

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NOTICE 632 OF 2020

INTERNATIONAL TRADE ADMINISTRATION COMMISSION

INVESTIGATION FOR REMEDIAL ACTION IN THE FORM OF SAFEGUARD MEASURE AGAINST THE INCREASED IMPORTS OF U, I, H, L AND T SECTIONS OF IRON OR NON-ALLOY STEEL, NOT FURTHER WORKED THAN HOT-ROLLED, HOT-DRAWN OR EXTRUDED, OF A HEIGHT OF 80 MM OR MORE AND OTHER ANGLES, SHAPES AND SECTIONS OF IRON OR NON-ALLOY STEEL, NOT FURTHER WORKED THAN HOT-ROLLED, HOT-DRAWN OR EXTRUDED STEEL PRODUCTS: PRELIMINARY DETERMINATION

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 structural steel products of U, I, H, L and T sections of iron or non-alloy steel, not further worked than hot-rolled, hot-drawn or extruded, of a height of 80 mm or more and other angles, shapes and sections of iron or non-alloy steel, not further worked than hot-rolled, hot-drawn or extruded steel products, through Notice No. 335 of 2020 of *Government Gazette* No. 43447 dated 19 June 2020.

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 the events cited by the Applicant can be regarded as unforeseen developments. The Commission also made a preliminary determination that a reversal in the trend of import volumes has taken place, with the volume of imports decreasing significantly in recent years. The requirements set out by the World Trade Organisation (WTO) and the Amended Safeguard Regulations (SGR) with regard to a surge in imports, are therefore not

met. The Commission further made a preliminary determination that although the SACU industry experienced serious injury during the period of investigation, the injury experienced by the Applicant can be attributed to factors *other* than the increase in imports and these factors sufficiently detract from the causal link between the imports and the injury experienced by the industry.

The Commission therefore made a preliminary determination to recommend to the Minister of Trade, Industry and Competition that the investigation be terminated.

The basis and reasons for the Commission's findings are set out in its Preliminary Report No. 639.

PROCEDURAL FRAMEWORK

This investigation is conducted in accordance with the International Trade Administration Act, 2002 (ITA Act) and the International Trade Administration Commission Amended 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.

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 Mr Busman Makakola at +27 12 394 3380/ Bmakakola@itac.org.za or Ms Charity Mudzwiri at + 27 12 394 1817/ Cramaposa@itac.org.za or at fax +27 12 394 0518.