidy is countervailable in terms of Article 3.1(a) of the SCM Agreement.

- (2) *Granting of exports credits and advance payments guarantees at rates below appropriate interest rates.*

The Board found that there was *prima facie* evidence that the programme constitutes a subsidy in terms of Article 1(a)(1)(ii) of the SCM Agreement, and that the subsidy is countervailable in terms of Article 3.1(a) of the SCM Agreement.

- (3) *Provision for loans at reduced interest rates to export-oriented industries by the Korean Development Bank.*

The Board found that there was *prima facie* evidence that the programme constitutes a subsidy in terms of Article 1(a)(1)(iv) of the SCM Agreement, and that the subsidy is countervailable in terms of Article 3.1(a) of the SCM Agreement.

- (4) *The provision for goods and services by the Korean Electricity Company without remuneration.*

The Board found that there was *prima facie* evidence that the programme constitutes a subsidy in terms of Article 1(a)(1)(iv) of the SCM Agreement, and that the subsidy is countervailable in terms of Article 3.1(a) of the SCM Agreement.

- (5) *Debt forgiveness by the Korean asset Management Corporation(domestic and export sales)*

The Board found that there was *prima facie* evidence that the programme constitutes a subsidy in terms of Article 1(a)(1)(iv) of the SCM Agreement, and that the subsidy is countervailable in terms of Article 3.1(a) of the SCM Agreement.

- (6) *Duty Drawback*

The Board found that there was *prima facie* evidence that the programme constitutes a subsidy in terms of Article 1(a)(1)(ii) of the SCM Agreement, and that the subsidy is countervailable in terms of Article 3.1(a) of the SCM Agreement.

- (7) *Tax incentive under the Technology Development Promotion Law(domestic and export sales)*

The Board found that there was *prima facie* evidence that the programme constitutes a subsidy in terms of Article 1(a)(1)(ii) of the SCM Agreement, and that the subsidy is countervailable in terms of Article 3.1(a) of the SCM Agreement.

- (8) *Equity infusions in the steel industry by the Korean Government*

The Board found that there was *prima facie* evidence that the programme constitutes a subsidy in terms of Article 1(a)(1)(i) of the SCM Agreement, and that the subsidy is countervailable in terms of Article 3.1(a) of the SCM Agreement.

- (9) *Export subsidy supplied by Posco, the government owned steel company, to exporters of steel products.*

The Board found that there was *prima facie* evidence that the programme constitutes a subsidy in terms of Article 1(a)(1)(i) of the SCM Agreement, and that the subsidy is countervailable in terms of Article 3.1(a) of the SCM Agreement.

THE ALLEGATION OF MATERIAL INJURY (OR THREAT OF MATERIAL INJURY) AND CAUSAL LINK

The petitioner alleges and submitted sufficient evidence to show that there is price undercutting and that the imports in question are suppressing and depressing its selling prices. The petitioner's information indicated a decline in sales, profit margins and productivity, which the Board found was *prima facie* proof of material injury. The Board also found that there was a causal link between the alleged subsidisation and the material injury.

PERIOD OF INVESTIGATION

The period of investigation for the subsidised export will be from 1 January 1999 to 31 December 1999. The period of investigation for purposes of determining injury will be for the years 1996, 1997, 1998 and 1999 and for the periods 1 January to 31 December. 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 in accordance with the BTT Act and the WTO Agreement on Subsidies and Countervailing Measures (SCM Agreement). Copies of 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 non-confidential versions of the petition and questionnaires to all known importers

and exporters, and known representative associations. The Board also sent a questionnaire to the Governments of India and South Korea. 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.

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 parties and 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 the above requirements regarding the submission of a non-confidential version of documents are not strictly adhered to, the Board might disregard the information so submitted.

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 subsidisation 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 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 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. Please note that the Board will not consider requests for extension by Embassies on behalf of exporters.

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 SCM 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 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 any interested party 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 SACU manufacturers and exporters and thirty 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.

Parties that have not responded or cooperated with the Board in the preliminary phase of the investigation and/or have not provided responses to the Board's questionnaires, must show good cause why the Board should consider any such responses or submissions. The Board reserves its right to disregard responses or submissions received from parties that did not cooperate during the preliminary phase of the investigation.

Enquiries may be directed to the investigating officers, Mr J Heukelman at telephone (012) 310-9817, e-mail address JanH@dti.pwv.gov.za or Mr A Strydom at telephone (012) 310-9606, e-mail address AStrydom@dti.pwv.gov.za or Mr E Mogashoa at (012) 310-9708, e-mail address Ephraim@dti.pwv.gov.za or Ms E Rakgole at telephone (012) 310-9609, e-mail address Erakgole@dti.pwv.gov.za or at fax number (012) 322 3279 .