

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION**NOTICE 3036 OF 2025****INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF
SOUTH AFRICA**

NOTICE OF INITIATION OF INVESTIGATION INTO THE ALLEGED CIRCUMVENTION OF THE ANTI-DUMPING DUTIES ON WINDSCREENS FOR VEHICLES CLASSIFIABLE UNDER TARIFF SUBHEADING 7007.21.20, TO BE USED IN THE SOUTHERN AFRICAN CUSTOMS UNION (“SACU”) MARKET AS REPLACEMENT GLASS IN THE AFTERMARKET ORIGINATING IN OR IMPORTED FROM THE PEOPLE’S REPUBLIC OF CHINA (“CHINA”) BY IMPORTING THE WINDSCREENS UNDER TARIFF SUBHEADING 8708.22.10

The International Trade Administration Commission of South Africa (“the Commission”) received an application alleging that circumvention of the anti-dumping duties on windscreens for vehicles classifiable under tariff sub-headings 7007.21.20, to be used in the SACU market as replacement glass in the aftermarket originating in or imported from China through improper declaration of imports under an alternative tariff subheading that is not subjected to anti-dumping duties as a result of minor modification is taking place. Regulation 60.2 of the Anti-Dumping Regulation (“ADR”) provides a list of types of circumvention that should be treated separately. According to regulation 60.2(a)(iii), the improper declaration of the nature or classification of the product and 60.2(b) minor modifications to the product subject to anti-dumping duty falls within such a type of circumvention.

THE APPLICANT

The Application was lodged by Shatterprufe, a division of PG Group (Proprietary) Limited (“the Applicant”), a major producer of the subject product in the Southern African Customs Union.

THE PRODUCT

The product allegedly being circumvented is laminated safety glass suitable for the incorporation in vehicles generally referred to as windscreens for vehicles, to be used in the SACU market as replacement glass in the aftermarket ("ARG"). 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 (IMPROPER DECLARATION AS A RESULT OF MINOR MODIFICATION)

The Applicant alleged that, subsequent to the imposition of the provisional payments and definitive anti-dumping duties on imports of windscreens for vehicles to be used in the SACU market as replacement glass in the aftermarket originating in or imported from China, the incentive to import windscreens from China under tariff subheading 8708.22 has increased. This is being done as a way to circumvent the anti-dumping duties imposed under tariff subheading 7007.21.20.

The Applicant also alleged that in order to circumvent the anti-dumping duties on windscreens that should be imported under tariff subheading 7007.21.20, minor modifications can be made to the windscreens by sticking on connecting wires or connectors without any functional role for electrical / electronic devices at a minimum cost, which wires or connectors can then be removed and thrown away before fitment. Thus, a false pretence can be created of the windscreen being 'electronic' and classifiable under HS 8708.22.10.

The Applicant stated that tariff subheading 8708.22 is a new tariff subheading, which came into effect on 01 January 2022 to align with the World Customs Organisation (“WCO”) Harmonised 2022 adjustments, to make a distinction between motor vehicle windows and other parts and accessories of motor vehicles that were previously classified under tariff subheading 8708.29. These windows can be front, rear or other windows that are framed and/or incorporating heating devices or other electrical or electronic devices which clearly differ from tariff subheading 7007.21.20 that provides for “Windscreens for vehicles” and excludes “accessories”.

The Applicant further stated that on 16 August 2024, tariff subheading 8708.22.10 was created, with the creation of tariff subheading 8708.22.10, an important milestone was reached as tariff subheading 8708.22 catered for automotive glass and not specifically identifying windscreens only, which gave it the character of a basket code and therefore tariff subheading 8708.22.10 was more specific.

The Commission decided to conduct an analysis of tariff subheading 8708.22, both prior to and following the separation.

Based on the above, analysis of the change in the trade pattern of the import data between 7007.21.20, 8708.22 and 8708.22.10 pre and post imposition of provisional payments and final duties on windscreens for vehicles from China indicates the possibility of improper declaration of imports under alternative tariff subheading that is not subjected to anti-dumping duties as a result of minor modification in order to avoid paying duties.

On this basis, the Commission found that there was *prima facie* evidence to indicate that circumvention through improper declaration of imports under an alternative tariff subheading that is not subjected to anti-dumping duties as a result of minor modification, in terms of ADR 60.2(a)(iii) and 60.2(b) is taking place.

THE ALLEGATION OF DUMPING

The allegation of dumping is based on the comparison between the normal values previously established in the original investigation in accordance with ADR 62.3, and the export price determined in the same original investigation. On this basis, the Commission found that there was *prima facie* evidence of dumping, and the dumping margin was determined to be 129.15%.

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 product. 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 1 January 2021 to December 2021.

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 Busman Makakola at email address bmakakola@itac.org.za and Ms. Charity Mudzwiri at email address cramaposa@itac.org.za.