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GENERAL NOTICE

NOTICE 442 OF 2003

BOARD ON TARIFFS AND TRADE

NOTICE OF INITIATION OF A REVIEW OF THE ANTI-DUMPING DUTIES ON UNCOATED WOODFREE PAPER ORIGINATING IN OR IMPORTED FROM BRAZIL AND POLAND

In terms of Article 11.3, of the World Trade Organisation Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade, any duty shall be terminated on a date not later than five years from its imposition, unless the authorities determine, in a review initiated before that date on their own initiative or upon a duly substantiated request made by or on behalf of the domestic industry within a reasonable period of time prior to that date, that the expiry of the duty would be likely to lead to continuation or recurrence of dumping and injury.

On 2 August 2002, the Board on Tariffs and Trade (the Board) notified all interested parties, through Notice No. 789 of Government Gazette No. 23450, that unless a request is made by or on behalf of the domestic industry for the duties to be reviewed prior to the expiry thereof, the anti-dumping duties on uncoated woodfree paper originating in or imported from Brazil and Poland will expire on 13 February 2003.

A duly completed Petition Review Questionnaire was submitted to the Board on 3 October 2002.

THE PETITIONER

The petition was lodged on behalf of the South African Customs Union (SACU) industry by Mondi Paper, a Division of Mondi Limited, and supported by Sappi Fine Paper (Pty) Ltd, the only manufacturers of the subject product in the SACU. The Petitioner alleged that the expiry of the duties would be likely to lead to continuation or recurrence of dumping and injury. The Petitioner submitted sufficient evidence and established a *prima facie* case to enable the Board to arrive at a reasonable

conclusion that a review investigation should be initiated on the subject product originating in or imported from Brazil and Poland.

THE PRODUCT

The product under investigation is uncoated woodfree paper classifiable under tariff subheading 4802.5 of Schedule I to the Customs and Excise Act, 1964 originating in or imported from Brazil and Poland which is subject to the anti-dumping duties levied in terms of item 210.02/4802.5 of Part I of Schedule 2 to the Customs and Excise Act, 1964.

THE ALLEGATION OF THE CONTINUATION OR RECURRENCE OF DUMPING

The allegation of continuation or recurrence of dumping is based on a comparison between the normal values and export prices. The normal values were based on information obtained by the Petitioner and Sappi Fine Paper in the subject countries. The export prices from Brazil and Poland were based on export statistics of the different countries to certain third countries. On this basis, the Board found that there was *prima facie* proof of the likely recurrence of dumping if the duties expire, with regards to exports from Brazil and Poland.

THE ALLEGATION OF THE CONTINUATION OR RECURRENCE OF MATERIAL INJURY

The Petitioner alleged and submitted sufficient evidence to show that there is price undercutting and that the prices of the imports in question are suppressing its selling prices. The Petitioner further indicated that its prices will be depressed once the duties expire. The Petitioner's information indicated that it will experience a decline in sales, a decline in profit margins, a decline in return on investment, if the duties expire. It was also indicated that the Petitioner's market will decrease at the expense of a corresponding increase in the market share of the dumped goods, if the duties expire. On this basis, the Board found that there was *prima facie* proof of the continuation and/or recurrence of material injury with regard to the subject product originating in or imported from Brazil and Poland.

PERIOD OF INVESTIGATION

The period of investigation for purposes of determining the continuation or recurrence of dumping countries concerned will be from 1 January 2002 to 31 December 2002. The period of investigation for purposes of determining continuation or recurrence of injury will be from 1 January 1998 to December 2002. An estimate of what the situation will be if the duties expire will also be considered by the Board.

PROCEDURAL FRAMEWORK

Having decided that there is sufficient evidence and a *prima facie* case to justify the initiation of a review, 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 relevant sections of 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 review 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.

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 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 the continuation and/or recurrence of dumping and material injury must be submitted in writing to the following address:

Physical address

The Director : Trade Remedies I
Room 405 A
SABS Building
1 Dr Lategan Road
GROENKLOOF
PRETORIA
SOUTH AFRICA

Postal address

The Director: Trade Remedies I
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: Trade Remedies I 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 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 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.

Enquiries may be directed to the investigating officers, Mr David Potter at telephone (012) 428 7719 and Ms. R. N. Peta at (012) 428 7726.