



REPUBLIEK VAN SUID-AFRIKA

# STAATSKOERANT

# GOVERNMENT GAZETTE

## FOR THE REPUBLIC OF SOUTH AFRICA

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### KANTOOR VAN DIE STAATSPRESIDENT

No. 1244.

6 Mei 1992

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 60 van 1992: Wysigingswet op die Raad van Handel en Nywerheid, 1992.

### STATE PRESIDENT'S OFFICE

No. 1244.

6 May 1992

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

No. 60 of 1992: Board of Trade and Industry Amendment Act, 1992.

**Wet No. 60, 1992 WYSIGINGSWET OP DIE RAAD VAN HANDEL EN NYWERHEID, 1992****ALGEMENE VERDUIDELIKENDE NOTA:**

- I** Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.
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- Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.
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**WET**

Tot wysiging van die Wet op die Raad van Handel en Nywerheid, 1986, ten einde sekere uitdrukings te omskryf of nader te omskryf; die benaming van die Raad te verander; die oogmerke en werksaamhede van die Raad verder te reël; en vir die uitvaardiging van sekere regulasies voorsiening te maak; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

*(Engelse teks deur die Staatspresident geteken.)  
(Goedgekeur op 26 April 1992.)*

**D**AAR WORD BEPAAL deur die Staatspresident en die Parlement van die Republiek van Suid-Afrika, soos volg:—

**Wysiging van artikel 1 van Wet 107 van 1986**

1. Artikel 1 van die Wet op die Raad van Handel en Nywerheid, 1986 (hieronder die Hoofwet genoem), word hierby gewysig—
- (a) deur voor die omskrywing van "gemeenskaplike doeanegebied van die Suider-Afrikaanse Doeane-unie" die volgende omskrywing in te voeg:  
"dumping" die uitvoer of die beoogde uitvoer van goedere na die Republiek of die gemeenskaplike doeanegebied van die Suider-Afrikaanse Doeane-unie—
- (a) teen 'n uitvoerprys laer as die prys waarteen soortgelyke goedere in die gewone loop van die handel in die uitvoerende land, vir verbruik aldaar verkoop word;
- (b) teen 'n uitvoerprys laer as die hoogste vergelykbare prys waarteen soortgelyke goedere vanaf die uitvoerende land in die gewone loop van die handel na 'n derde land uitgevoer word;
- (c) teen 'n uitvoerprys laer as 'n prys wat saamgestel word soos deur subartikel (2) beoog; of
- (d) teen 'n uitvoerprys laer as die vergelykbare prys waarteen soortgelyke goedere van enige ander land na die Republiek of die gemeenskaplike doeanegebied van die Suider-Afrikaanse Doeane-unie uitgevoer word;"
- (b) deur na die omskrywing van "gemeenskaplike doeanegebied van die Suider-Afrikaanse Doeane-unie" die volgende omskrywing in te voeg:  
"gesubsidieerde uitvoer" die uitvoer of die beoogde uitvoer van goedere na die Republiek of die gemeenskaplike doeanegebied van die Suider-Afrikaanse Doeane-unie vanuit enige land waar die owerheid van daardie land of enige ander land enige vorm van finansiële bystand of ander hulp ten opsigte van daardie goedere verleen, met inbegrip van hulp ten opsigte van die produksie, vervaardiging, vervoer of uitvoer daarvan;"

**GENERAL EXPLANATORY NOTE:**

- [ ]** Words in bold type in square brackets indicate omissions from existing enactments.
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- Words underlined with a solid line indicate insertions in existing enactments.
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**ACT**

To amend the Board of Trade and Industry Act, 1986, so as to define or more closely define certain expressions; to alter the name of the Board; to further regulate the objects and functions of the Board; and to provide for the promulgation of certain regulations; and to provide for matters connected therewith.

*(English text signed by the State President.)  
(Assented to 26 April 1992.)*

**B**E IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:—

**Amendment of section 1 of Act 107 of 1986**

1. Section 1 of the Board of Trade and Industry Act, 1986 (hereinafter referred to as the principal Act), is hereby amended—

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

"'Board' means the Board **[for]** on Tariffs and Trade **[and Industry]** established by section 2;"

10 (b) by the insertion after the definition of "common customs area of the Southern African Customs Union" of the following definitions:

"'disruptive competition' means the export or the proposed export of goods to the Republic or the common customs area of the Southern African Customs Union, other than dumping or subsidized export, in quantities and under circumstances which cause or may cause material injury to established industries in the Republic or the common customs area of the Southern African Customs Union or which may retard the establishment of industries in the Republic or the common customs area of the Southern African Customs Union;

'dumping' means the export or the proposed export of goods to the Republic or the common customs area of the Southern African Customs Union—

(a) at an export price lower than the price at which similar goods are being sold in the ordinary course of trade in the exporting country, for consumption there;

(b) at an export price lower than the highest comparable price at which similar goods are being exported in the ordinary course of trade from the exporting country to any third country;

(c) at an export price lower than the price which is made up as contemplated by subsection (2); or

- (c) deur die omskrywing van "Minister" deur die volgende omskrywing te vervang:  
 "Minister" die Minister van Handel en Nywerheid en vir Ekonomiese Koördinering; [en];
- (d) deur na die omskrywing van "Minister" die volgende omskrywing in te voeg:  
 "ontwrigtende mededinging" die uitvoer of die beoogde uitvoer van goedere na die Republiek of die gemeenskaplike doeanegebied van die Suider-Afrikaanse Doeane-unie, behalwe dumping of gesubsidieerde uitvoer, in hoeveelhede en onder omstandighede wat wesentlike skade aan gevestigde nywerhede in die Republiek of die gemeenskaplike doeanegebied van die Suider-Afrikaanse Doeane-unie berokken of kan berokken of wat die vestiging van nywerhede in die Republiek of die gemeenskaplike doeanegebied van die Suider-Afrikaanse Doeane-unie kan strem;";
- (e) deur die omskrywing van "Raad" deur die volgende omskrywing te vervang:  
 "Raad" die Raad [van] op Tariewe en Handel [en Nywerheid] by artikel 2 ingestel.); en
- (f) deur die volgende subartikel by te voeg, terwyl die bestaande artikel 20 subartikel (1) word:  
 "(2) Die prys bedoel in paragraaf (c) van die omskrywing van 'dumping' word deur die Raad saamgestel uit die produksiekoste of die beraamde produksiekoste van die betrokke goedere in die land van herkoms en enige ander koste en wins wat die Raad redelik aag.".

#### Vervanging van artikel 2 van Wet 107 van 1986

2. Artikel 2 van die Hoofwet word hierby deur die volgende artikel vervang:

##### **"Instelling van Raad op Tariewe en Handel**

2. Daar word hierby 'n raad met die naam die Raad [van] op Tariewe en Handel [en Nywerheid] ingestel."

#### Vervanging van artikel 3 van Wet 107 van 1986

3. Artikel 3 van die Hoofwet word hierby deur die volgende artikel vervang:

##### **"Oogmerke van Raad**

3. Die oogmerke van die Raad is om nywerheidsgroei binne die raamwerk van die ekonomiese beleid van die Republiek te bevorder deur ondersoek te doen na enige aangeleentheid wat die handel en nywerheid van die Republiek of die gemeenskaplike doeanegebied van die Suider-Afrikaanse Doeane-unie raak of kan raak, en om die Minister hieroor te adviseer.".

#### Wysiging van artikel 4 van Wet 107 van 1986

4. Artikel 4 van die Hoofwet word hierby gewysig deur subartikels (1) en (2) deur onderskeidelik die volgende subartikels te vervang:

- "(1) Ten einde sy oogmerke te bereik en behoudens die bepalings van die een of ander wet, kan die Raad—
- (a) (i) uit eie beweging dumping, gesubsidieerde uitvoer of ontwrigtende mededinging in of na die Republiek en, indien by 'n ooreenkoms daartoe gemagtig, in of na die gemeenskaplike doeanegebied van die Suider-Afrikaanse Doeane-unie ondersoek;
- (ii) uit eie beweging die ontwikkeling van nywerhede in die Republiek en, indien by 'n ooreenkoms daartoe gemagtig, in die gemeenskap-

- (d) at an export price lower than the comparable price at which similar goods are being exported to the Republic or the common customs area of the Southern African Customs Union from any other country;”;
- 5       (c) by the deletion of the word “and” at the end of the definition of “common customs area of the Southern African Customs Union”;
- (d) by the substitution for the definition of “Minister” of the following definition:
- “‘Minister’ means the Minister of Trade and Industry and for Economic Co-ordination;”;
- 10     (e) by the insertion after the definition of “Minister” of the following definition:
- “‘subsidized export’ means the export or the proposed export of goods to the Republic or the common customs area of the Southern African Customs Union from any country where the authority of that country or any other country provides any form of financial aid or other assistance in respect of those goods, including assistance in respect of the production, manufacture, transport or export thereof.”; and
- 15     (f) by the addition of the following subsection, the existing section becoming subsection (1):
- “(2) The price referred to in paragraph (c) of the definition of ‘dumping’ shall be made up by the Board from the cost of production or the estimated cost of production of the goods concerned in the country of origin and any other costs and profit which the Board deems reasonable.”.
- 20     (g) by the insertion after the definition of “Minister” of the following definition:
- “‘subsidized export’ means the export or the proposed export of goods to the Republic or the common customs area of the Southern African Customs Union from any country where the authority of that country or any other country provides any form of financial aid or other assistance in respect of those goods, including assistance in respect of the production, manufacture, transport or export thereof.”; and
- 25     (h) by the insertion after the definition of “Minister” of the following definition:
- “‘subsidized export’ means the export or the proposed export of goods to the Republic or the common customs area of the Southern African Customs Union from any country where the authority of that country or any other country provides any form of financial aid or other assistance in respect of those goods, including assistance in respect of the production, manufacture, transport or export thereof.”; and

### **Substitution of section 2 of Act 107 of 1986**

2. The following section is hereby substituted for section 2 of the principal Act:

#### **30           “Establishment of Board on Tariffs and Trade**

2. There is hereby established a board to be known as the Board [of] on Tariffs and Trade [and Industry].”.

### **Substitution of section 3 of Act 107 of 1986**

3. The following section is hereby substituted for section 3 of the principal Act.

#### **“Objects of Board**

3. The objects of the Board are to promote industrial growth within the framework of the economic policy of the Republic by conducting investigations into any matter which affects or may affect the trade and industry of the Republic or the common customs area of the Southern African Customs Union, and to advise the Minister in this regard.”.

### **Amendment of section 4 of Act 107 of 1986**

4. Section 4 of the principal Act is hereby amended by the substitution for subsections (1) and (2) of the following subsections, respectively:

- 45      “(1) For the purposes of achieving its objects and subject to the provisions in any other law contained, the Board may—
- (a) (i) of its own accord investigate dumping, subsidized export or disruptive competition in or to the Republic and, if authorized thereto by an agreement, in or to the common customs area of the Southern African Customs Union;
- 50      (ii) of its own accord investigate the development of industries in the Republic and, if authorized thereto by an agreement, in the

**Wet No. 60, 1992 WYSIGINGSWET OP DIE RAAD VAN HANDEL EN NYWERHEID, 1992**

- like doeanegebied van die Suider-Afrikaanse Doeane-unie deur die heffing van doeane- en aksynsregte ondersoek;
- (iii) in opdrag van die Minister enige ander aangeleentheid wat die handel en nywerheid van die Republiek en, indien by 'n ooreenkoms daartoe gemagtig, die gemeenskaplike doeanegebied van die Suider-Afrikaanse Doeane-unie raak of kan raak, ondersoek; en
- (b) aan die Minister verslag doen en aanbevelings maak met betrekking tot enige ondersoek bedoel in paragraaf (a).
- (2) By ontyangs van die verslag en aanbevelings bedoel in subartikel (1)(b), kan die Minister—
- (a) sodanige verslag en aanbevelings aanvaar of verwerp, of dit vir heroorweging na die Raad terugverwys; en
- (b) indien hy die betrokke verslag en aanbevelings aanvaar, die Minister van Finansies versoek om die toepaslike Bylae by die Doeane- en Aksyns-wet, 1964 (Wet No. 91 van 1964), te wysig.”.

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**Invoeging van artikel 16A in Wet 107 van 1986**

**5.** Die volgende artikel word hierby in die Hoofwet na artikel 16 ingevoeg:

**“Regulasies**

- 16A.** Die Minister kan, na oorleg met die Raad, regulasies uitvaardig betreffende—
- (a) procedures in verband met enige werksaamheid van die Raad; en
- (b) enige ander aangeleentheid in verband met die bereiking van die oogmerke van die Raad.”.

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**Wysiging van artikel 20 van Wet 107 van 1986**

**6.** Artikel 20 van die Hoofwet word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

“(3) Indien 'n aangeleentheid wat voor die inwerkingtreding van hierdie Wet na die Raad van Handel en Nywerheid ingevolge die Wet op die Raad van Handel en Nywerheid, 1944, ingestel, verwys is, nie voor bedoelde inwerkingtreding deur daardie Raad of 'n komitee daarvan afgehandel is nie, kan die Raad **[van]** op Tariewe en Handel **[en Nywerheid]** ingevolge hierdie Wet ingestel, met die afhandeling van daardie aangeleentheid ooreenkons-tig die voorskrifte van hierdie Wet voortgaan, en word enigets deur eersgenoemde Raad in verband met daardie aangeleentheid gedoen, geag deur die Raad ingevolge hierdie Wet ingestel, gedoen te gewees het.”.

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**Vervanging van uitdrukking in Wet 107 van 1986**

**7.** Die Hoofwet word hierby gewysig deur die uitdrukking “Raad van Handel en Nywerheid”, waar dit ook al voorkom, uitgesonderd in artikel 20(2), deur die uitdrukking “Raad op Tariewe en Handel” te vervang.

**Vervanging van artikel 21 van Wet 107 van 1986**

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**8.** Artikel 21 van die Hoofwet word hierby deur die volgende artikel vervang:

**“Kort titel**

- 21.** Hierdie Wet heet die Wet op die Raad **[van]** op Tariewe en Handel **[en Nywerheid]**, 1986.”.

## BOARD OF TRADE AND INDUSTRY AMENDMENT ACT, 1992

Act No. 60, 1992

- common customs area of the Southern African Customs Union by the levying of customs and excise duties;
- 5 (iii) by order of the Minister investigate any other matter which affects or may affect the trade and industry of the Republic and, if authorized thereto by an agreement, the common customs area of the Southern African Customs Union; and
- (b) report and make recommendations to the Minister in respect of any investigation referred to in paragraph (a).
- 10 (2) Upon receipt of the report and recommendations referred to in subsection (1)(b), the Minister may—
- (a) accept or reject such report and recommendations, or refer them back to the Board for reconsideration; and
- (b) if he accepts the report and recommendations concerned, request the Minister of Finance to amend the relevant Schedule to the Customs and Excise Act, 1964 (Act No. 91 of 1964).".
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**Insertion of section 16A in Act 107 of 1986**

5. The following section is hereby inserted in the principal Act after section 16:

**"Regulations**

- 20 **16A.** The Minister may, after consultation with the Board, make regulations regarding—
- (a) procedures in connection with any function of the Board; and
- (b) any other matter in connection with the achievement of the objects of the Board.”.

**Amendment of section 20 of Act 107 of 1986**

- 25 6. Section 20 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:
- “(3) If any matter which before the commencement of this Act was referred to the Board of Trade and Industries established in terms of the Board of Trade and Industries Act, 1944, has not been disposed of by that Board or a committee thereof before such commencement, the Board [of] on Tariffs and Trade [and Industry] established in terms of this Act may continue with the disposal of that matter in accordance with the provisions of this Act, and anything done by the first-mentioned Board in connection with that matter shall be deemed to have been done by the Board established in terms of this Act.”.
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**Substitution of expression in Act 107 of 1986**

7. The principal Act is hereby amended by the substitution for the expression “Board of Trade and Industry”, wherever it occurs, except in section 20(2), of the expression “Board on Tariffs and Trade”.

**40 Substitution of section 21 of Act 107 of 1986**

8. The following section is hereby substituted for section 21 of the principal Act:

**"Short title**

- 45 21. This Act shall be called the Board [of] on Tariffs and Trade [and Industry] Act, 1986.”.

**Wet No. 60, 1992 WYSIGINGSWET OP DIE RAAD VAN HANDEL EN NYWERHEID, 1992****Vervanging van lang titel van Wet 107 van 1986**

**9.** Die lang titel van die Hoofwet word hierby deur die volgende lang titel vervang:

**“WET**

Om voorsiening te maak vir die instelling van 'n Raad **[van] op** 5  
**Tariewe en Handel [en Nywerheid]** en vir aangeleenthede wat  
daarmee in verband staan.”.

**Kort titel**

**10.** Hierdie Wet heet die Wysigingswet op die Raad van Handel en Nywerheid, 1992. 10

**Substitution of long title of Act 107 of 1986**

9. The following long title is hereby substituted for the long title of the principal Act:

**"ACT**

5 To provide for the establishment of a Board **[of]** on Tariffs and Trade [and Industry] and for matters related thereto.”

**Short title**

10. This Act shall be called the Board of Trade and Industry Amendment Act, 1992.

