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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF TRADE AND INDUSTRY

NO. 1385

04 NOVEMBER 2016

INTERNATIONAL TRADE ADMINISTRATION COMMISSION

NOTICE OF THE PRELIMINARY DETERMINATION IN THE INVESTIGATION FOR REMEDIAL ACTION IN THE FORM OF A SAFEGUARD AGAINST THE INCREASED IMPORTS OF FLAT-ROLLED PRODUCTS OF IRON OR NON-ALLOY STEEL, OR OTHER ALLOY STEEL BUT EXCLUDING STAINLESS STEEL, OF ALL WIDTHS, COLD-ROLLED (COLD-REDUCED), NOT CLAD, PLATED OR COATED AND NOT FURTHER WORKED THAN COLD-ROLLED (COLD-REDUCED)

and there is clear evidence that increased imports have caused or are The International Trade Administration Commission of South Africa (the Commission) initiated an investigation for remedial action in the form of a safeguard against the increased imports of flat-rolled products of iron or non-alloy steel, or other alloy steel but excluding stainless steel, of all widths, cold-rolled (cold-reduced), not clad, plated or coated and not further worked than cold-rolled (cold-reduced), through Notice No.469 of 2016 of *Government Gazette* No.40171 dated 29 July 2016.

Upon initiation of the investigation, interested parties were invited to submit comments on the initiation of the investigation.

On the basis of the information at the Commission's disposal, it made a preliminary determination that there were unforeseen developments which led to the surge of imports; the SACU industry is suffering serious injury; and there is a causal link between the serious injury suffered by the SACU industry and the surge of imports. The Commission considered whether there were critical circumstances where a delay in imposition of provisional measures, would cause damage that would be difficult to repair threatening injury.

The Commission therefore made a preliminary determination not to request the Commissioner for South African Revenue Service (SARS) to impose a provisional payment.

The basis and reasons for the Commission's findings are set out in its Preliminary Report No 537.

PROCEDURAL FRAMEWORK

This investigation is conducted in accordance with the International Trade Administration Act, 2002 (ITA Act) and the International Trade Administration Commission Safeguard Regulations (SGR), read with the World Trade Organization Agreement on Safeguards (the Safeguard Agreement).

Interested parties are invited to comment in writing to the Commission's preliminary determination within 14 days from the date the preliminary report is made available.

PUBLIC INTEREST

Interested parties are invited to submit comments on whether it will be in the public interest to impose definitive safeguard measures on the subject product, in accordance with Section 20.2 of the SGR. These should be submitted separately from the comments on the Commission's preliminary determination.

Interested parties that do not wish to attend public interest hearings but want to make submissions on public interest, should indicate such on or before 18 November 2016 at 15h00, and may make their submissions in writing including a non-confidential version to the Senior Manager: Trade Remedies I on or before 25 November 2016 at 15h00.

All interested parties wishing to attend the public hearing on public interest and wish to make oral representations to the Commission on public interest, should indicate their intention to attend on or before 18 November 2016 at 15h00 to the Senior Manager: Trade Remedies I.

All interested parties wishing to address the Commission on public interest should submit a detailed version, including a non-confidential version, of the information to be discussed at the public hearing, in writing to the Senior Manager: Trade Remedies I on or before 25 November 2016 at 15h00. A party that did not timeously submit a non-confidential version of the information to be discussed at the public hearing will not be allowed to take part in the public hearing.

A public hearing is scheduled for 29 November 2016 at 10h00 at the address as indicated below. Parties requesting to attend the public hearing should note that this will be an open hearing with all parties present and only non-confidential information should be presented during the public hearing.

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
- exceptional cases, where information is not susceptible to summary, a sworn affidavit setting out the reasons why it is impossible to comply, should be provided.

A sworn affidavit is defined as a written sworn statement of fact voluntarily made by an affiant or deponent under an oath or affirmation administered by a person authorized to do so by law. Such statement is witnessed as to the authenticity of the affiant's signature by a taker of oaths, such as a notary public or commissioner of oaths. An affidavit is a type of verified statement or showing, or in other words, it contains verification, meaning it is under oath or penalty of perjury and this serves as evidence to its veracity and is required for court proceedings.

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.

Subsection 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.

Section 2.3 of the quote the SGR provides as follows:

“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.”

ADDRESS

Any information regarding this matter must be submitted in writing to the following address:

Physical address

Senior Manager: Trade Remedies I
International Trade Administration Commission

Block E – The DTI Campus

77 Meintjies Street

SUNNYSIDE

PRETORIA

SOUTH AFRICA

Postal address

Senior Manager: Trade Remedies I

Private Bag X753

PRETORIA

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SOUTH AFRICA

Should you have any queries, please do not hesitate to contact the investigating officers, Mr Zuko Ntsangani at telephone number +27 12 394 3662, Mr Busman Makakola at telephone number +27 12 394 3380 or Ms Mosa Sebe at telephone number + 27 394 1850 or at fax +27 12 394 0516.

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