

NOTICE 985 OF 2007**INTERNATIONAL TRADE ADMINISTRATION COMMISSION****NOTICE OF INITIATION OF A SUNSET REVIEW OF THE ANTI-DUMPING DUTIES ON STRANDED WIRE, ROPES AND CABLES ORIGINATING IN OR IMPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA (PRC), GERMANY, KOREA, THE UNITED KINGDOM (UK) AND COUNTERVAILING DUTIES ON STRANDED WIRE, ROPES AND CABLES ORIGINATING IN OR IMPORTED FROM INDIA**

In accordance with the provisions of Article 11.3 of the World Trade Organisation Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade and Article 21.3 on Implementation of Subsidies and Countervailing Measures, any definitive anti-dumping 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, subsidies and injury.

On 26 May 2006, the Commission notified the Southern African Customs Union (SACU) industry through Notice No.673 in Government Gazette No.28847, that unless a substantiated request is made by it indicating that the expiry of the anti-dumping duties on the subject product originating in or imported from the China, Germany, Korea, United Kingdom and countervailing duties on the subject product originating in or imported from India would likely lead to the continuation or recurrence of dumping, subsidization and injury. The relevant anti-dumping and countervailing duties on the subject product originating will expire on 28 August 2007.

A response to the sunset review application questionnaire was received from the relevant SACU industry on 19 February 2007.

THE APPLICANT

The application was lodged by Haggie Steel Wire Ropes, a Division of Scaw South Africa (Pty) Ltd, the main producer of stranded wire, ropes and cables.

The Applicant alleges that the expiry of the duties would likely lead to the continuation or recurrence of dumping, subsidization and material injury. The Applicant submitted sufficient evidence and established a *prima facie* case to enable the Commission to arrive at a reasonable conclusion that a sunset review investigation should be initiated.

THE PRODUCT

The subject products are described as stranded wire, ropes and cables, of iron or steel, not electrically insulated, of a diameter exceeding 8mm (excluding that of wire of stainless steel, that of wire plated, coated or clad with copper and that identifiable as conveyor belt cord). The subject product is classifiable under tariff subheadings 7312.10.15, 7312.10.20, 7312.10.25, 7312.10.40 and 7312.10.90, originating in or imported from PRC, Germany, Korea, UK and India.

THE ALLEGATION OF THE CONTINUATION OR RECURRENCE OF DUMPING

The allegation of continuation or recurrence of dumping is based on the comparison between the normal values and the export prices.

PRC

The normal value for the stranded wire, ropes and cables from the PRC is based on the third country being Korea as the information on domestic prices in China was not available.

Accordingly, the normal value for PRC was based on the quote for exports from Korea to PRC and the adjustments were allowed for FOB charges.

The net export price for stranded wire, ropes and cables was based on SARS import statistics after allowing the adjustments for FOB charges, bank charges and payment terms.

GERMANY

Applicant constructed the normal value for the ropes and cables from Germany as the information on domestic prices in Germany was not available. The constructed normal value is based on cost of production including administrative, selling, general and packaging costs, and reasonable profit. The normal value for stranded wire was determined on the basis of the highest comparable export price to a third country after allowing an adjustment for payment terms.

The net export price for stranded wire, ropes and cables was based on SARS import statistics after allowing the adjustments for FOB charges, bank charges and payment terms.

KOREA

The normal value for ropes and cables from Korea was determined on the basis of the export price from Korea to the PRC, based on quotes for a typical basket of products. The adjustments for FOB charges and bank charges were allowed when calculating the normal value. In the case of stranded wire, the normal value was constructed based on reasonable cost of production including administrative, selling, general and packaging costs, and profit.

The net export price for stranded wire, ropes and cables was based on SARS import statistics after allowing the adjustments for FOB charges, bank charges and payment terms.

UK

Applicant constructed the normal value for the ropes and cables from UK as the information on domestic prices in Germany was not available. The constructed normal value is based on cost of production including administrative, selling, general and packaging costs, and reasonable profit. The normal value for stranded wire was determined on the basis of the highest comparable export price to a third country and the adjustment for the payment terms was allowed.

The net export price for stranded wire, ropes and cables was based on SARS import statistics after allowing the adjustments for FOB charges, bank charges and payment terms.

On this basis, the Commission found that there is *prima facie* proof of the likely continuation or recurrence of dumping if the duties expire.

THE ALLEGATION OF THE CONTINUATION OR RECURRENCE OF SUBSIDIZATION

In terms of Article 1.1(a) (1)(ii) of the Subsidies and Countervailing Agreement, the Commission determined in the Original Investigation that, both the Duty Entitlement Passbook Scheme (DEPB) and Income Tax Exemption Scheme (ITES) constituted a subsidy, as the government revenue due to the Government of India, in the form of duties on imports, was forgone or not collected, and as it conferred a benefit upon the relevant company.

The information submitted by the Applicant indicates that the DEPB subsidy is specific and therefore countervailable because the duty drawback granted by the Indian government to the relevant company is not *de minimis* when expressed as a percentage of the FOB export price. The information submitted by the Applicant also indicates that the ITES as a form of rebate on income tax on profits realized on exports is not *de minimis* when expressed as a percentage of the FOB export price and therefore is deemed to be countervailable.

From the information submitted by the Applicant, the Commission determined that there is *prima facie* evidence of the likely continuation or recurrence of subsidization of the subject product in the form of DEPB and ITES if the duties expire.

THE ALLEGATION OF MATERIAL INJURY AND/OR THREAT OF MATERIAL INJURY

The Applicant alleges and submitted sufficient evidence to show that, on average, there is price undercutting if the model specific comparison is made, and that the imports in question are depressing and suppressing its selling prices. The Applicant's information indicated that it will experience a decline in sales volumes, profit margins, output, market share, productivity and a negative return on total net assets, if the duties expire. It was also indicated that the Applicant's market share will decrease at the expense of a corresponding increase in the market share of the dumped and subsidized subject product, if the duties expire.

On this basis the Commission found that there is *prima facie* evidence of the likely continuation and/or recurrence of material injury if the antidumping and countervailing duties expire.

PERIOD OF INVESTIGATION

The period of investigation for purposes of determining the continuation or recurrence of dumping from PRC, Germany, Korea, UK and subsidization from India will be from 1 January 2006 to 31 December 2006. The period of investigation for purposes of determining the continuation or recurrence of injury will be from 1 January 2004 to 31 December 2006. The Commission will also consider an estimate of what the situation will be if the duties expire.

PROCEDURAL FRAMEWORK

Having decided that there is sufficient evidence and a prima facie case to justify the initiation of a sunset review investigation, the Commission is initiating an investigation in terms of section 16 of the International Trade Administration Act, 2002 (the ITA Act). The Commission will conduct its investigation in accordance with the relevant sections of the ITA Act, the Anti-Dumping Agreement, the Subsidies and Countervailing Measures Agreement and the Anti-Dumping Regulations of the International Trade Administration Commission of South Africa (ADR). Both the ITA Act and ADR are available on the Commission's website (www.itac.org.za) or from the Trade Remedies section, on request.

In order to obtain the information it deems necessary for its investigation, the Commission will send non-confidential versions of the application and questionnaires to all known importers and exporters, and known representative associations. The trade representative of the exporting country has also been notified.

Importers and other interested parties are invited to contact the Commission as soon as possible in order to determine whether they have been listed and were furnished with the relevant documentation. If not, they should immediately ensure that they are sent copies.

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 Commission, 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 Commission 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.

Section 33(1) of the ITA Act provides that any person claiming confidentiality of information

should identify whether such information is confidential by nature or is otherwise confidential and, any such claims must be supported by a written statement, in each case, setting out how the information satisfies the requirements of the claim to confidentiality. In the alternative, a sworn statement should be made setting out reasons why it is impossible to comply with these requirements”.

The following list indicates “information that is by nature confidential” as per section 33(1)(a) of the Main Act, read with section 36 of the Promotion of Access to Information Act (Act 2 of 2000):

- (a) management accounts;
- (b) financial accounts of a private company;
- (c) actual and individual sales prices;
- (d) actual costs, including cost of production and importation cost;
- (e) actual sales volumes;
- (f) individual sales prices;
- (g) information, the release of which could have serious consequences for the person that provided such information; and
- (h) information that would be of significant competitive advantage to a competitor;

Provided that a party submitting such information indicates it to be confidential.”

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.

VERIFICATION

The information submitted by any party may need to be verified by the Investigating Officers in order for the Commission to take such information into consideration. Parties

should therefore ensure that the information submitted would subsequently be available for verification.

The information submitted by the exporters can be verified within three to five weeks. This period will only be extended if it is not feasible for the Commission to do it within this time period or upon good cause shown, and with the prior written consent of the Commission, 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.

INFORMATION SUBMISSION FORMAT

The questionnaires are designed to ensure that the Commission is provided with all the information required to make a determination in accordance with the rules of Anti-Dumping Agreement and Subsidies and Countervailing Measures Agreement. The Commission may therefore decide not to verify information that is incomplete or does not comply with the format in the questionnaire, unless the Commission has agreed in writing to a deviation from the required format.

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

ORAL HEARINGS

Any interested party may request an oral hearing at any stage of the investigation in accordance with Section 5 of the ADR, provided that the party indicates reasons for not relying on written submission only. The Commission may refuse an oral hearing if granting such hearing will unduly delay the finalisation of a determination. Parties requesting an oral hearing shall provide the Commission with a detailed agenda for, and a detailed version, including a non-confidential version, of the information to be discussed at the oral hearing at the time of the request.

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 Commission may disregard the information submitted and make a finding on the basis of the facts available to it.

PROCEDURES AND TIME LIMITS

The Senior Manager: Trade Remedies I, shall receive all responses, including non-confidential copies of the responses, not later than 30 days from the date hereof, or from the date on which the letter accompanying the abovementioned 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 Commission. The Commission 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 Commission will not consider requests for extension by the Embassy on behalf of exporters.

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

Physical address

The Senior Manager: Trade Remedies I
International Trade Administration Commission
Block E – The DTI Campus
77 Meintjies Street
SUNNYSIDE, PRETORIA
SOUTH AFRICA

Postal address

The Senior Manager:
Trade Remedies I
Private Bag X753
PRETORIA
0001
SOUTH AFRICA

Enquiries may be directed to the investigating officers, Mr Elias Tema at telephone number +27 12 394 3640, Ms Nomonde Somdaka at telephone number +27 12 394 3737 and Mr Stephen van den Berg at telephone number +27 12 394 3694, or at fax number +27 12 394 0518.