

DEPARTMENT OF TRADE AND INDUSTRY

NOTICE 449 OF 2019

**INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF
SOUTH AFRICA****NOTICE OF INITIATION OF AN INVESTIGATION INTO THE ALLEGED
CIRCUMVENTION THROUGH COUNTRY HOPPING FROM SAUDI ARABIA AND THE
UNITED ARAB EMIRATES TO EGYPT OF CLEAR FLOAT GLASS**

The International Trade Administration Commission of South Africa (the Commission) received an application alleging that circumvention through country hopping from Saudi Arabia (Saudi) and the United Arab Emirates (UAE) to Egypt of clear float glass with a thickness of 3mm to 6mm. Section 60.8 of the Anti-Dumping Regulation (ADR) states that “Country hopping shall be deemed to take place if imports, following the imposition of anti-dumping duties or provisional payment or the initiation of an anti-dumping investigation, switch to a supplier related to the supplier against which an anti-dumping investigation has been or is being conducted and that is based in another country or customs territory.”

THE APPLICANT

The Application was lodged by PFG Building Glass (Pty) Ltd (Applicant), the sole producer of subject products in Southern African Customs Union (SACU).

THE PRODUCT

The product allegedly being circumvented is clear float glass of a thickness of 3mm to 6mm originating in or imported from Egypt, classifiable under tariff subheading 7005.29.17, 7005.29.23, 7005.29.25 and 7005.29.35. Based on the information submitted by the Applicant, the Commission decided that the SACU products and the imported products are “like products”, for purposes of comparison, in terms of the ADR.

THE ALLEGATION OF CIRCUMVENTION (COUNTRY HOPPING)

The Applicant alleged that subsequent to the imposition of the provisional anti-dumping duties on imports of clear float glass of a thickness of 3mm to 6mm originating in or imported from Saudi and the UAE, Guardian Africa who was identified as a major importer in the original investigation, have shifted sourcing of the subject products from Saudi Guardian International Float Glass Co, Ltd in Saudi and Guardian Zoujaj International Float Glass Co. LLC in the UAE to its related company in Egypt.

On this basis, the Commission found that there was *prima facie* evidence to indicate that country hopping, in terms of ADR 60.8, is taking place.

THE ALLEGATION OF DUMPING

The allegation of dumping is based on the comparison between the normal values that was verified at the exporter in the UAE in accordance with ADR 62.3, and the export price derived from the import statistics obtained from South African Revenue Services (SARS). On this basis, the Commission found that there was *prima facie* evidence of dumping.

THE ALLEGATION OF MATERIAL INJURY

The Applicant alleges and submitted sufficient evidence from original investigation, that the SACU industry is experiencing material injury and a threat of material injury with regard to the subject products. On this basis the Commission found that there was *prima facie* proof that material injury, or threat of material injury, and casual link in the original investigation that was considered for purposes of this application in line with ADR62.2.

PERIOD OF INVESTIGATION

The investigation period for dumping is from 01 April 2019 to 30 June 2019.

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 16 of the International Trade Administration Act, 2002 (the ITA Act). The Commission will conduct its investigation in accordance with the relevant sections of the ITA Act, the World Trade Organisation Agreement on Implementation of Article VI of the GATT 1994 (the Anti-Dumping Agreement) and the Anti-Dumping Regulations of the International Trade Administration Commission of South Africa (ADR). Both the ITA Act and the ADR are available on the Commission's website (www.itac.org.za) or from the Trade Remedies section, 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 and other interested parties are invited to contact the Commission as soon as possible in order to determine whether they have been listed and were furnished with the relevant documentation. 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:

- X where confidential information has been omitted and the nature of such information;
- X reasons for such confidentiality;
- X a summary of the confidential information which permits a reasonable understanding of the substance of the confidential information; and
- X 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.

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 ADR 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

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 Senior Manager: Trade Remedies I
International Trade Administration Commission
Block E – The DTI Campus
77 Meintjies Street
SUNNYSIDE
PRETORIA
SOUTH AFRICA

Postal address

The Senior Manager:
Trade Remedies I
Private Bag X753
PRETORIA
0001
SOUTH AFRICA

PROCEDURES AND TIME LIMITS

The Senior Manager: Trade Remedies I, should receive all responses, including non-confidential copies of the responses, not later than 30 days from the date hereof, or from the date on which the letter accompanying the abovementioned 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 an extension. Please note that the Commission will not consider requests for extension by the Embassy on behalf of foreign producers.

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 would subsequently be available for verification. Specifically, it is planned to verify the information submitted by the foreign producers within three to five weeks subsequent to the 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 appointed representatives, will not be considered to be good cause.

Parties should also ensure when they engage representatives 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 the specified detail and format. The questionnaires are designed to ensure that the Commission is provided with all the information required to make a determination in accordance with the ITA Act and the ADR. 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 a 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, who experience difficulty in furnishing the information required, or submitting information in the format required, are 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.

Any interested party may request an oral hearing at any stage of the investigation in accordance with Section 5 of the ADR, provided that the party indicates reasons for not relying on written submissions only. The Commission may refuse an oral hearing if granting such hearing will unduly delay the finalisation of a determination. Parties requesting an oral hearing must provide the Commission with a detailed agenda for, and a detailed version, including a non-confidential version, of the information to be discussed at the oral hearing at the time of the request.

If the required information is not received in a satisfactory form within the time limit specified above, or if verification of the information cannot take place, the Commission may disregard the information submitted and make a finding on the basis of the facts available to it.

Should you have any queries, please do not hesitate to contact the investigating officers Mr Zuko Ntsangani at +27 12 394 3662 and Mr Thabelo Tshikomba at +27 12 394 3638 and fax number +27 12 394 0518.