

## **REPORT NO. 499**

**APPLICATION FOR THE EXCLUSION OF TINTED GLASS MIRRORS FROM THE  
EXISTING ANTI-DUMPING DUTIES APPLICABLE TO UNFRAMED GLASS  
MIRRORS ORIGINATING IN OR IMPORTED FROM THE PEOPLE'S REPUBLIC  
OF CHINA (CHINA): FINAL DETERMINATION**

The International Trade Administration Commission of South Africa herewith presents its **Report No. 499: APPLICATION FOR THE EXCLUSION OF TINTED GLASS MIRRORS FROM THE EXISTING ANTI-DUMPING DUTIES APPLICABLE TO UNFRAMED GLASS MIRRORS ORIGINATING IN OR IMPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA (CHINA): FINAL DETERMINATION**



**Siyabulela Tsengiwe**  
**CHIEF COMMISSIONER**

**PRETORIA**  
**23/06/2015**

# **INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF SOUTH AFRICA**

## **REPORT NO. 499**

### **APPLICATION FOR THE EXCLUSION OF TINTED GLASS MIRRORS FROM THE EXISTING ANTI-DUMPING DUTIES APPLICABLE TO UNFRAMED GLASS MIRRORS ORIGINATING IN OR IMPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA (CHINA): FINAL DETERMINATION**

#### **1. LEGAL FRAMEWORK**

This investigation was conducted in accordance with the International Trade Administration Act, 2002 (ITA Act), and the International Trade Administration Commission Anti-Dumping Regulations (ADR), read with the World Trade Organization Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade, 1994 (ADA).

#### **2. APPLICANT**

The application was lodged by Nelson Glass and Mirrors (the Applicant), an importer of mirrors in the SACU.

#### **3. BACKGROUND**

The investigation into the alleged dumping of unframed glass mirrors was conducted in 2013 and definitive anti-dumping duties were imposed on the subject product originating in or imported from China on 26 July 2013 with retrospective effect from 8 March 2013.

The anti-dumping duty on unframed glass mirrors is as follows:

Tariff heading	Country	Product	Rate of Anti-Dumping Duty	Date of imposition of duty
7009.91	China	Unframed glass mirrors	40.22%	26/07/2013

#### 4. DISCUSSION

- 4.1 A request was received from the Applicant to exclude mirrors made from tinted glass from the anti-dumping duty applicable to unframed glass mirrors originating in or imported from China. The Applicant stated that tinted glass is not manufactured domestically. Tinted glass is imported and a silver backing is applied to produce tinted mirrors.
- 4.2 The Applicant provided confirmation from PFG Building Glass (PFG), the domestic manufacturer and applicant in the original investigation that it does not object to the exclusion of grey and bronze body tinted mirrors from the anti-dumping duty.
- 4.3 The South African Revenue Service (SARS) was contacted to confirm whether it would be able to administer the exclusion of tinted glass from the anti-dumping duty. SARS confirmed that it would be able to administer the exclusion as follows:
- “excluding those made from glass coloured throughout the mass”.
- 4.4 In their response, PFG stated that it believed that the wording “*glass coloured throughout the mass*” is a very wide description and might be used to circumvent the current anti-dumping duties, as almost all clear float glass manufactured worldwide has a slight green colour to it due to the iron content in the silica sand which could be considered as “*glass coloured throughout the mass*”. PFG suggested that the wording be made more specific (e.g. grey and bronze tinted mirrors) to ensure that the current anti-dumping duties are not circumvented.



- 4.5 The Applicant indicated that it had no objection to the exclusion being specific to grey and bronze tinted mirrors as suggested by PFG.
- 4.6 SARS stated that in reality the description “tinted” is far more open to abuse than the description “coloured throughout the mass” and that “tint” includes mass colouring and application of a plastic layer. SARS enquired whether consideration was given to a description relating to the silica sand iron content, and suggested that it could perhaps exclude glass with particular iron content from the anti-dumping duties.
- 4.7 In response to the suggestion by SARS, PFG subsequently proposed the following wording for consideration: “unframed glass mirrors, of a thickness of 2mm or more but not exceeding 6mm (“excluding those made from glass coloured throughout the mass and with an Iron (III) oxide ( $\text{Fe}_2\text{O}_3$ ) content of more than 0.15 per cent of the mass”). The manufacturer however emphasized that the concern still remained that at the point of entry, SARS officials would not be able to distinguish which products should be excluded from the duties, unless sent for testing at an independent institution, as the  $\text{Fe}_2\text{O}_3$  (Iron(III) oxide or ferric oxide is the inorganic compound with the formula  $\text{Fe}_2\text{O}_3$ ) cannot be determined at the point of entry with the naked eye and that a specific spectrometer would be required.
- 4.8 On 13 April 2015 an e-mail was received from the Applicant requesting that a new tariff heading be created of free of duty in Part 1 of Schedule No. 1 to the Customs and Excise Act, 1964 for grey or bronze tinted mirrors as they are not locally manufactured and should therefore not be subject to an anti-dumping duty.
- 4.9 Taking all these comments into account, the Commission made a final determination that the inability to distinguish between the products, unless sent for laboratory testing, can lead to the circumvention of the anti-dumping duties on unframed mirrors originating in or imported from China. The Commission therefore made a final determination not to exclude tinted

(coloured) glass mirrors, made from glass coloured throughout the mass, from the existing anti-dumping duties applicable to unframed mirrors originating in or imported from China. Essential facts letters were sent to all interested parties on 16 April 2015.

- 4.10 Comments were received from the Applicant stating that the decision not to remove the anti-dumping duties on tinted and grey bronze mirrors is anti-competitive. It was stated that these mirrors are not manufactured locally, and that it has to import the products.
- 4.11 The Applicant alleged that PFG imports tinted (grey and bronze) glass as well as tinted mirrors and that if tinted glass can be excluded from the anti-dumping duties applicable to drawn and float glass, tinted mirrors should be excluded from the anti-dumping duties applicable to unframed mirrors.
- 4.12 PFG responded to the essential facts letters stating that it is in agreement that the subject product should not be excluded from the current anti-dumping duties on unframed mirrors.
- 4.13 PFG stated the anti-dumping duties applicable to drawn and float glass relate to tariff subheadings 7005.29.17, 7008.29.23, 7005.29.25 and 7005.29.35 and that there is no exclusion of “tinted glass” in the dumping provisions. It was further stated that “*coloured throughout the mass (body tinted), opacified, flashed or merely surface ground*” products are classifiable under different tariff subheadings, i.e. 7005.21.17, 7005.21.23, 7005.21.25 and 7005.21.35 which are not subject to any anti-dumping duty. PFG also stated that clear non-wired float glass and coloured non-wired float glass are easily visually distinguishable as opposed to when glass is silvered (turned into mirror), where it becomes much more difficult to visually distinguish between clear and coloured at the point of entry. In this instance, testing would be required.

## **5. RECOMMENDATION**

The Commission made a final determination that the inability to distinguish between the products, unless sent for laboratory testing, could lead to the circumvention of the anti-dumping duties on unframed mirrors originating in or imported from China. The creation of an additional tariff subheading for tinted (coloured) glass mirrors can also lead to abuse of the provisions and the circumvention of the anti-dumping duties.

The Commission therefore decided to recommend to the Minister of Trade and Industry not to exclude tinted glass mirrors from the existing anti-dumping duties on unframed glass mirrors originating in or imported from China.