

NOTICE 470 OF 2004
INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF
SOUTH AFRICA (THE COMMISSION)

**NOTICE OF INITIATION OF SUNSET REVIEW OF ANTI-DUMPING DUTIES ON
DRAWN AND FLOAT GLASS ORIGINATING IN OR IMPORTED FROM THE
PEOPLE'S REPUBLIC OF CHINA (THE PRC) AND INDIA**

In terms of Article 11.3 of the World Trade Organisation Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade, (to be read with Sub-Part IV *Sunset Reviews* of the Anti-Dumping Regulations) an 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 and injury.

On 30 May 2003, the International Trade Administration Commission (the Commission) notified all interested parties, through Notice No. 1560 of Government Gazette No. 24893, that unless a request is made by or on behalf of the domestic industry for the duties to be reviewed prior to the expiry thereof, the anti-dumping duties on drawn and float glass originating in or imported from the PRC and India will expire on 28 May 2004.

A duly completed Application Review Questionnaire was submitted to the Commission on 28 November 2003.

THE APPLICANT

The application was lodged on behalf of the South African Customs Union (SACU) industry by PFG Building Glass (Pty) Ltd (PFG), the domestic manufacturer of the product under investigation in the SACU. The Applicant alleged that expiry of the duties

would be likely to lead to continuation or recurrence of dumping and injury. The Applicant submitted sufficient evidence and established a *prima facie* case to enable the Commission to arrive at a reasonable conclusion that a review investigation should be initiated on the subject product originating in or imported from PRC and India.

THE PRODUCTS

The product under investigation is clear drawn and float glass of a thickness exceeding 2,5 mm, up to 6mm. The SACU product is currently classifiable under tariff subheading 70.05.29 and 70.04.90.

THE ALLEGATION OF DUMPING

The allegation of continuation or recurrence of dumping is based on the comparison between the normal values and the export prices. India was nominated by the Applicant to be used as a surrogate country for the PRC as the Applicant regards India as having a glass industry that is at a similar level of development to that in the PRC. The normal values for India (and for the PRC using India as the surrogate country) were obtained from a price quotation from a glass supplier in that country. The export prices in respect of the PRC were obtained from float glass suppliers in that country. In respect of India, export quotations were obtained from Indian float glass suppliers.

THE ALLEGATION OF MATERIAL INJURY AND CAUSAL LINK

The Applicant alleged and submitted sufficient evidence to show that there is price undercutting and that the imports in question are suppressing and depressing its selling prices. The Applicant's information indicated a decline in profit margins, output, productivity, return on investment and capacity utilisation. On this basis the Commission found that there was *prima facie* proof of the continuation and/or recurrence of material injury with regard to the subject product originating in or imported from the PRC and India.

PERIOD OF INVESTIGATION

The period of investigation for purposes of determining the dumping margins in the respective exporting countries or countries of origin will be from 1 January 2003 to 31 December 2003. The period of investigation for purposes of determining injury will be from 1 January 2000 to 31 December 2003. If there are subsequent events that are relevant to injury the Commission may later request and consider further, more recent information.

PROCEDURAL FRAMEWORK

The period of investigation for purposes of determining the continuation or recurrence of dumping countries concerned will be from 1 January 2003 to 31 December 2003. The period of investigation for purposes of determining continuation or recurrence of injury will be from 1 January 2000 to 31 December 2003. An estimate of what the situation will be if the duties expire will also be considered by the Commission.

PROCEDURAL FRAMEWORK

Having decided that there is sufficient evidence and a *prima facie* case to justify the initiation of an investigation, the Commission has begun an investigation in terms of section 26 of the ITA Act, No.71 of 2001 (the ITA Act). The Commission will conduct its investigation in accordance with the ITA Act, the Anti-Dumping Regulations and the World Trade Organisation Agreement on Implementation of Article VI of the GATT 1994 (the Anti-Dumping Agreement). Copies of the documents are available from the Commission's website at www.itac.org.za, or from the Commission's office 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 representatives of the exporting countries have also been notified. Importers, exporters and other interested parties are invited to contact the Commission as soon as possible

in order to determine whether they have been listed and have been sent the relevant documents. If not, they should immediately ensure that they are sent copies. The questionnaire has to be completed and any other representations must be made within the time limit set out below.

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:

- (1) where confidential information has been omitted and the nature of such information;
- (2) reasons for such confidentiality;
- (3) a summary of the confidential information which permits a reasonable understanding of the substance of the confidential information; and
- (4) 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.

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 must be submitted in writing to the following address:

Physical address

The Director: Trade Remedies II
Room 417
SABS Building
1 Dr Lategan Road
Groenkloof
PRETORIA
SOUTH AFRICA

Postal address

The Director: Trade Remedies II
Private Bag X753
PRETORIA
0001
SOUTH AFRICA

PROCEDURES AND TIME LIMITS

All responses, including non-confidential copies of the responses, should be received by the Director: Trade Remedies II not later than 30 days from the date hereof or from the date on which the letter accompanying the above-mentioned 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 Embassies on behalf of exporters.

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. The

Commission may verify the information at the premises of the party submitting the information, within a short period after the submission of the information to the Commission. Parties should therefore ensure that the information submitted will subsequently be available for verification. It is planned to do the verification of the information submitted by the exporters within three to five weeks subsequent to submission of the information. 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 Commission is provided with all the information required to make a determination in accordance with the rules of Anti-Dumping Agreement. The Commission may therefore refuse 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. (A 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.) *Parties that have not exported to the SACU are during the period of investigation must provide details of all their exports to other countries in the required format and detail.*

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 representations* to the Commission by any interested party may also be made on written request to the Commission, provided the request conforms to the requirements of Section 5 of the Anti-Dumping Regulations. If the required information and arguments (in respect of any part of the investigation) are not received in a satisfactory form within the time limit specified in this Notice, or if verification of the information cannot take place, the Commission may disregard the information submitted and make provisional or final findings on the basis of the facts available to it.

Enquiries may be directed to the investigating officers, Mr T Botha at telephone (012) 428 7722 or Ms M Rakgole at telephone (012) 428 7733 .