

PRESIDENT'S OFFICE

No. 1341. 31 August 1995

NO. 39 OF 1995: BOARD ON TARIFFS AND TRADE AMENDMENT ACT, 1995.

It is hereby notified that the President has assented to the following Act which is hereby published for general information:-

GENERAL EXPLANATORY NOTE:

Words in *italics* indicate insertions in existing enactments.

ACT

To amend the Board on Tariffs and Trade Act, 1986, so as to amend the definition of dumping; to define certain expressions; and to provide that the said Act shall also apply in the territories of the former Republics of Transkei, Bophuthatswana, Venda and Ciskei; and to repeal certain laws; and to provide for matters connected therewith.

(Afrikaans text signed by the President.) (Assented to 23 August 1995.)

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:-

Amendment of section 1 of Act 107 of 1986, as amended by section 1 of Act 60 of 1992

1. Section 1 of the Board on Tariffs and Trade Act, 1986, is hereby amended

(a) by the substitution for the definition of "dumping" of the following definition:

" 'dumping' means the introduction of goods into the commerce of the Republic or the common customs area of the Southern African Customs Union at an export price which is less than the normal value of the goods;";

(b) by the insertion after the definition of "dumping" of the following definition:

" 'export price' means the price actually paid or payable for goods sold for export net of all taxes, discounts and rebates actually granted and directly related to the sale under consideration;";

(c) by the insertion after the definition of "Minister" of the following definition:

" 'normal value' means-

(a) the comparable price actually paid or payable in the ordinary course of trade for like goods intended for consumption in the exporting country or country of origin; or

(b) in the absence of a price contemplated in paragraph (a)-

(i) the highest comparable price at which like goods are being exported to any third country in the ordinary course of trade; or

(ii) the constructed cost of production of the goods in the country of origin plus a reasonable addition for selling costs and profit:

Provided that due allowance shall be made in each case for differences in conditions and terms of sale, for differences in taxation, and for other differences affecting price comparability;"; and

(d) by the substitution for subsection (2) of the following subsection:

"(2) If, in the investigation of dumping as contemplated in section 4(1) (a) (i)-

(a) the Board is of the opinion that the normal value of the goods concerned is, as a result of government intervention, not determined in the exporting country or country of origin according to free market principles, a comparable price of a third country may be applied to the goods of the exporting country or country of origin concerned;

(b) (i) it is found that there is no export price as contemplated in the definition of 'dumping'; or

(ii) it appears that in respect of the export price there is an association or a compensatory arrangement between the exporter concerned and the importer or the third party concerned; or

(iii) it is found that for any other reason the export price actually paid or payable for the goods sold is unreliable, 'export price' in the said definition shall be construed to mean the price constructed on the basis of the price at which the imported goods are first resold to an independent buyer, or where not resold in the condition imported, on any reasonable basis."

Extension of application of Act 107 of 1986

2. The Board on Tariffs and Trade Act, 1986 (Act No. 107 of 1986), shall from the date of commencement of the Board on Tariffs and Trade Amendment Act, 1995, also apply in the territories of the former Republics of Transkei, Bophuthatswana, Venda and Ciskei.

Repeal of laws, and savings

3. (1) Subject to the provisions of subsection (2), the laws mentioned in the second column of the Schedule are hereby repealed in respect of the territories of the former Republics of Transkei, Bophuthatswana, Venda and Ciskei to the extent that such laws were in force in the said territories.

(2) Anything done under a provision repealed by subsection (1) and which is capable of being done in terms of a provision of the Board on Tariffs and Trade Act, 1986 (Act No. 107 of 1986), shall be deemed to have been done in terms of the latter provision.

Short title

4. This Act shall be called the Board on Tariffs and Trade Amendment Act, 1995.

Schedule

LAWS REPEALED

No. and year of law	Short title	Extent of repeal
Act 19 of 1944	Board of Trade and Industries Act, 1944	The whole
Act 1 of 1947	Board of Trade and Industries Act, 1947	The whole Amendment
Act 79 of 1969	Board of Trade and Industries Act, 1969	The whole Amendment
Act 36 of 1974	Board of Trade and Industries Act, 1974	The whole Amendment