

REPORT NO. 712

INCREASE IN THE GENERAL RATE OF CUSTOMS DUTY APPLICABLE TO FRONT WINDSCREENS (WINDSHIELDS), CLASSIFIABLE UNDER TARIFF SUBHEADING 8708.22, THROUGH THE CREATION OF AN ADDITIONAL TARIFF SUBHEADING UNDER CHAPTER 87 OF THE CUSTOMS & EXCISE ACT.

The International Trade Administration Commission herewith presents its Report No. 712: **increase in the general rate of customs duty applicable to front windscreens (windshields), classifiable under tariff subheading 8708.22, through the creation of an additional tariff subheading under Chapter 87 of the Customs & Excise Act, with recommendations.**



**AYABONGA CAWE
CHIEF COMMISSIONER**

PRETORIA

28/04/2024

REPUBLIC OF SOUTH AFRICA

INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF SOUTH AFRICA

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INCREASE IN THE GENERAL RATE OF CUSTOMS DUTY APPLICABLE TO FRONT WINDSCREENS (WINDSHIELDS) CLASSIFIABLE UNDER TARIFF SUBHEADING 8708.22, THROUGH THE CREATION OF AN ADDITIONAL TARIFF SUBHEADING UNDER CHAPTER 87 OF THE CUSTOMS & EXCISE ACT

Synopsis

The International Trade Administration Commission of South Africa (“ITAC” or Commission”) received an application from Shatterprufe, a division of PG Group (Pty) Ltd (“applicant” or “Shatterprufe”) for an increase in the general rate of customs duty on windscreens (windshields), classifiable under tariff subheading 8708.22, by way of creating a new 8-digit tariff subheading.

The subject product is the glass window fitted at the front of a vehicle which provides visibility while protecting occupants from the outside elements. The subject product may be fitted with rubber frame and/or wires, brackets, heating devices and electronic devices depending on the specification of the vehicle.

The subject products are used in the automotive replacement market only while windscreens imported for use by domestic vehicle manufacturers in the assembly of locally manufactured vehicles are deemed to be original equipment components and are imported under Chapter 98 of the Customs and Excise Act.

The Commission considered the application in light of all the relevant information available at its disposal. In particular, the Commission took the following factors into account:

- The subject product forms part of the automotive industry, which remains an important pillar of South Africa's industrial landscape and contributes immensely to job creation as well as economic growth;
- Under the SAAM 2021-2035, government's vision for the domestic automotive industry is for it to become globally competitive and transformed and for the industry to actively contribute to the sustainable development of South Africa's productive economy, creating prosperity for industry stakeholders and broader society;
- The applicant alleged that the subject product was previously classifiable under tariff subheading 7007.21.20, which attracted which attracted a general rate of customs duty of 30% *ad valorem*, and that a change in tariff classification would create a legal room for circumvention of duties;
- The investigation revealed that windscreens, whether or not framed and/or incorporating heating devices or other electrical or electronic devices, were previously classified under tariff subheading 8708.29, which attracted a general rate of customs duty of 20% *ad valorem*;
- The change in tariff classification served to provide clarity to all relevant stakeholders, on the classification of windscreens when framed and/or, incorporating heating devices or other electrical or electronic devices;
- Accordingly, domestic manufacturers of the subject products were not prejudiced by the creation of tariff subheading 8708.22;
- However, the Commission further found that the domestic industry is uncompetitive against the landed prices cost of imported equivalents of the subject product;
- A contributing factor to its competitiveness against imports is that the applicant faces an escalating cost structure with regards to the manufacturing of the subject products, and

- The applicant has invested significantly in the manufacture of the subject products and employs a substantial number of employees directly involved in the manufacturing of the subject products;

The Commission concluded that tariff support would enable the domestic industry manufacturing the subject products to achieve economies of scale, resulting in reduction in the marginal cost of production and improved competitive position against low priced imports.

The Commission recommended an increase in the general rate of customs duty applicable to front windscreens classifiable under tariff subheading 8708.22, through creation of an additional tariff subheading, to 30% *ad valorem*.

Furthermore, the Commission recommended the duty be reviewed to determine its impact on the industry value chain after three years from the date of implementation, or such other period as decided by the Commission.

THE APPLICATION AND TARIFF POSITION

1. ITAC received an application from Shatterprufe, a division of PG Group (Proprietary) Limited (herein referred to as “Shatterprufe” or the “applicant”), for an increase in the general rate of customs duty on windscreens (windshields), classifiable under tariff subheading 8708.22, by way of creating a new 8-digit tariff subheading.
2. PG Group (Proprietary) Limited (“PG Group”) is a privately-owned company, which is a holding company for Shatterprufe, and the largest glass-manufacturing corporation in Sub-Saharan Africa. PG Group is synonymous with building and automotive glass throughout the Sub-Saharan region and is a major exporter of automotive glass to, amongst others, Europe and India.
3. As motivation for the application, the applicant cited, amongst others, the following reasons:
 - Historically windscreens for vehicles to be used in the replacement market were imported and classified under tariff subheading 7007.21.20, which currently attract an import duty of 30% *ad valorem*;

- A new tariff subheading 8708.22 was created and came into effect on 01 January 2022 to make a clear distinction between motor vehicle windows and other motor vehicle parts as per tariff subheading 8708.29. This tariff subheading currently carries a 20% *ad valorem* import duty;
 - As a result of the creation of the new tariff subheading 8708.22, the opportunity now exists that this tariff subheading can be used to import windscreens legally circumvent the ordinary rate of customs duty of 30 percent *ad valorem* that currently applies to tariff subheading 7007.21.20, also for the importation of windscreens;
 - It would thus allow for windscreens to be imported at a 10 percentage point lower (or 33% less), which products would then compete with the windscreens that are produced in the SACU for use in the aftermarket; and
 - Such circumvention would also undermine the importers that import windscreens and classify them under tariff subheading 7007.21.20.
4. The application was published in the Government Gazette No. 47526 of 18 November 2022 under Notice 1424 of 2022 for a period of four (4) weeks, for interested parties to comment, as follows:

INCREASE IN THE GENERAL RATE OF CUSTOMS DUTY ON:

“Front windscreens (windshields), rear windows and other windows specified in subheading Note 1 to Chapter 87, by way of creating a new 8-digit tariff subheading for front windscreens (windshields), classifiable under tariff subheading 8708.22, from 20% ad valorem to 30% ad valorem”.

5. The current tariff structure for the subject product is shown in Table 1 below.

Tariff Structure

6. Tables 1 and 2 below, illustrates the existing tariff structure of the subject product (8708.22) and those products classifiable under tariff subheading 7007.21.20

Table 1: The subject product's current tariff structure

Tariff Heading	Description	Statistical unit	Rate of duty					
			General	EU/UK	EFTA	SADC	MERCOSUR	AfCFTA
87.08	Parts and accessories of the motor vehicles of headings 87.01 to 87.05:							
8708.2	- Other parts and accessories of bodies (including cabs):							
8708.22	-Front windscreens (windshields), rear windows and other windows specified in Subheading Note 1 to this Chapter	kg	20%	15%	20%	free	20%	20%
70.07	Safety glass, consisting of toughened (tempered) or laminated glass:							
7007.2	Laminated safety glass:							
7007.21	Of size and shape suitable for incorporation in vehicles, aircraft, spacecraft or vessels:							
7007.21.20	Windscreens for vehicles	kg	30%	15%	15%	free	30%	24%

Source: SARS, (2023)

Table 2: Current Tariff Structure: Notes to Chapter 87

Note 1 to Chapter 87:	
Subheading 8708.22 covers:	
a)	Front windscreens (windshields), rear windows and other windows, framed;
b)	Front windscreens (windshields), rear windows and other windows, whether or not framed, incorporating heating devices or other electrical or electronic devices
	when suitable for use solely or principally with the motor vehicles of headings 87.01 to 87.05
Notes to Chapter 70	
1.	This Chapter does not cover the following:
d	Front windscreens (windshields), rear windows and other windows, framed, for vehicles of Chapters 86 to 88;
e	Front windscreens (windshields), rear windows and other windows, whether or not framed, incorporating heating devices or other electrical or electronic devices, for vehicles of Chapter 86 to 88

Source: SARS, (2023)

7. The windscreens fitted with accessories (8708.22) subject to the investigation attract the general rate of customs duty of 20% *ad valorem*. Comparatively, windscreens without accessories are currently are classified under tariff subheading 7007.21.20 and attract a general rate of customs duty of 30% *ad valorem*.
8. Table 2 above shows the Notes to Chapter 87 and Chapter 70 which distinguishes the two categories of windscreens from each other. Based on the Notes, the windscreens that are classified under tariff subheading 8708.22 are those being framed and/or incorporating heating devices or other electrical or electronic devices.
9. The domestic industry manufactures, amongst others, windscreens that are classifiable both under tariff subheadings 8708.22 and 7007.21.
10. The requested tariff position is depicted in Table 3 below. The applicant applied for an increase in the general rate of customs duty on the subject product to the WTO bound rate of 30% *ad valorem* through the creation of an additional 8-digit tariff subheading that caters only for front windscreens (windshields).

Table 3: The requested tariff structure

Tariff subheading	Description	Statistical unit	Rate of duty					
			General	EU/UK	EFTA	SADC	MERCOSUR	AfCFTA
87.08	Parts and accessories of the motor vehicles of headings 87.01 to 87.05:							
8708.2	Other parts and accessories of bodies (including cabs):							
8708.22	Front windscreens (windshields), rear windows and other windows specified in Subheading Note 1 to this Chapter							
8708.22.10	Front windscreens (windshields)	kg	30%	-	-	-	-	-
8708.22.90	- - - Other	kg	20%	-	-	-	-	-

Source: Applicant, (2023)

11. The applicant’s assertion is that if the tariffs are left unchanged, importers will be able to import windscreens which were previously classifiable under tariff subheading 7007.21.20 and attracted a 30% *ad valorem* duty under tariff subheading 8708.22 which only attracts a 20% *ad valorem* duty.

12. However, information provided by the South African Revenue Service (“SARS”) provides evidence that tariff subheading 8708.22 was transposed from tariff subheading 8708.29, which attracted a general rate of custom duty of 20% *ad valorem*.

INDUSTRY AND MARKET

Global Market Overview

13. Globally, key trends in the automotive glass market include changing safety standards implemented by various governments concerning occupant crash protecting, safety standards related to the amount of force/damage a windscreen should withstand during an accident, weight reduction to cater for light-weighting of vehicles, all while improving driver comfort and safety, as well as technological advancements related to on-screen display of information (such as speed limits, driver speed, warning messages, etc.).

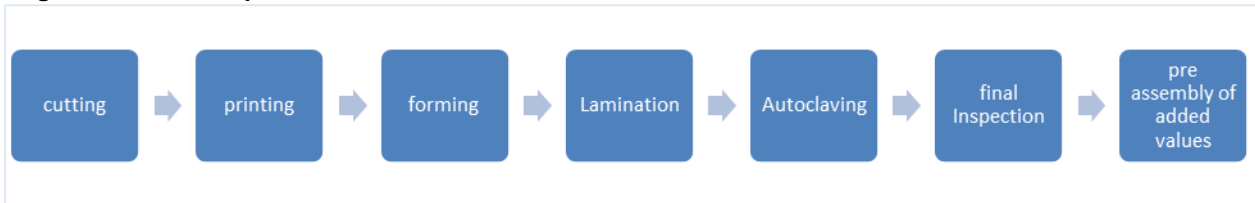
14. The known global manufacturers of the subject products include Saint Gobain; Fuyao Glass Industry Group Ltd; Nippon Sheet Glass Co Ltd; and Xinyi Glass Holding Limited.

Local Market Overview

15. In terms of domestic industrial policy, the subject product forms part of the automotive industry which remains an important pillar of South Africa's industry landscape and contributes immensely to job creation as well as economic growth.
16. According to the Automotive Export Manual (2022), the automotive industry contributed 4.3% of GDP and supported an estimated 109,000 manufacturing related jobs during 2021. Component manufacturers, including the industry manufacturing the subject product, accounted for 78 874 jobs (72% of total automotive industry employment).
17. According to the IPAP (2018/19 – 2020/21), the domestic automotive industry successfully integrated itself into the global market and managed to secure sufficient amount of foreign direct investment due to amongst others, the strong and consistent state support provided by the Government over the past decades.
18. However, according to the SA Automotive Masterplan ("SAAM"), the South African automotive industry faces a clear set of challenges including evolving technology, operating environment, and competitiveness headwinds, while simultaneously dealing with depressed domestic and regional market conditions.
19. Under the SAAM 2021-2035, government's vision for the domestic automotive industry is for it to become globally competitive and transformed and for the industry to actively contribute to the sustainable development of South Africa's productive economy, creating prosperity for industry stakeholders and broader society.
20. There are four known manufacturers of automotive windscreens in the SACU region namely, Shatterprufe; BSG Auto Glass Southern Africa (Pty) Ltd; FGW Safety Glass (Pty) Ltd and; Universe Safety Glass (Pty) Ltd.

21. Figure 1 below shows the manufacturing process flow for the subject product.

Figure 1: Method of production



Source: Applicant, (2022)

22. Front windscreens are manufactured by laminating (or attaching) two pieces of glass to one another and inserting polyvinyl butyral (PVB) which is a type of transparent plastic in between the two glasses. Heat and high pressure are applied to the windscreen which in turn fuses the PVB and the sheets of glass together.

23. Advantages to laminated glass includes that the vinyl prevents the glass from shattering should the car be involved in a collision. This prevents all manner of injuries that would normally be associated with shattering glass. Additionally, it helps to protect drivers who are not wearing a seat belt by acting as a barrier if they are thrown forward onto the windscreen. Laminated glass can also be repaired if it experiences minor chips or damage, as opposed to its tempered glass counterpart.

24. The manufacturing process begins with float glass being cut to shape and size. The edges are grinded and drilled and the glasses are washed and dried. In the printing stage, an enamel border is printed on the glass, as well as the logo and the glazing typology.


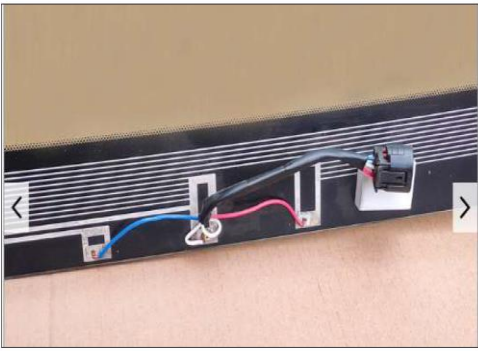
25. The two sheets of glass are put on a skeleton (pairing) and then heated in a furnace at 600°C with a vinyl in between the sheets. Forming is done by gravity and pressing and the glass is then left to cool.

26. The cooled glass is degassed at 140°C to ensure a definitive adhesion of the glass and the interlayer. All glass units are inspected and any excess vinyl is trimmed off.

27. Various components (rain & light sensors, profiles, brackets and wiring) can be glued on the glazing according to the customer's requirements. Once completed, the product undergoes quality check and is then ready to be despatched.

28. According to the information available at the Commission’s disposal, the manufacturing process in paragraph 27 above distinguishes those products classifiable under tariff headings 7007.21.20 to products classifiable under tariff subheading 8708.22.

29. Figures 2 and 3 below show examples of the subject product and electronic devices.

Figure 2: Windscreen with electrical devices	Figure 3: Example electrical devices
	
<p>Source: PG Group (Pty) Ltd, (2022)</p>	<p>Source: PG Group (Pty) Ltd, (2022)</p>

30. In terms of end-use, the subject product is sold in the automotive sector to distributors and end-customers in the replacement market.

31. The Commission considered the applicant’s production and sales volumes, employment and investment in the manufacture of the subject product during the period under review. The Commission further considered challenges currently facing the domestic manufacturing industry.

32. The known local importers of the subject product in the SACU region include, amongst others, Africa Mobility Solutions (Pty) Ltd; BMW SA (Pty) Ltd; Ford Motor Company of SA (Pty) Ltd; Grandmark International cc; Mercedes Benz SA (Pty) Ltd; Peugeot Citroen South Africa (Pty) Ltd; Toyota South Africa Motors (Pty) Ltd; Wholesale Motor Glass (Pty) Ltd; Windscreen Distributors (Pty) Ltd; and VWSA (Pty) Ltd.

33. The Commission found that the SARS import statistics related to tariff subheading 8708.22 encompass several other products (i.e. rear, side and other windows) that

were not subject to the investigation, and any conclusion based of these statistics may be misleading for the investigation.

COMPETITIVE POSITION

34. Based on the sample of selected windscreens, a pricing analysis was conducted where it was found that the applicant is uncompetitive against the imported equivalents of windscreens classifiable under tariff subheading 8708.22 at the existing duty of 20% *ad valorem*.

RECIPROCAL COMMITMENTS

35. The Commission considered the applicant's reciprocal commitments with respect to employment, investment in capital machinery and supply side measures.

COMMENTS

36. The Commission considered comments submitted by interested parties to the investigation.

37. Comments objecting to the application were received from Continental Trade Solutions (Pty) Ltd t/a Trade Solutions and Baker & McKenzie on behalf of Windscreen Distributors ("WD"); Cliffe Dekker Hofmeyer Incorporated on behalf of Grandmark (Pty) Ltd and Continental Trade Solutions (Pty) Ltd t/a Trade Solutions on behalf of Commercial Auto Glass ("CAG"), who are importers and distributors of the subject product. The objections centred on the following factors:

- The subject product is widely used in the aftermarket and replacement market for incorporation in various types of vehicles including motor vehicles, LDVs, taxis, buses, trucks and specialised vehicles. Additionally, the subject product is already a "grudge" purchase, but one which is required by law to ensure road-safety. An increase in customs duty will likely deter much needed replacement of the essential product;
- The applicant has failed to provide any evidence of industry strain or any material injury or threat of material injury to the SACU market which is caused by imports of the subject product. Instead, the applicant is requesting

an increase in tariff support based on unsubstantiated claims of tariff circumvention, which circumvention has not occurred yet;

- There is a clear and observable distinction between products classifiable under tariff subheading 8708.22 and 7007.21 and the presence of such distinction opposes the applicant's concern that a 'loophole' has been created to import plain windscreens at a cheaper *ad valorem* rate. Where there are unscrupulous importers that are incorrectly importing the subject product under the incorrect tariff classification, the appropriate response should be to penalize the specific unscrupulous importers;
- The landed cost of imports has increased in the last 5 years, owing to excessively higher shipping and freight costs and depreciating currency which have to be borne by importers while these provide protection for the domestic industry. Additionally, the pandemic and Ukraine war have placed upward pricing pressure on imports of the subject product;
- The domestic manufacturing industry is highly supported by government and should be competitive against imports. At a national policy level, the SA Automotive Industry has been heavily supported by the national government in the form of the MIDP (from 1995 to 2012), the APDP (from 2013 to 2020), and now the Masterplan for the Automotive Industry while provincial governments have further given extensive support to automotive firms operating in their jurisdictions;
- The applicant has not made any meaningful reciprocal commitments apart from maintaining the status quo and if tariff support is granted, domestic manufacturers will respond by raising prices;
- The applicant has a long history of attempting to stifle competition, particularly from imports, to maintain its market power and profits; and
- The 30% *ad valorem* duty on windscreens without accessories has been in place for more than a decade which should be sufficient time for the domestic manufacturers to adjust, grow and be competitive. The Commission should not support the increase in customs duty and it should

rather review the tariff structure for windscreens and seek to align it to current realities.

38. The applicant provided its response to the comments objecting to the application citing *inter alia* that:

- The current 20 percent *ad valorem* duty rate that applies to windscreens (windshields) classifiable under tariff subheading 8708.22 creates an opportunity for 10 percent duty circumvention, as well as the importation of product that historically was subject to the 30 percent *ad valorem* customs duty;
- The claims that the duty increase would raise prices for consumers to the detriment of alleged compliant importers is rejected as the only entities that might be affected are those opportunistic importers that sprung at the opportunity to import windscreens at a lesser duty rate; and
- The SACU industry has the right to protect itself against unfair trade, within the scope of the applicable legislative and regulatory provisions.

39. Comments supporting the increase in customs duty were received from USG Auto Glass (Pty) Ltd; the National Association of Automotive Component and Allied Manufacturers; The National Association of Automobile Manufacturers of South Africa and The Botswana Trade Commission. The support was centred on *inter alia*, the following:

- The increase in customs duty would enhance growth, competitiveness, localisation and sustainability of the SACU industry by ensuring that the domestic industry remains protected against low-priced imports and that any potential loopholes emanating from the amendments by World Customs Organization;
- The 30% *ad valorem* duty intends solely to restore the status quo of tariff support to the levels that were previously applied applicable to vehicle windscreen imports under tariff subheading 7007.21.20, prior to the reclassification of windscreens;

- As a result, the outcome of creating the additional tariff subheading is not expected to result in economic gain for the applicant but to stabilise the market and preserve SA's windscreen manufacturing capabilities; and
- The domestic industry forms an integral part of the automotive component industry, extensively supplying both local OEMs and the aftermarket. In doing so, the domestic industry has created in excess of 1 300 direct jobs which must be protected.

FINDINGS

The Commission considered the application in light of all the relevant information available at its disposal. In particular, the Commission took the following factors into account:

- The subject product forms part of the automotive industry, which remains an important pillar of South Africa's industrial landscape and contributes immensely to job creation as well as economic growth;
- Under the SAAM 2021-2035, government's vision for the domestic automotive industry is for it to become globally competitive and transformed and for the industry to actively contribute to the sustainable development of South Africa's productive economy, creating prosperity for industry stakeholders and broader society;
- The applicant alleged that the subject product was previously classifiable under tariff subheading 7007.21.20, which attracted which attracted a general rate of customs duty of 30% ad valorem, and that a change in tariff classification would create a legal room for circumvention of duties;
- The Commission found that windscreens, whether or not framed and/or incorporating heating devices or other electrical or electronic devices, were previously classified under tariff subheading 8708.29, which attracted a general rate of customs duty of 20% ad valorem;

- The change in tariff classification served to provide clarity to all relevant stakeholders, on the classification of windscreens when framed and/or, incorporating heating devices or other electrical or electronic devices;
- Accordingly, domestic manufacturers of the subject products were not prejudiced by the creation of tariff subheading 8708.22;
- However, the Commission further found that the domestic industry is uncompetitive against the landed prices cost of imported equivalents of the subject product;
- A contributing factor to its competitiveness against imports is that the applicant faces an escalating cost structure with regards to the manufacturing of the subject products, and
- The applicant has invested significantly in the manufacture of the subject products and employs a substantial number of employees directly involved in the manufacturing of the subject products.

The Commission concluded that tariff support would enable the domestic industry manufacturing the subject products to achieve economies of scale, resulting in a reduction in the marginal cost of production and an improved competitive position against low priced imports.

RECOMMENDATION

40. In light of the foregoing, Commission's recommended that the general rate of customs duty applicable to front windscreens (windshields), classifiable under tariff subheading 8708.22, be increased from 20% *ad valorem* to 30% *ad valorem* through the creation of an additional tariff subheading under Chapter 87.

41. The Commission further recommended that the duty be reviewed to determine its impact on the industry value chain after three years from the date of implementation, or such other period as decided by the Commission.