

Report No. 271

**TERMINATION OF THE ANTI-DUMPING DUTIES ON
SUSPENSION PVC ORIGINATING IN OR IMPORTED FROM
BRAZIL, FRANCE, UK, AND THE USA, GARDEN PICKS
ORIGINATING IN OR IMPORTED FROM INDIA AND ALUMINIUM
HOLLOWWARE ORIGINATING IN OR IMPORTED FROM THE
PEOPLE'S REPUBLIC OF CHINA AND EGYPT**

The International Trade Administration Commission of South Africa herewith presents its Report No. 271: TERMINATION OF THE ANTI-DUMPING DUTIES ON SUSPENSION PVC ORIGINATING IN OR IMPORTED FROM BRAZIL, FRANCE, UK, AND THE USA, GARDEN PICKS ORIGINATING IN OR IMPORTED FROM INDIA AND ALUMINIUM HOLLOWWARE ORIGINATING IN OR IMPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA (PRC) AND EGYPT



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CHIEF COMMISSIONER

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INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF SOUTH AFRICA

SUNSET REVIEW OF THE ANTI-DUMPING DUTIES ON SUSPENSION PVC ORIGINATING IN OR IMPORTED FROM BRAZIL, FRANCE, UK, AND THE USA, GARDEN PICKS ORIGINATING IN OR IMPORTED FROM INDIA AND ALUMINIUM HOLLOWWARE ORIGINATING IN OR IMPORTED FROM THE PRC AND EGYPT

1. In accordance with the provisions of Sub-Part IV of the Anti-Dumping Regulations and Article 11.3 of the World Trade Organisation Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (the "Anti-dumping Agreement"), 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 within a reasonable period of time prior to that date, that the expiry of the duty would be likely to lead to the continuation or recurrence of dumping and injury.
2. In terms of the WTO Anti-dumping Agreement and the Anti-dumping Regulations, the initiation of any sunset review must occur prior to the expiry of the aforementioned five-year period to keep the anti-dumping duty in force beyond the period of five years. Therefore, as soon as a sunset review is initiated, it has the effect that the anti-dumping duty is extended beyond the five-year expiry date of the duty.
3. In the case of *Progress Office Machines CC versus SARS, ITAC and others* ("Progress Office Machines"), the Supreme Court of Appeal ("SCA"), decided that where definitive duties were imposed retrospectively to the date that provisional payments were first imposed, the five-year period commenced on that imposition date. This was in contrast to the Commission's practice where the

five-year lapse period has always been calculated five years from the date of the publication of the Notice of imposition of definitive duties.

4. The amendment to Schedule 2 to the Customs and Excise Act giving effect to the decision to impose anti-dumping duties on Suspension PVC originating in or imported from Brazil, France, UK, and the USA was published on 27 March 1997 but with retrospective effect from 28 June 1996. In terms of the SCA's decision in *Progress Office Machines vs SARS, ITAC and others*, the sunset review of the anti-dumping duties on Suspension PVC originating in or imported from Brazil, France, UK and USA had to be initiated by 28 June 2001. However, the sunset review was only initiated on 1 March 2002 and concluded on 18 October 2002. Therefore, the five year expiry date of the anti-dumping duties was 17 October 2007. No sunset review was initiated before or on 17 October 2007.
5. The amendment to Schedule 2 to the Customs and Excise Act giving effect to the decision to impose anti-dumping duty on Garden Picks originating in or imported from India was published on 11 October 1996 but with retrospective effect from 12 April 1996. In terms of the SCA's decision in *Progress Office Machines vs SARS, ITAC and others*, the sunset review of the anti-dumping duties on Garden Picks originating in or imported from India had to be initiated by 12 April 2001. However, the sunset review was only initiated 9 November 2001 and concluded on 14 February 2003. Therefore, the five year expiry date of the anti-dumping duties was 13 February 2008. No sunset review was initiated before or on 13 February 2008.
6. The amendment to Schedule 2 to the Customs and Excise Act giving effect to the decision to impose anti-dumping duties on Aluminium Hollowware originating in or imported from the PRC and Egypt was published on 7 February 1997 but with retrospective effect from 4 April 1996. In terms of the SCA's decision in *Progress Office Machines vs SARS, ITAC and others*, the sunset review of the anti-dumping duties on Aluminium Hollowware originating in or imported from the PRC and Egypt had to be initiated by 4 April 2001. However, the sunset review was only initiated on 5 February 2002 and concluded on 31 January 2003.

Therefore the five year expiry date of the anti-dumping duties was 30 January 2008. No sunset review was initiated before or on 30 January 2008.

7. In the light of the decision by the SCA, the Commission decided to recommend that the anti-dumping duties on Suspension PVC originating in or imported from Brazil, France UK and the USA be withdrawn with retrospective effect from 18 October 2007; on Garden Picks originating in or imported from India be withdrawn with retrospective effect from 14 February 2008; and on Aluminium Hollowware originating in or imported from the PRC and Egypt be withdrawn with retrospective effect from 31 January 2008.

RECOMMENDATION

8. The Commission therefore decided to recommend that the anti-dumping duties on Suspension PVC originating in or imported from Brazil, France, UK, and the USA; on Garden Picks Originating in or imported from India; and on Aluminium Hollowware Originating in or imported from the PRC and Egypt be withdrawn with retrospective effect from the respective dates as indicated.