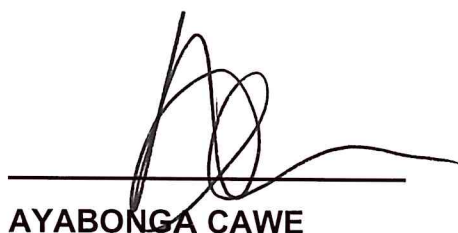


Report No. 756

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 MARKET AS REPLACEMENT GLASS IN THE AFTERMARKET ORIGINATING IN OR IMPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA BY IMPORTING THE WINDSCREENS¹ UNDER TARIFF SUBHEADING 8708.22.10: PRELIMINARY DETERMINATION

The International Trade Administration Commission of South Africa herewith presents its
**Report No. 756: 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 MARKET AS REPLACEMENT GLASS IN THE AFTERMARKET
ORIGINATING IN OR IMPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA BY
IMPORTING THE WINDSCREENS UNDER TARIFF SUBHEADING 8708.22.10:
PRELIMINARY DETERMINATION**



AYABONGA CAWE

CHIEF COMMISSIONER

PRETORIA

14/10/ 2025

1. APPLICATION AND PROCEDURE

1.1 This investigation is conducted in accordance with the International Trade Administration Act, 2002 ("ITA Act") and the International Trade Administration Commission Anti-Dumping Regulations ("ADR") and giving due regard to the WTO Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 ("the Anti-Dumping Agreement").

1.2 APPLICANT

The application was lodged by Shatterprufe, a division of PG Group (Proprietary) Limited ("the Applicant") one of four main manufacturers of the subject product in the SACU industry.

1.3 ALLEGATIONS BY THE APPLICANT

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 ("the subject product") originating in or imported from China, the incentive to import, and imports of, windscreens from China under tariff subheading 8708.22 has increased. The Applicant stated that this is being done as a way to circumvent the anti-dumping duties imposed under tariff subheading 7007.21.20.

1.4 ACCEPTANCE OF APPLICATION

The application was accepted by the Commission as being properly documented in accordance with ADR 21.

1.5 INVESTIGATION PROCESS

On 07 March 2025, the Commission initiated an investigation into the alleged circumvention through "tariff hopping" (ADR 60.2(f)) through Notice No. 3036 of 2025 in¹ Government Gazette No. 52227.

On 11 March 2025, all known interested parties were sent an initiation letter, including the initiation notice, a non-confidential version of the application, and the Commission's exporter and importer questionnaires.

1.6 INVESTIGATION PERIODS

Investigation period: Dumping: 1 January 2021 to December 2021

Circumvention:

- January – December 2022: 12 months before provisional payments ("PPs")
- January – December 2023: 12 months after provisional payments ("PPs")
- January – August 2024: 8 months after final duties ("FDs")
- September 2024 – December 2024: 4 months after the creation of a new tariff subheading 8708.22.10

1.7 COMMENTS

The Commission considered comments received from interested parties with regard to the application and procedure. Non-confidential versions of these comments are available on the public file.

1.8 PARTIES CONCERNED

1.9.1 SACU industry

The SACU industry consists of four manufacturers of the subject product, the Applicant being one of four main manufacturers in the SACU industry.

1.9.2 Responses by Foreign Manufacturers/Exporters/Importers

Responses from Xinyi Automotive (Shenzhen), Xinyi Dongguan Benson Auto glass, (Exporters) and Wholesale Motor Glass (importer) were received on 04 June 2025 after deficiencies were addressed.

Verifications were conducted Xinyi Automotive (Shenzhen), Xinyi Dongguan Benson Auto glass and Wholesale Motor Glass all information submitted was found to be correct.

1.9 Preliminary determination

The Commission made a preliminary determination that, in terms of ADR 60.2(f), circumvention through declaration of imports under an alternative tariff subheading that is not subject to anti-dumping duties is taking place.

The Commission further decided that critical circumstances exist that justify the imposition of provisional measures. Therefore, the Commission decided to request the Commissioner for SARS to impose provisional anti-dumping measures for a period of six months as follows:

Tariff heading	Description	Imported from or originating in	Rate of anti-dumping duty
8708.22.10	Windscreens for vehicles, produced by Dongguan Kong Wan Automobile Glass Limited	China	28,39%
8708.22.10	Windscreens for vehicles, produced by Xinyi Automobile Glass (Shenzhen) Co., Ltd	China	12,92%
8708.22.10	Windscreens for vehicles, produced by Dongguan Benson Automobile Glass Co., Ltd	China	12,92%
8708.22.10	Windscreens for vehicles, (excluding those produced by Dongguan Kong Wan Automobile Glass Limited, BSG Auto Glass Co., Ltd, Fuyao Glass Industry Group Co., Ltd, Xinyi Automobile Glass (Shenzhen) Co., Ltd, Dongguan Benson Automobile Glass Co., Ltd)	China	129,15%

2. PRODUCTS, TARIFF CLASSIFICATION AND DUTIES

2.1 IMPORTED PRODUCTS

2.1.1 Description

The subject product in this investigation 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") ("subject product").

2.1.2 Country of origin/export

The subject product originates in and is imported from China.

2.1.3 Possible tariff loopholes

In the original investigation, the Applicant indicated that it is possible that the subject product could be imported under HS tariff subheading 7007.11 as toughened (tempered) safety glass, suitable for the incorporation in vehicles, which attracts a 15 percent *ad valorem* ordinary customs duty to circumvent the payment of 30 percent *ad valorem* ordinary customs duty on the subject product.

The Applicant further indicated that it is also possible that the subject product that should be classified as per tariff subheading 7007.21.20 can be imported under HS Tariff subheading 8708.22 as parts and accessories of motor vehicles of headings 87.01 to 87.05 to circumvent the payment of duties.

2.1.4 Tariff classification

The subject product is currently classifiable as follows:

Table 2.1.4

HS Tariff subheading	Description	Statistical unit	Rate of duty					
			General	EU/UK	EFTA	SADC	MERCOSUR	AfCFTA
70.07	Safety glass, consisting of toughened (tempered) or laminated glass:							
7007.2	- Laminated safety glass:							
7007.21	- - Of size and shape suitable for the incorporation in vehicles, aircraft, spacecraft or vessels:							
7007.21.20	- - - Windscreens for vehicles	kg	30%	15%	15%	free	30%	15%

Duties in place

The following anti-dumping duties are currently applicable:

Tariff heading	Description	Imported from or originating in	Rate of anti-dumping duty
7007.21.20	Windscreens for vehicles, manufactured by Dongguan Kong Wan Automobile Glass Limited	China	28,39%
7007.21.20	Windscreens for vehicles, manufactured by Xinyi Automobile Glass (Shenzhen) Co., Ltd	China	12,92%
7007.21.20	Windscreens for vehicles, manufactured by Dongguan Benson Automobile Glass Co., Ltd	China	12,92%
7007.21.20	Windscreens for vehicles, (excluding those manufactured by Dongguan Kong Wan Automobile Glass Limited, BSG Auto Glass Co., Ltd, Fuyao Glass Industry Group Co., Ltd, Xinyi Automobile Glass (Shenzhen) Co., Ltd, Dongguan Benson Automobile Glass Co., Ltd)	China	129,15%

2.2 SACU PRODUCT

The SACU product is described as laminated safety glass suitable for the incorporation in vehicles, generally referred to as windscreens for vehicles, to be used in the SACU ARG market.

2.3 LIKE PRODUCT ANALYSIS

In determining the likeness of products, the Commission uses the following criteria:

Table 2.3 like product determination

	Imported product	SACU product
Raw materials	Raw glass, poly-vinyl butyral and ceramic paste. Various add-ons such as trims, mirror bosses, brackets, rubber spaces and locators.	Raw glass, poly-vinyl butyral and ceramic paste. Various add-ons such as trims, mirror bosses, bracket, rubber spaces and locators.
Production process	Vehicle windscreens are manufactured from laminated glass, by combining two or more glass sheets bonded with one or more layers of PVB, EVA or TPU interlayers and subjected to heat and pressure, in order to ensure perfect adhesion between the constituent elements. The windscreen manufacture process comprises of the following steps: <u>Cutting:</u> The glass is cut, the edges are grinded and drilled. It is then washed and dried. <u>Printing:</u> An enamel border is printed on the glass, as well as the logo and the glazing typology. <u>Forming:</u> Laminated windshields: The two sheets of glass are put on a skeleton (pairing) and then heated in a furnace at 600°C. Forming is done by gravity and pressing if necessary. The glass is then cooled and separated. <u>Lamination:</u> After washing and drying, a cover of polymer interlayer is inserted between the two sheets of glass in a clean room. <u>Autoclaving:</u> The glass system is degassed at 140°C for a definitive adhesion of the glass and the interlayer. <u>Final Inspection:</u> All glass units are inspected, excess vinyl trimmed off and packed. <u>Pre-assembly of added values:</u> Various components (rain & light	Vehicle windscreens are manufactured from laminated glass, by combining two or more glass sheets bonded with one or more layers of PVB, EVA or TPU interlayers and subjected to heat and pressure, in order to ensure perfect adhesion between the constituent elements. The windscreen manufacture process comprises of the following steps: <u>Cutting:</u> The glass is cut, the edges are grinded and drilled. It is then washed and dried. <u>Printing:</u> An enamel border is printed on the glass, as well as the logo and the glazing typology. <u>Forming:</u> Laminated windshields: The two sheets of glass are put on a skeleton (pairing) and then heated in a furnace at 600°C. Forming is done by gravity and pressing if necessary. The glass is then cooled and separated. <u>Lamination:</u> After washing and drying, a cover of polymer interlayer is inserted between the two sheets of glass in a clean room. <u>Autoclaving:</u> The glass system is degassed at 140°C for a definitive adhesion of the glass and the interlayer. <u>Final Inspection:</u> All glass units are inspected, excess vinyl trimmed off and packed.

	sensors, profiles...) are glued on the glazing according to the customer's requirements.	<u>Pre-assembly of added values:</u> Various components (rain & light sensors, profiles...) are glued on the glazing according to the customer's requirements.
Physical appearance	Clear or tinted glass of various thicknesses is produced by the float process. The technical characteristics and appearance are a uniform thickness and bright polished surfaces, without the need for further polishing. For example, a float glass sheet of 2mm and another 2mm glass sheet thickness are then used in the cutting to size for the lamination and manufacture of the windscreens. The composition of glass is normally as follows: Silica (SiO₂) 72% Iron Oxide (Fe₂O₃) 0.09% Alumina (Al₂O₃) 0.3% Magnesium Oxide 4.5% Sodium Oxide 13.7% Potassium Oxide 0.5% Sulphur Trioxide 0.25% Calcium Oxide (CaO) 8.8% Polyvinyl butyral is a clear, colourless, amorphous thermoplastic obtained by condensation reaction of polyvinyl alcohol and butyraldehyde. The resin is known for its excellent flexibility, film-forming and good adhesion properties as well as outstanding UV resistance. Ethylene-vinyl acetate, also known as poly (ethylene-vinyl acetate), is the copolymer of ethylene and vinyl acetate. The weight percent of vinyl acetate usually varies from 10 to 40, with the remainder being ethylene. Thermoplastic polyurethane is a class of polyurethane plastics with many properties, including elasticity,	Clear or tinted glass of various thicknesses is produced by the float process. The technical characteristics and appearance are a uniform thickness and bright polished surfaces, without the need for further polishing. For example, a float glass sheet of 2mm and another 2mm glass sheet thickness are then used in the cutting to size for the lamination and manufacture of the windscreens. The composition of glass is normally as follows: Silica (SiO₂) 72% Iron Oxide (Fe₂O₃) 0.09% Alumina (Al₂O₃) 0.3% Magnesium Oxide 4.5% Sodium Oxide 13.7% Potassium Oxide 0.5% Sulphur Trioxide 0.25% Calcium Oxide (CaO) 8.8% Polyvinyl butyral is a clear, colourless, amorphous thermoplastic obtained by condensation reaction of polyvinyl alcohol and butyraldehyde. The resin is known for its excellent flexibility, film-forming and good adhesion properties as well as outstanding UV resistance. Ethylene-vinyl acetate, also known as poly (ethylene-vinyl acetate), is the copolymer of ethylene and vinyl acetate. The weight percent of vinyl acetate usually varies from 10 to 40, with the remainder being ethylene.

	transparency, and resistance to oil, grease, and abrasion. Technically, they are thermoplastic elastomers consisting of linear segmented block copolymers composed of hard and soft segments. As an example, a laminated windscreen would consist of a 2mm thick float glass sheet, a 0.76mm interlayer film and another glass sheet of 2mm glass thickness. Based on the thickness of these glass sheets and inner layer, it would present a final product that would present was windscreen of 4.76mm laminated glass. As the thickness of the glass sheets and the film(s) vary, so will the thickness of the manufactured laminated glass product.	Thermoplastic polyurethane is a class of polyurethane plastics with many properties, including elasticity, transparency, and resistance to oil, grease, and abrasion. Technically, they are thermoplastic elastomers consisting of linear segmented block copolymers composed of hard and soft segments. As an example, a laminated windscreen would consist of a 2mm thick float glass sheet, a 0.76mm interlayer film and another glass sheet of 2mm glass thickness. Based on the thickness of these glass sheets and inner layer, it would present a final product that would present was windscreen of 4.76mm laminated glass. As the thickness of the glass sheets and the film(s) vary, so will the thickness of the manufactured laminated glass product.
Tariff classification	7007.21.20	7007.21.20
Application or end use	Windscreens for vehicles are used as components in the primary production process of motor vehicles, serving part of original equipment. Windscreens for vehicles are also used in the ARG market, when OE windscreens are damaged and need to be replaced.	Windscreens for vehicles are used as components in the primary production process of motor vehicles, serving part of original equipment. Windscreens for vehicles are also used in the ARG market, when OE windscreens are damaged and need to be replaced.
Substitutability	The subject products imported from China are fully substitutable with the SACU windscreen products.	The SACU windscreen products are fully substitutable with the subject products imported from China.

The Commission made a preliminary determination that the SACU product and the imported products are “like products”, for purposes of comparison in this investigation, in terms of the relevant provisions of the ADR.

3. SACU INDUSTRY

3.1 INDUSTRY STANDING

The application was submitted by Shatterprufe, a division of PG Group (Proprietary) Limited (“the Applicant”), one of four main manufacturers of the subject product in the SACU industry, representing the majority of production in the SACU.

The Commission made a preliminary determination that the application can be regarded as being made “by or on behalf of the domestic industry”.

4. CIRCUMVENTION

- 4.1 In this application, the Applicant alleged 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: the windscreens are being imported under tariff subheading 8708.22.10.

The Applicant alleged that, in the original investigation, subsequent to the imposition of the provisional payments and definitive anti-dumping duties on the subject product, the incentive to import windscreens from China under tariff subheading 8708.22 increased. This use of a different tariff subheading to clear the subject product is being done as a way to circumvent the anti-dumping duties imposed under tariff subheading 7007.21.20.

Anti-circumvention investigations are provided for in Sub-Part V of the ADR. ADR 60.2 sets forth various types of circumvention, including the circumvention being alleged by the Applicant, i.e. ADR 60.2(f). Further, ADR 60.1 sets forth general considerations which may be relevant to certain forms of circumvention listed in ADR 60.2.

Specifically, in terms of ADR 60.1, there are three conditions that need to be met for the act of circumvention to be taking place. Circumvention shall be deemed to take place if “one or more of the following conditions are met”:

- (a) a change in the pattern of trade between third countries and the SACU, which results from a practice, process or work, for which there is no or insufficient cause or economic justification other than the imposition of the anti-dumping duty;
- (b) remedial effects of the anti-dumping measure are being undermined in terms of the volumes or prices of the product under investigation;
- (c) dumping can be found in relation to normal values previously established for the like or similar products.

Change in pattern of imports

Although the following methodology is typically used to demonstrate a change in the pattern of trade in terms of section 60.1 involving a third country and South Africa, the methodology can also be used to demonstrate a change in the pattern of trade in terms of import classifications following the imposition of a duty.

The first step is to demonstrate that import volumes of the tariff subheading subject to the provisional payments ("PPs") and/or final duties ("FDs") (tariff subheading 7007.21.20 in this case) have declined. The second step is to demonstrate that the decline examined in the first step is accompanied by an increase in imports of the tariff subheading (8708.22. which since August 2024 is comprising of tariff subheadings 8708.22.10 and 8708.22.90) that is not subject to the PPs and/or FDs. This inverse relationship constitutes a change in the pattern of trade when calculated over different sets of periods. As discussed below, this also has implications for the circumvention under ADR 60.2(f), which addresses the use of a different tariff heading to avoid anti-dumping duties.

Analysis of imports pre-and post the imposition of provisional payments in February 2023 and definitive duties in January 2024 following the creation of tariff subheadings 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.

Commission's consideration

The Commission considered that before the introduction of tariff subheadings 8708.22.10 (Front windscreens/windshields) and 8708.22.90 (Other), tariff subheading 8708.22 included a variety of products. The creation of these specific subheadings has allowed for a clearer classification by separating front windscreens within the 8708.22 category. The new structure of 8708.22 now consists of 8708.22.10 (Front windscreens/windshields) and 8708.22.90 (Other).

In light of this change, the Commission made a preliminary determination to conduct an analysis of tariff subheading 8708.22, both prior to and following the separation into two 8-digit tariff subheadings.

The following tables show the import statistics of the subject product from China for the period pre- and post-imposition of provisional payments, definitive anti-dumping duties and following the creation of tariff subheadings 8708.22.10.

Import Volumes

Imports Volumes (kg)	Jan - Dec 2022	Jan - Dec 2023	Jan - Aug 2024	Sep - Dec 2024
	Before PPs	After PPs	After FDs	After increase of customs duties from 20% to 30 % on 8708.22.10
7007.21.20	3 123 582	1 187 721	894 609	3 154 039
8708.22	4 165 073	4 834 081	3 729 701	-
8708.22.10	-	-	-	328 049
8708.22.90	-	-	-	41 330

Total	7 288 655	6 021 802	4 624 310	3 523 418
Contribution %				
7007.21.20	43%	20%	19%	90%
8708.22	57%	80%	81%	-
8708.22.10	-	-	-	9%
8708.22.90	-	-	-	1%
Total	100%	100%	100%	100%

The Commission considered that the table above indicates that import volumes for tariff subheading 7007.21.20, which covers windscreens of vehicles (windscreens without accessories), decreased following the implementation of PPs on 10 February 2023. Before the PPs, imports amounted to 3 123 582 kg. After the PPs were introduced, the volumes dropped to 1 187 721 kg, representing a 62% decline. In contrast, imports under tariff subheading 8708.22, which includes front windscreens (windshields), rear windows, and other windows specified in Subheading Note 1, increased. The import volumes increased from 4 165 073 kg prior to the PPs to 4 834 081 kg afterward, marking a 16% increase.

Following the implementation of the FDs on 19 January 2024, imports under tariff subheading 7007.21.20 substantially decreased by 25%, falling from 1,187,721 kg to 894,609 kg. Similarly, imports under tariff subheading 8708.22 decreased by 23%, from 4,834,081 kg to 3,729,701 kg. The Commission noted that during this period, the ordinary customs duty on tariff subheading 8708.22 was increased from 20% to 30%, which contributed to the decline in import volumes for both tariff codes. The increase in the ordinary customs duty came as result of an investigation conducted by the Tariff Investigation Unit of the Commission after receiving an application from the industry. The industry had complained that since the imposition of the PPs Importers resorted to declaring their imports under tariff subheading 8708.22. The anti-dumping duties imposed ranged between 12.92% to 28.39% for the co-operating exporters and 129.15% for all other non-co-operating exporters. The Commission considered that importers hop from one tariff subheading to another as and when it is beneficial to do so. The Commission is of the view that importers resorted to declaring imports under tariff subheading 7007.21.20 as the anti-dumping duties of

between 12.92% is less than the 30% ordinary customs duties of 30%.

Additionally, the Commission noted that the new tariff subheadings were created in August 2024 to separate front windscreens (8708.22.10) from other products (8708.22.90). From (January-August 2024) to (September-December 2024), import volumes for tariff subheading 7007.21.20 surged from 894,609 kg to 3,154,039 kg, while import volumes for subheading 8708.22.10 amounted to 328,049 kg compared to 3,729,701 kg under the previous structure, which included other products. Although the volume of imports has recently shifted from tariff subheading 8708.22 to tariff subheading 7007.21.20, this information highlights the evolving nature of the classification of windscreen imports from China. Tariff subheading 8708.22.10 remains a potential target for abuse in circumventing definitive anti-dumping duties.

The specific circumvention being alleged by the Applicant is found in ADR 60.2(f), which is to be treated “separately”. This provision provides for a finding of circumvention where there is a –

declaration under a different tariff heading, even where such different tariff heading does provide for the clearance of that product.

ADR 60(2)(f) is broad in scope, addressing situations where the effective application of the anti-dumping duties is being undermined because the subject product is declared under a tariff heading that is different from the tariff heading to which the applicable anti-dumping duties apply. The fact that this different tariff heading provides for the clearance of the subject product is irrelevant to a finding of circumvention.

Based on the wording of the ADR 60.2(f), there are 2 elements that must be established, namely:

- a) A shift in declarations: the products subject to anti-dumping duties are declared under a tariff heading different from the one to which duties were originally applied, and*

- b) coverage by the alternative tariff heading: the alternative heading allows for the clearance of the same or similar products.*

a) Shift in declaration

As already noted above in the discussion of a change in the pattern of trade, the import data shows a shift in the pattern of declarations (tariff classification) after the imposition of provisional and definitive duties and in relation to the new/revised classification of certain windscreens under tariff subheading 8708.22. In brief –

- Prior to the provisional duties (Jan–Dec 2022), imports under tariff subheading 7007.21.20 amounted to 3,123,582 kg (43% of total imports);*
- After the imposition of provisional duties in February 2023, imports under 7007.21.20 dropped sharply by 62% to 1,187,721 kg, while imports under 8708.22 simultaneously increased by 16% from 4,165,073 kg to 4,834,081 kg;*
- This shift indicates that importers began declaring the subject product under 8708.22 rather than 7007.21.20 once anti-dumping duties were imposed on the latter;*
- When the ordinary customs duty on 8708.22 was increased from 20% to 30% in 2024, imports shifted back to 7007.21.20, where anti-dumping duties (ranging from 12.92% to 28.39% for cooperating exporters, and 129.15% for all other exporters) were in some cases lower than the 30% ordinary duty.*

The reallocation (use of different tariff headings) of import volumes – decline in 7007.21.20 after duties, surge in 8708.22 imports after duties, and then surge back to 7007.21.20 once the customs duty rose on 8708.22—demonstrates a clear pattern of duty avoidance designed to avoid the higher duty applicable at any given time.

b) Coverage by the alternative tariff heading

Both tariff subheadings – 7007.21.20 and 8708.22.10 – provide for the classification of windscreens that are subject to the anti-dumping duties. This is also in line with the SARS classification decision noted by WMG. This satisfies the second requirement of ADR 60(2)(f), namely that an alternative tariff heading was legally capable of being used for clearance of the subject product, even though it was not the heading originally associated with the anti-dumping duties.

In conclusion, the data confirms that importers strategically declared their products under tariff headings where the duty burden was lower, This shift in the use of tariff headings undermined the intended effect of the anti-dumping duties: imports of the subject product from China continued in substantial volumes, but under different tariff subheadings, thereby depriving the measure of its remedial impact. Accordingly, the Commission concludes that the pattern of import declarations constitutes circumvention within the meaning of ADR 60(2)(f).

Comments by Wholesale Motor Glass (Pty) Ltd (“WMG”)

WMG, the importer of the subject product responded to the Commission’s initiation of this investigation. WMG stated that prior to the Commission’s initiation of the circumvention investigation, it was subjected to a separate and independent investigation by the South African Revenue Service (SARS) concerning the tariff classification of its imported glass products.

According to WMG, SARS detained certain container, alleging incorrect classification of laminated windscreens for motor vehicles, arguing that the products were incorrectly classified under tariff code 8708.22. SARS conducted a physical inspection and initially concluded that the goods were incorrectly declared under tariff heading 8708.22.00(5) instead of 7007.21.20(3), citing contraventions of Sections 40(1) and 47(1) of the Customs and Excise Act, No. 91 of 1964.

WMG stated that it was afforded an opportunity to appeal the findings. It submitted a detailed appeal through its clearing agent, reiterating that the goods were correctly

classified, and that no contravention had occurred. Upon review, SARS accepted WMG's arguments and conceded that the laminated windscreens were correctly classified under tariff subheading 8708.22, as per the General Rules for the Interpretation of the Harmonized System (GRI 1 and 6).

WMG also stated that in addition to the SARS investigation, it has also been subjected to multiple inspections by the National Regulator for Compulsory Specifications (NCRS). These inspections involved the stopping and examination of imported containers. In each instance, the goods were correctly identified and subsequently released by NCRS inspectors, confirming that the imports were compliant and correctly classified under tariff code 8708.22.

WMG stated the following in conclusion:

- It has been thoroughly investigated by both SARS and NCRS, two independent government institutions, and has successfully demonstrated that its glass imports fall under the correct tariff code, 8708.22.*
- Both SARS and NCRS confirmed that WMG's imports were correctly classified, thereby eliminating any basis for the claim that WMG circumvented anti-dumping duties through "tariff hopping."*
- The tariff code 8708.22 is not subject to the anti-dumping duties applicable to glass products from China, and WMG's imports from China under this code are therefore fully compliant.*

According to WMG, these findings collectively confirm that WMG did not engage in tariff misclassification or circumvention practices and that its import activities are in full compliance with applicable customs and trade regulations.

Commission's consideration

The Commission considered that, while SARS and the NCRS accepted WMG's classification of windscreens under tariff subheading 8708.22 following their own physical inspections, these institutions were concerned only with ensuring the correct classification of the subject goods for their own customs and regulatory purposes.

Their assessments did not extend to the alleged circumvention of anti-dumping duties. The information that the Commission gathered below confirms the use of different tariff headings to avoid the payment of the anti-dumping duties on the subject product.

Aside from the investigations conducted by SARS and NCRS, the Commission conducted an on-site verification at the premises of the manufacturers of the subject product in China and Malaysia that supply WMG with laminated windscreens.

During these verifications, it was confirmed that WMG purchased windscreens that are classifiable under tariff subheading 8708.22. However, it was also found that the exporters supplying WMG classify front windscreens under two different tariff codes, depending on the product specifications:

- Plain windscreens (referred to as low-value) are classified under 7007.21.90.*
- Windscreens with accessories (referred to as high-value) are classified under 8708.22.*

A consistent feature across the two exporters in China was the use of product codes to distinguish between these two categories. The codes for low-value windscreens contain specific alphabetic identifiers that differ from those used for high-value windscreens. This coding system was verified during the inspections. And a conclusion can be made that the coding system is consistent through-out these exporters that were verified.

It was also found that WMG imported windscreens that the exporters had classified as low-value (7007.21.90), but WMG itself declared these same products under tariff subheading 8708.22. The Commission considered that this discrepancy raises questions regarding the bona fides of WMG's tariff classification practices, despite previous findings by SARS and NCRS.

In the course of the investigation, the Commission utilized verified information pertaining to Malaysia, as WMG also imported the subject products from that country. This comparative analysis was instrumental in corroborating patterns relevant to the case.

It was established that Xinyi Energy Smart (Xinyi Energy) classifies both low-value and high-value products sold domestically in Malaysia and exported to the SACU under tariff sub-heading 7007.21.20. According to Xinyi Energy this sub-heading typically covers toughened (tempered) safety glass or glass that is framed or fitted with electrical components, which is not the subject product under which the anti-dumping duties were imposed.

The Commission is of the view that there are inconsistencies in the tariff classification practices between verified exporters in China, the importer WMG, and the Malaysian exporter.¹ Specifically, verified exporters in China appear to classify low-value windscreens (e.g., plain windscreens) under tariff sub-heading 7007.21.90, while high-value windscreens (e.g., windscreens with accessories) are classified under tariff sub-heading 8708.22. In contrast, WMG declares both low-value and high-value windscreens under tariff sub-heading 8708.22.

On the other hand, the Malaysian exporter classifies both categories of windscreens regardless of whether they are high value or low value under tariff sub-heading 7007.21.10. The Commission is of the view that this discrepancy suggests that there may be strategic intent in the classification of windscreens from sub-heading 7007.21.10 to 8708.22 when it is commercially advantageous – i.e. to avoid paying duties – for either the exporter or the importer.

The Commission considered that the above finding raises concerns about the integrity and consistency of tariff classification and may have implications for the application and enforcement of anti-dumping duties on windscreens imported under tariff sub-heading 7007.21.20. This would potentially undermine the effectiveness of the imposed anti-dumping duties and warrants the imposition of the

same anti-dumping duties on windscreens imported under tariff sub-heading 8708.22.10.

SARS was consulted regarding the two tariff headings, and it indicated that products of subheadings 7007.21.20 and 8708.22.10 are distinguishable, but the reality is, as long as the two products are not treated the same, there will be a gap for circumvention. They further indicated that they do not foresee any potential implications if the Commission extend the anti-dumping duties to goods of subheading 8708.22.10 in order to level the playing field if there is an alleged circumvention.

Based on the above, the Commission made a preliminary determination that circumvention is taking place.

5. DUMPING

5.1 METHODOLOGY IN THIS INVESTIGATION FOR CHINA

ADR 62.3 states that: *“Provided an anti-circumvention complaint is lodged with the Commission prior to or within one year of the year of the publication of the Commission final finding, and in relation to any circumvention alleged in section 60.2(b), (c), (d), (e), (f) or (g), the Commission may use the normal values previously established to determine the margin of dumping until such time as the exporter or foreign producer has submitted proper information. Provisional payments may be imposed on the basis of the margin of dumping so determined.”*

On the basis of the above, the Commission made a decision to use the normal value and export price previously established in the original investigation as the complaint was lodged within one year of the publication of the Commission's final determination.

In the original investigation the Commission made a final determination to impose final anti-dumping duties as follows:

Tariff heading	Description	Imported from or originating in	Rate of anti-dumping duty
7007.21.20	Windscreens for vehicles, produced by Dongguan Kong Wan Automobile Glass Limited	China	28,39%
7007.21.20	Windscreens for vehicles, produced by Xinyi Automobile Glass (Shenzhen) Co., Ltd	China	12,92%
7007.21.20	Windscreens for vehicles, produced by Dongguan Benson Automobile Glass Co., Ltd	China	12,92%
7007.21.20	Windscreens for vehicles, (excluding those produced by Dongguan Kong Wan Automobile Glass Limited, BSG Auto Glass Co., Ltd, Fuyao Glass Industry Group Co., Ltd, Xinyi Automobile Glass (Shenzhen) Co., Ltd, Dongguan Benson Automobile Glass Co., Ltd)	China	129,15%

As the investigation is based on Regulation 60.2 (f) *declaration under a different tariff heading, even where such different tariff heading does provide for the clearance of that product*, the Commission took into account the fact that anti-dumping duties were calculated and imposed in the original investigation and therefore, there would not be a need to calculate new dumping margins based on the information received from participating interested parties.

The Commission made a preliminary determination to extend the anti-dumping duties imposed on the subject product classifiable under tariff subheading 7007.21.20 to imports of the subject product classifiable under tariff subheading 8708.22.10 to minimise the risk of circumvention of the applicable anti-dumping duty.

6. MATERIAL INJURY

In the original investigation it was determined that the SACU industry experienced material injury and a threat of material injury.

The Commission's ADR 62.2 states as follows: *"Provided an anti-circumvention complaint is lodged with the Commission prior to or within one year of the publication of the Commission's final determination, the SACU industry shall not be required to update its injury information"*. As the anti-circumvention complaint was received within one year of the publication of the Commission's final determination, the SACU industry is not required to update its injury information.

Based on the above, the Commission decided, based on the information considered in the original investigation, that the SACU industry is experiencing material injury and a threat of material injury with regard to the subject product.

7. SUMMARY OF FINDINGS

7.1 CIRCUMVENTION

The Commission made a preliminary determination that circumvention through the declaration of imports under an alternative tariff subheading that is not subjected to anti-dumping duties is taking place.

7.2 DUMPING

The Commission made a preliminary determination to extend the anti-dumping duties imposed on the subject product classifiable under tariff subheading 7007.21.20 to imports of the subject product classifiable under tariff subheading 8708.22.10 to minimise the risk of circumvention of the applicable anti-dumping duty.

7.3 MATERIAL INJURY

The Commission made a preliminary determination, based on the information considered in the original investigation, that the SACU industry is experiencing material injury and a threat of material injury with regard to the subject product.

8. PROVISIONAL DUTY

8.1 Amount of provisional duty

Based on the anti-dumping duties imposed on the imports of products classifiable under 7007.21.10, the amounts of the provisional payments were concluded to be as follows:

Tariff heading	Description	Imported from or originating in	Rate of anti-dumping duty
8708.22.10	Windscreens for vehicles, produced by Dongguan Kong Wan Automobile Glass Limited	China	28,39%
8708.22.10	Windscreens for vehicles, produced by Xinyi Automobile Glass (Shenzhen) Co., Ltd	China	12,92%
8708.22.10	Windscreens for vehicles, produced by Dongguan Benson Automobile Glass Co., Ltd	China	12,92%
8708.22.10	Windscreens for vehicles, (excluding those produced by Dongguan Kong Wan Automobile Glass Limited, BSG Auto Glass Co., Ltd, Fuyao Glass Industry Group Co., Ltd, Xinyi Automobile Glass (Shenzhen) Co., Ltd, Dongguan Benson Automobile Glass Co., Ltd)	China	129,15%

9. PRELIMINARY DETERMINATION

The Commission made a preliminary determination that circumvention through declaration of imports under an alternative tariff subheading that is not subjected to anti-dumping duties is taking place.

The Commission further decided that critical circumstances exist that justify the imposition of provisional measures. Therefore, the Commission decided to request the Commissioner for SARS to impose anti-dumping provisional measures for a period of six months as follows:

Tariff heading	Description	Imported from or originating in	Rate of anti-dumping duty
8708.22.10	Windscreens for vehicles, produced by Dongguan Kong Wan Automobile Glass Limited	China	28,39%
8708.22.10	Windscreens for vehicles, produced by Xinyi Automobile Glass (Shenzhen) Co., Ltd	China	12,92%
8708.22.10	Windscreens for vehicles, produced by Dongguan Benson Automobile Glass Co., Ltd	China	12,92%
8708.22.10	Windscreens for vehicles, (excluding those produced by Dongguan Kong Wan Automobile Glass Limited, BSG Auto Glass Co., Ltd, Fuyao Glass Industry Group Co., Ltd, Xinyi Automobile Glass (Shenzhen) Co., Ltd, Dongguan Benson Automobile Glass Co., Ltd)	China	129,15%