

DEPARTMENT OF TRADE AND INDUSTRY
NOTICE 14 OF 2016
INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF
SOUTH AFRICA

NOTICE OF INITIATION OF THE SUNSET REVIEW OF THE ANTI-DUMPING DUTIES ON UNFRAMED GLASS MIRRORS ORIGINATING IN OR IMPORTED FROM INDIA

In accordance with the provisions in Article 53.1 of the Anti-Dumping Regulations, any definitive anti-dumping duty shall be terminated on a date not later than five years from the date of 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, that the expiry of the duties would be likely to lead to continuation or recurrence of dumping and injury.

On 19 June 2015, the International Trade Administration Commission of South Africa (the Commission) notified all interested parties, through Notice No. 588 of 2015 in Government Gazette No. 38877, that unless a duly substantiated request is made by or on behalf of the SACU industry, indicating that the expiry of the anti-dumping duty against the imports of unframed glass mirrors originating in or imported from India would likely lead to the continuation or recurrence of dumping and injury, the anti-dumping duties on unframed glass mirrors originating in or imported from India will expire on 3 March 2016.

A response to the sunset review application questionnaire was received from the PFG Building Glass (Pty) Ltd, a division of PG group (Pty) Limited on behalf of Southern African Customs Union (SACU) industry on 11 September 2015 .

THE APPLICANT

The application was lodged by PFG Building Glass, a Division of PG Group (Pty) Ltd, the sole producer of unframed glass mirrors within the SACU.

The Applicant alleges that the expiry of the duty would likely lead to the continuation or recurrence of dumping and the recurrence of material injury. The Applicant submitted sufficient evidence and established a *prima facie* case to enable the Commission to arrive at a reasonable conclusion that a sunset review investigation of the anti-dumping duty on unframed glass mirrors originating in or imported from India be initiated.

THE PRODUCT

The anti-dumping duties subject to this sunset review are those applicable to unframed glass mirrors, of a thickness of 2 mm or more but not exceeding 6 mm, classifiable under tariff subheading 7009.91 originating in or imported from India.

THE ALLEGATION OF CONTINUATION OR RECURRENCE OF DUMPING

The allegation of continuation or recurrence of dumping is based on the comparison between the normal values and the export prices.

The normal value for India was determined based on a quotation from a trader in India. In calculating the export price, it was found that the import data obtained from SARS appears to be unreliable as the products cannot be seen as representing imports from India since from the volume it appears to have been samples that was couriered or a one's of speciality product. The export price for India was determined based a quotation obtained from a reputable research consulting company in India. The dumping margin was determined to be 188.18%.

On this basis, the Commission found that there was *prima facie* proof of the likelihood of the continuation or recurrence of dumping.

THE ALLEGATION OF RECURRENCE OF MATERIAL INJURY

The Applicant alleges and submitted sufficient evidence to show that it would experience a decline in market share, sales volumes, price undercutting, price depression, capacity utilisation, profit, output, return on investment, cash flow, employment and growth, if the duty expires.

On this basis, the Commission found that there was *prima facie* proof of the likelihood of the recurrence of material injury.

PERIOD OF INVESTIGATION

The investigation period for dumping is from 01 July 2014 to 31 June 2015 and the injury investigation involves the evaluation of data for the period 01 July 2012 to 30 June 2015 and 2016 estimates in the event the duty expires.

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 known representative associations. The trade representative of the country of origin has also been notified, and as the Applicant was not able to identify possible foreign producers of the subject product, requested to advise possible producers accordingly.

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 1
International Trade Administration Commission
Block E – The DTI Campus
77 Meintjies Street
SUNNYSIDE
PRETORIA
SOUTH AFRICA

Postal address

The Senior Manager:
Trade Remedies 1
Private Bag X753
PRETORIA
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SOUTH AFRICA

PROCEDURES AND TIME LIMITS

The Senior Manager: Trade Remedies 1, 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.