<u>**Non-Confidential**</u>

Report No. 776

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 THROUGH COUNTRY HOPPING FROM THE PEOPLE'S REPUBLIC OF CHINA TO THE FEDERATION OF MALAYSIA: FINAL DETERMINATION

The International Trade Administration Commission of South Africa herewith presents its **Report No. 776: 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 THROUGH COUNTRY HOPPING FROM THE PEOPLE'S REPUBLIC OF CHINA TO THE FEDERATION OF MALAYSIA: FINAL DETERMINATION**

AYABONGA CAWE
CHIEF COMMISSIONER

PRETORIA
04 JUNE 2026

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 Article 60 of the ADR states as follows:

60.1 “Other than circumvention contemplated in subsections 2(a) and (d), 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 South Africa or the common customs area of SACU;

(i) which results from a practice, process or work;

(ii) 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 volumes or prices of the products under investigation;

(c) dumping can be found in relation to normal values previously established for the like or similar products.

Section 60.2 of the ADR provides a list of types of circumvention that should be treated separately, and country hopping is one of the types of circumvention.

ADR 60.8 states that *“Country hopping shall be deemed to take place if imports, following the imposition of anti-dumping duties or provisional payment or the initiation of an anti-dumping investigation switch to a supplier related to the supplier against which an anti-dumping investigation has been or is being conducted and that is based in another country or customs territory*”.

1.3 APPLICANT

On 13 January 2025, an application was lodged by Shatterprufe, a division of PG Group (Proprietary) Limited (“the Applicant”) one of four main manufacturers in the SACU industry.

1.4 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 originating in or imported from China, Chinese exporters shifted sourcing of the subject product from China to some of their related companies in Malaysia. Hence the allegation of country hopping.

1.5 ACCEPTANCE OF APPLICATION

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

1.6 INVESTIGATION PROCESS

On 07 March 2025, the Commission initiated an investigation into the alleged circumvention through country hopping through Notice No. 3037 of 2025 in *Government Gazette* No. 52227.

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

1.7 INVESTIGATION PERIODS

Dumping: 1 January 2024 – 31 October 2024

Circumvention:

• January to December 2022 - 12 months before provisional payments (“PPs”)

• January to December 2023 - 12 months after provisional payments (“PPs”)

• January to October 2024 – 10 months after final duties (“FDs”)

1.8 PARTIES CONCERNED

1.8.1 SACU industry

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

1.8.2 Responses by Foreign Manufacturers/Exporters/Importers

On 19 March 2025, a request for extension was received from Wholesale Motor Glass (Pty) Ltd (“WMG”). The request for extension was granted. The deadline for an extension was granted until 02 May 2025.

On 02 May 2025, WMG submitted its response to the Commission’s importers questionnaire and a deficiency letter was sent on 13 May 2025. On 20 May 2025, an updated response was received to the Commission’s deficiency letter. Verification of WMG’s information was conducted on 11 August 2025.

On 04 April 2025, a request for an extension was received from Xinyi Energy Smart (Malaysia) SDN BHD (“Xinyi Energy”), a manufacturer and exporter of the subject product in Malaysia. The deadline for the extension was granted until 30 April 2025. On 23 April 2025, a request for further extension was received from Xinyi Energy. The further extension was granted and the deadline to respond was 14 May 2025.

On 14 May 2025, Xinyi Energy submitted its response to the Commission's exporter's questionnaire. A deficiency letter was sent on 28 May 2025. On 04 June 2025 an updated response to the Commission's deficiency letter was received. Verification of Xinyi Energy's information was conducted from 14 to 15 July 2025.

Comments by MyGlass on the Commission's initiation notice

MyGlass is an independently owned fitment centre that neither imports nor exports glass and does not own a glass manufacturing company. They mentioned that the Applicant has lodged another investigation, raising concerns about whether the Applicant, as a dominant player in the SACU market, is attempting to eliminate competition. MyGlass stated that the motor glass replacement industry in South Africa has remained tightly controlled for years, with wholesale prices primarily dictated by the Applicant, which has allowed monopolies to persist.

Response by the Applicant

The Applicant stated that it is not the only windscreen manufacturer in SACU. Instead, imported windscreens hold a dominant position in the SACU Aftermarket Replacement Glass (ARG) market, not the Applicant. Given the market situation in SACU, where import volumes are predominant and the Applicant is forced to sell the product at suppressed and depressed prices, it is impossible for the Applicant to act in a monopolistic manner, as MyGlass has claimed. The factual submissions provided to the Commission clearly indicate that the Applicant operates as a price taker rather than a price setter.

Commission's consideration

The Commission considered that the investigation was initiated based on evidence provided by the Applicant, which demonstrated that, following the introduction of 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 originating in or imported from China, Chinese exporters have shifted sourcing of the subject product from China to some of their related companies in Malaysia and there has been a change of pattern on the imports over different sets of periods. Such imports are causing material injury in the SACU market.*

The Commission considered that this investigation envisages to, at most, level the playing field between the alleged dumped imported products and the SACU produced products and not to defend a monopoly. Allegations of monopoly may be referred to the Competition Commission for its consideration.

1.8.3 Deficient responses

On 16 April 2025, Grandmark (Pty) Ltd ("Grandmark") submitted its response to the Commission's importer questionnaire and a deficiency letter was sent on 14 May 2025. On 21 May 2025, a response was received to the Commission's deficiency letter. The updated response from Grandmark was found to be deficient.

In the updated response received, Grandmark only submitted revised annexures, but not the updated confidential and non-confidential responses to the questionnaire as required. Furthermore, information provided in Annexures B2.1, B2.2, and B3.1 was in PDF format rather than in Excel format. As a result, the Investigators were unable to conduct a thorough review.

On 30 May 2025, Grandmark was advised that the response was regarded as deficient and that the Commission may decide not to take its information into consideration for purposes of the preliminary determination.

The Commission made a preliminary determination not to take Grandmark's information into consideration for the purposes of its preliminary determination.

Following the Commission's preliminary determination, on 13 November 2025, a request for extension was received from Grandmark. The deadline for the extension was granted until 24 November 2025. On 24 November 2025, Grandmark submitted its updated response to the Commission's importer's questionnaire. Verification of Grandmark's information was conducted on 08 December 2025.

ADR 35.5 stipulates that parties that have submitted deficient responses and have subsequently addressed their deficiencies before the deadline for comments to the Commission's Preliminary Report, shall be deemed to be co-operating parties and the Commission will consider their information in its final finding.

Based on the above, the Commission made a final determination to consider Grandmark's information for purposes of its final determination.

1.9 RELATEDNESS

The Xinyi Glass Group is one of the world's largest integrated glass manufacturers and producer and seller of the subject product. Xinyi Glass Holdings is headquartered in Hong Kong, China. It has a sales network covering over 140 countries and regions around the world, including Xinyi Energy Smart (M) Sdn Bhd in Malaysia.

One of Xinyi Glass Group's overseas plant is the Xinyi Malaysia industrial park, which was established in 2016, and is the first overseas manufacturing base of the Xinyi group. It mainly manufactures quality float glass, coated glass and automobile glass.

1.10 PRELIMINARY DETERMINATION

The Commission made a preliminary determination that:

- circumvention in the form of country hopping is taking place;
- dumping of the subject product originating in or imported from Malaysia is taking place; and
- the SACU industry is experiencing material injury and a threat of material injury.

The Commission therefore decided to request the Commissioner of SARS to impose the following provisional measures for a period of six months on windscreens for vehicles to be used in the Southern African Customs Union market as replacement glass in the aftermarket classifiable under tariff subheadings 7007.21.20 originating in or imported from Malaysia.

The Commission further made a preliminary determination to impose the same measures on front windscreens (windshields) classified under tariff subheading 8708.22.10. This is based on the concern that the proposed anti-dumping provisional measures on subheading 7007.21.20 may be circumvented through the importation of similar goods under subheading 8708.22.10. which could potentially undermine the effectiveness of the proposed anti-dumping measures:

Tariff subheading	Producer	Rate of provisional payment
HS 7007.21.20	Xinyi Energy Smart (Malaysia) Sdn Bhd	24,63%
	All the other producers (excluding Xinyi Energy Smart (Malaysia) Sdn Bhd)	29,05%
HS 8708.22.10	Xinyi Energy Smart (Malaysia) Sdn Bhd	24,63%
	All the other producers (excluding Xinyi Energy Smart (Malaysia) Sdn Bhd)	29,05%

Provisional measures were imposed on the subject product originating in or imported from Malaysia through Notice No. 6768 of 2025 and published in *Government Gazette* No. 53600 dated 31 October 2025.

The Commission’s reasons for its preliminary determination are contained in its Preliminary Report No. 757 (“Preliminary Report”). The report was made available to interested parties for comment.

The following interested parties commented on the Commission’s Preliminary Report:

- Xinyi Energy Smart (Malaysia) SDN BHD (“Xinyi Energy”)
- Shatterprufe (“Applicant”)
- MyGlass
- Wholesale Motor Glass (“WMG”)

Comments by MyGlass to the Commission’s Preliminary Report

MyGlass referred to ADR 31, stating that the evidence available to it indicates that Malaysian manufacturers undertake cutting, lamination, molding, fitting, and packaging activities. These processes constitute substantial transformation, giving the product’s Malaysian origin. MyGlass further stated that the preliminary determination relies heavily on unverified claims by the domestic industry. According to MyGlass, the Commission has not conducted adequate on-site verification or independent assessment of Xinyi Energy’s Malaysian operations.

MyGlass claimed that ADR 60(ii) mandates the Commission to evaluate the economic justification for anti-dumping duties, which should avoid raising consumer prices, causing disruption, harming downstream industries, reducing competition, or reinforcing market dominance. They highlighted that such duties could increase replacement windscreen prices by 15-30%, raise insurance costs, and adversely affect lower-income vehicle owners, while also threatening jobs in smaller glass suppliers and rural fitment centers. The motor glass replacement industry in South Africa has been closely regulated, with the Applicant controlling wholesale prices. However, imported glass has created jobs and improved supply. Ultimately, MyGlass argued that the economic harm *from duties outweighs any potential benefits to the domestic industry, thus ADR 60(ii) mandates that no duties be imposed.*

Commission's consideration

The Commission noted that MyGlass refers to ADR 31 which has nothing to do with the arguments advanced by it. ADR 31 deals with deficiencies for submission. The Commission disagrees with MyGlass regarding the Commission not conducting on-site verification or an independent assessment of Xinyi Energy's Malaysian operations. As stated in the Commission's Preliminary Report, verification of Xinyi Energy's information was conducted from 14 July to 15 July 2025. Additionally, a non-confidential verification report was made available in the public file, detailing the information that was verified. The Commission's preliminary determination was based on this verified information from Xinyi Energy. It is also important to note that the verification process included an on-site assessment of Xinyi Energy's production process, which encompassed all the production stages highlighted by MyGlass.

Additionally, in response to the alleged mandate of ADR 60, the Commission noted that MyGlass's interpretation of ADR 60 (ii) is incorrect. Specifically, the Commission considered that ADR 60 merely sets forth the conditions to be met for circumvention to take place. This is the case where, amongst other factors, there is -

a. *change in the pattern of trade between third countries and the SACU,*

    i. *which results from a practice, process or work,*

    ii. *for which there is no or insufficient cause or economic justification other than the imposition of the anti-dumping.*

The Commission also considered that, based on the above, and in light of the fact that an anti-circumvention investigation is an enforcement proceeding to ensure that the remedial effect of a duty is not undermined, there is no requirement for the Commission to assess the economic justification for imposing anti-dumping duties, nor is there a mandate against imposing duties.

Comments by the Applicant to the Commission's Preliminary Report

The Applicant highlighted that the Commission considered the information submitted by WMG for its preliminary determination. They pointed out that WMG did not comply with the confidentiality provisions of the ITA Act, failing to provide proper justification for its confidentiality claims. WMG submitted a "confidentiality affidavit" asserting blanket confidentiality, which is also not acceptable by the Commission as it is not in line with the ITA Act. The response by WMG did not adhere to the Commission's confidentiality requirements and is therefore deficient. Consequently, the Applicant requested the Commission to reassess its decision regarding WMG's response as it does not meet the required standards. The Applicant urged the Commission to disregard WMG's information for the final determination.

The Applicant's raised concerns with regard to the reliability of Xinyi Energy's verified data, noting errors such as incorrect material cost figures and a swap between domestic and international costs. Although the Commission allowed Xinyi Energy to correct the February figures, the Applicant questioned whether data from other months had been fully verified, suggesting this undermines the credibility of the submission. The Applicant emphasised that verification is meant to ensure accuracy and cautioned against accepting corrections without thorough checks. Based on the identified inaccuracies, the Applicant argued that Xinyi Energy's entire response should be disregarded for the final determination.

Commission's consideration

In response to the Applicant's argument, the Commission considered that the Applicant has not substantiated or specified the areas in which WMG and Xinyi Energy allegedly failed to comply with provisions of the ITA Act. The Commission further considered that neither the ITA Act nor the ADR prescribe how interested parties should prepare non-confidential versions of the information they submit to the Commission in confidence. The Commission also considered that WMG and Xinyi's information conformed to the relevant confidentiality provisions of the ITA Act and the ADR. The non-confidential version of information furnished to the Commission enables interested parties a reasonable understanding of the substance of the confidential information.

Additionally, the Commission considered that the discovered discrepancies, such as swapping costs for domestically and internationally purchased materials, were immaterial. It should be noted that Xinyi Energy was requested to reconcile the raw material costs in its CBU with its accounting system. Xinyi Energy indicated that there had been a swap between the figures for domestic and international material costs, and it was found that no other costs were affected by this swap. This information was corrected and updated. The total cost of raw materials was reconciled in their monthly manufacturing reports. In this case, the swap was considered immaterial, as no other costs were impacted, as stated in the verification report.

The Commission agrees with the Applicant that the cost figure for February was found to be incorrect as contained in the Commission's verification report, and Xinyi Energy was permitted to make amendments. It is important to note that the total cost of raw materials provided in the cost breakdown was verified and reconciled within Xinyi Energy 's accounting system, confirming its accuracy. The Commission requested that Xinyi provide a breakdown of the total raw-material costs by month. This request allowed selecting specific transactions related to raw material costs for different months. Within those months, the initial *cost for February was found to be incorrect, and the cost breakdown was then updated with the corrected figure.*

The Commission further considered that it is not uncommon, during domestic industry, importer and exporter verifications, to find, inter alia, capturing errors, misallocation errors, small accuracy errors and sometimes difficulty finding supporting documentation that has already been archived. These errors are usually immaterial and pertain to single transactions in a pool of a large number of transactions. This thus has little if any impact on the submission of the party being verified.

The Commission made a final determination to take WMG's and Xinyi's information into consideration for purposes of its final determination.

Based on the details as contained in the Commission's Preliminary Report, comments received and exporter's verified information, the Commission made a final determination before "essential facts" that it was considering making a final determination that circumvention in the form of country hopping is taking place; dumping of the subject product originating in or imported from Malaysia is taking place and based on the determination made in the original investigation, the SACU industry is experiencing material injury and a threat of material injury. The Commission was therefore considering making a final determination to recommend to the Minister of Trade, Industry and Competition ("the Minister") that in accordance with ADR 63(c), the anti-dumping duties imposed on windscreens for vehicles to be used in the SACU market as replacement glass in the aftermarket classifiable under tariff subheadings 7007.21.20 and originating in or imported from China be extended to the imports of the subject product originating in or imported from Malaysia.

The Commission was further considering making a final determination to impose the same measures on front windscreens (windshields) classified under tariff subheading 8708.22.10. This is based on the fact that the proposed anti-dumping duties on subheading 7007.21.20 may be circumvented through the importation of similar goods under subheading 8708.22.10 which could potentially undermine the effectiveness of the proposed anti-dumping measures.

Essential facts letters were sent to all interested parties, informing them of the "essential facts" which were being considered by the Commission and inviting interested parties to comment.

Comments on essential facts letters were received from the following interested parties:

- Shatterprufe – The Applicant;
- Grandmark (Pty) Ltd ("Grandmark");
- Xinyi Energy Smart (Malaysia) SDN BHD ("Xinyi Energy");
- Botswana Trade Commission ("Botswana"); and
- Wholesale Motor Glass (Pty) Ltd ("WMG")

Comments by Botswana Trade Commission ("Botswana") to the Commission's essential facts letter

Botswana indicated that there is ample evidence of circumvention through both country and tariff hopping. Therefore, it supported the Commission's recommendation to impose duties on windscreens originating in or imported from Malaysia in order to prevent circumvention and maintain the effectiveness of the duties. Additionally, Botswana supported the Commission's recommendation to impose duties on product code 8708.22.10.

1.10 FINAL DETERMINATION AND RECOMMENDATION

After considering all interested parties' comments on the "essential facts letter", the Commission made a final determination that circumvention in the form of country hopping is taking place; dumping of the subject product originating in or imported from Malaysia is taking place and based on the determination made in the original investigation, the SACU industry is experiencing material injury and a threat of material injury. The Commission therefore decided to recommend to the Minister that in accordance with ADR 63(c), the anti-dumping duties imposed on windscreens for vehicles to be used in the SACU market as replacement glass in the aftermarket classifiable under tariff subheadings 7007.21.20 and originating in or imported from China be extended to the imports of the subject product originating in or imported from Malaysia.

The Commission further decided to recommend to the Minister that the same measures be imposed on front windscreens (windshields) classified under tariff subheading 8708.22.10. This is based on the fact that the proposed anti-dumping duties on subheading 7007.21.20 may be circumvented through the importation of similar goods under subheading 8708.22.10 which could potentially undermine the effectiveness of the proposed anti-dumping measures:

Tariff subheading	Manufacturer	Rate of duty
HS 7007.21.20	Xinyi Energy Smart (Malaysia) Sdn Bhd	12,92%
	All the other manufacturers (excluding Xinyi Energy Smart (Malaysia) Sdn Bhd)	129,15%
HS 8708.22.10	Xinyi Energy Smart (Malaysia) Sdn Bhd	12,92%
	All the other manufacturers (excluding Xinyi Energy Smart (Malaysia) Sdn Bhd)	129,15%

1.11 COMMENTS

The Commission considered all information and comments submitted by interested parties. All responses and comments received from interested parties are contained in the Commission’s public file for this investigation and are available for perusal. It should be noted that this report does not purport to present all comments received and considered by the Commission.

However, some of the salient comments received from interested parties and the Commission’s consideration of these comments are specifically included in this report.

2. PRODUCTS, TARIFF CLASSIFICATION AND DUTIES

2.1 IMPORTED PRODUCTS

2.1.1 Description

The subject product of this application 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 Malaysia.

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

Comments by Wholesale Motor Glass (Pty) Ltd to the Commission's initiation notice ("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 correctly 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 in addition to the investigations conducted by SARS and NCRS, the Commission conducted an on-site verification at the premises of the manufacturers 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. It can therefore be concluded that the coding system is consistent across the verified exporters.

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. 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 subheading 7007.21.20. According to Xinyi Energy this subheading typically covers toughened (tempered) safety glass or glass that is framed or fitted with electrical components, which is not the subject product for 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. Specifically, verified exporters in China appear to classify low-value windscreens (e.g., plain windscreens) under tariff subheading 7007.21.90, while high-value windscreens (e.g., windscreens with accessories) are classified under tariff subheading

8708.22. In contrast, WMG declares both low-value and high-value windscreens under tariff subheading 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 subheading 7007.21.10. This discrepancy suggests that there may be flexibility or strategic intent in the classification of windscreens, potentially allowing for the misclassification of products from subheading 7007.21.10 to 8708.22 when it is commercially advantageous for either the exporter or the importer.

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.

The South African Revenue Service 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 enforcement 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.

The Commission further considered that it is appropriate to impose the same anti-dumping measure on front windscreens (windshields) declared under tariff subheading 8708.22.10, insofar as such windscreens fall within the *product scope of the original measure, in order to prevent the circumvention of the measure and the potential undermining of its effectiveness.*

Comments by Wholesale Motor Glass (Pty) Ltd ("WMG") to the Commission's Preliminary Report

WMG stated in its submissions that it was not aware of the product codes used by exporters to distinguish between tariff classifications and that there is no legal requirement for importers to consult exporters regarding product classification. WMG further submitted that its imports were verified by the South African Revenue Service ("SARS") and the National Regulator for Compulsory Specifications ("NRCS") and that these authorities confirmed the correctness of its tariff declarations. WMG therefore argued that the Commission placed undue reliance on exporters' information and failed to demonstrate how the exporters' product coding system was verified during onsite inspections.

Commission's consideration

The Commission considered the tariff structure published by SARS, including the relevant Chapter Notes and explanatory notes to Chapters 70 and 87. These indicate that windscreens incorporating heating or other electrical or electronic devices and designed solely or principally for motor vehicles of headings 87.01 to 87.05 are classified under tariff subheading 8708.22, whereas plain windscreens are classified under 7007.21.20. The Commission therefore considered that the tariff structure distinguishes between the two categories of products.

However, the Commission further considered that tariff classification is not determinative of the scope of an anti-dumping measure. In assessing the scope of the measure, the Commission examined whether windscreens declared under tariff subheading 8708.22.10 constituted the same or a like product as the windscreens subject to the anti-dumping duties under tariff *subheading 7007.21.20. The Commission found that windscreens declared under tariff subheading 8708.22.10 fall within the product scope of the original measure and constitute the same or a like product as the subject product.*

Accordingly, the Commission made a final determination that (plain) windscreens declared under tariff subheading 8708.22.10 constitute the same or a like product as the windscreens subject to the anti-dumping duties under tariff subheading 7007.21.20, and the declaration of such windscreens under an alternative tariff subheading may have had the effect of circumventing the existing anti-dumping measure. In this regard, the Commission noted that the scope of the measure is principally determined by the description of the subject product, rather than solely by the tariff classification under which the product is declared.

Comments by Xinyi Energy Smart (Malaysia) Sdn Bhd ("Xinyi Energy") to the Commission's essential facts letter

Xinyi Energy stated that, according to the South African Customs and Excise Act 91 of 1964, the responsibility for accurately declaring imports falls on the importer of the subject product. Xinyi Energy claimed that the importer of the subject product in question is not affiliated with it. Xinyi Energy further stated that addressing the incorrect classification of products by importers should involve enhanced customs monitoring and enforcement, rather than the extension of anti-dumping duties to tariff subheadings that do not pertain to the product in question.

Commission's consideration

The Commission considered that the inconsistence of tariff classification was not done by the importers only, but exporters as well. The Commission also considered that it was found that Xinyi Energy Smart (Malaysia) classifies both low-value and high-value products sold domestically in Malaysia and exported to the Southern SACU under tariff subheading 7007.21.20.

The Commission reiterated that there are inconsistencies in the tariff classification practices between verified exporters in China, the importer WMG, and the Malaysian exporter. Specifically, verified exporters in China appear to classify low-value windscreens (e.g., plain windscreens) under tariff subheading 7007.21.90, while high-value windscreens (e.g., windscreens with accessories) are classified under tariff subheading 8708.22. In contrast, WMG declares both low-value and high-value windscreens under tariff subheading 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 subheading 7007.21.10. This discrepancy suggests that there may be flexibility or strategic intent in the classification of windscreens, potentially allowing for the misclassification of products from subheading 7007.21.10 to 8708.22 when it is commercially advantageous for either the exporter or the importer.

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.

The South African Revenue Service 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 enforcement 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.

The Commission further considered that it is appropriate to impose the same anti-dumping measure on front windscreens (windshields) declared under tariff subheading 8708.22.10, insofar as such windscreens fall within the product scope of the original measure, in order to prevent the circumvention of the measure and the potential undermining of its effectiveness

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.

	sensors, profiles...) are glued on the glazing according to the customer's requirements.	<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 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 (Si02) 72% Iron Oxide(Fe203) 0.09% Alumina (AL203) 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.	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 (Si02) 72% Iron Oxide(Fe203) 0.09% Alumina (AL203) 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

	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 as 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.	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, 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 as 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 SACU product is fully substitutable with the subject product imported from China.	The SACU product is fully substitutable with the subject product imported from China.

The Commission made a final determination that the SACU products 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 in the SACU industry, representing the majority of production in the SACU.

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

4. CIRCUMVENTION

4.1 COUNTRY HOPPING

ADR 60.2(e) identifies country hopping as one of seven types of circumvention and ADR 60.8 defines country hopping as taking place "*if imports, following the imposition of anti-dumping duties or provisional payments or the initiation of an anti-dumping investigation switch to a supplier related to the supplier against which an anti-dumping investigation has been or is being conducted and that is based in another country or customs territory".*

According to ADR60.1, there are three general 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.

Based on the allegation and *prima facie* evidence provided by the Applicant, the type of circumvention at issue is "country hopping" through Malaysia. Thus, the Commission should analyse whether the elements of country hopping set out in ADR60.8 are met, in particular:

(a) whether imports of the subject product, following the imposition of anti-dumping duties or provisional payments or the initiation of an anti-dumping investigation, switched to a supplier in Malaysia; and

(b) whether such a supplier in Malaysia is related to a supplier in the China against which an anti-dumping duty has been imposed. The relationship between the exporter in the China against which the duties have been imposed and the related exporter/supplier in Malaysia is tested according to the provisions of ADR1, in particular the direct or indirect ownership, control or holding of five per cent or more of the equity shares in such related exporter/suppliers.

Commission's consideration

It should be noted that the concept of related parties extends beyond mere ownership or shareholding in accordance with ADR1, and that the definition of country hopping simply requires that there be a switch in sourcing among related suppliers that cannot be economically justified.

4.1.1 Change in pattern of trade in terms of ADR60.1(a)

ADR 60 does not define or provide an example of a change in the pattern of trade. The Commission's practice is to use a two-step approach. The first step is to demonstrate that import volumes of the subject product from the country subject to the provisional payments ("PPs") and/or final duties ("FDs") (China in this case) have declined. The second step is to demonstrate that the decline in the first step is accompanied by an increase in imports of the like product from a third country that is not subject to the PPs and/or FDs. This relationship constitutes a change in the pattern of trade when calculated over different sets of periods.

Analysis of imports pre and post the imposition of provisional payments in February 2023 and definitive duties in January 2024

The following tables show the import statistics of the subject product from China and Malaysia for the period pre- and post-provisional payments and definitive anti-dumping duties:

Table 4.1.1 Imports 7007.21.20

HS 7007.21.20 (Kg)	Jan - Dec 2022	Jan - Dec 2023	Jan – Oct 2024
China	3 123 582	1 187 721	1 947 372
Malaysia	333	38 715	325 578
Other Countries	745 666	456 997	307 838
Total	3 869 580	1 683 433	2 580 787
Contribution %			
China	81%	71%	75%
Malaysia	0%	2%	13%
Other Countries	19%	12%	12%
Total	100%	100%	100%

Commission's consideration

The Commission considered that the table above indicates that import volumes from China decreased significantly after the imposition of PPs. Before the PPs were implemented, import volumes amounted to 3,123,582 kg. After the PPs, this figure dropped to 1,187,721 kg, representing a decrease of 62%. In contrast, imports from Malaysia substantially increased, increasing from 333 kg prior to the PPs to 38,715 kg afterwards. Following the implementation of FDs, imports from Malaysia continued to rise, reaching 325,478 from January to October 2024.

It is worth noting that while China has historically dominated import volumes, it was experiencing a downward trend. In contrast, imports from Malaysia were on the rise. As a result, Malaysia has become the second-largest exporter during the period following the imposition of the final duties, holding a 13% share of import volumes at present. The information above provides evidence that circumvention in the form of country hopping is taking place, which was as a result of the imposition of the provisional payments and continued to exist as result of the imposition final duties.

Comments by MyGlass on the Commission's initiation notice

MyGlass indicated that a statement was made asserting that China remains the dominant exporter. However, the data also presents a different perspective: exports from other countries, excluding China, far exceed China's volumes over the same period. MyGlass stated that this raises the question of why the Applicant has chosen to focus solely on China while excluding Tanzania and other countries.

Furthermore, MyGlass stated that it believes the Applicant may have deliberately excluded other countries, such as Tanzania, from the investigation, given that the Applicant has its own manufacturing plant.

Response by the Applicant

The Applicant stated that comments by MyGlass indicated that the Applicant "[d]eliberately excluded other countries, such as Tanzania from the investigation, given that it has its own flat glass manufacturing plant in the region.", is another non-factual and irrelevant statement by MyGlass. The Applicant stated on a global scale it does not own any flat glass manufacturing plant.

The Applicant further stated that it wishes to point out to the Commission that the SARS statistical trade data for tariff subheading 7007.21.20 has for the recent period of January 2022 to May 2025, reflected no import data from Tanzania.

Comments by Wholesale Motor Glass (Pty) Ltd ("WMG") to the Commission's Preliminary Report

WMG highlighted the concerns raised by MyGlass about the Commission's investigation focusing solely on China, despite other countries having higher export levels. MyGlass suggested that this focus might be a strategy by the Applicant, who has a plant in Tanzania. WMG argued that by excluding imports from other countries, the investigation is flawed and inconclusive, as it cannot yield accurate findings without considering evidence from all exporting nations.

Commission's consideration

The Commission considered that country hopping circumvention can only be deemed to take place if imports, following the imposition of anti-dumping duties or provisional payments or the initiation of an anti-dumping investigation, switch to a supplier related to the supplier against which an anti-dumping investigation has been or is being conducted and that is based in another country or customs territory.

The Commission further considered that an anti-circumvention investigation is a continuation of (related to) the original anti-dumping investigation. The original investigation was specifically against China. In that initial investigation, the Commission made a final determination to impose anti-dumping duties on Chinese imports. Following this, the Applicant submitted prima facie evidence indicating that Chinese exporters have shifted sourcing of the subject product from China to some of their related companies in Malaysia. Therefore, this investigation also focuses on China, particularly examining whether there has been any change in its pattern of imports compared to Malaysia. The findings show a downward trend in imports from China, while imports from Malaysia have increased.

The Commission reiterated that audited import statistics from SARS were used to verify the import volumes of the subject product entering the SACU from the countries under investigation, as it considers these statistics to be most reliable. The import statistics provided by the Applicant were verified against SARS audited statistics and were correct. The statistics indicated that China has historically dominated imports into the SACU but is currently experiencing a downward trend, while imports from Malaysia are on the rise.

Comments by MyGlass to the Commission's Preliminary Report

MyGlass indicated that the Commission failed to establish circumvention under ADR 30. MyGlass stated that the Commission has not demonstrated that imports from Malaysia were intentionally routed to avoid anti-dumping duties. A change in country of supply does not constitute circumvention unless accompanied by evidence of deliberate avoidance. MyGlass further requested the Commission to terminate the *circumvention investigation on the grounds that no legal basis exists for a finding of circumvention; or alternatively apply Regulation 60.1(a)(ii) and impose no anti-dumping duties, due to the disproportionate economic harm and negative public interest consequences associated with the proposed duties.*

Commission's consideration

The Commission noted that MyGlass made reference to ADR 30 which has nothing to do with the text that follows. ADR 30 deals with extensions for submission. The Commission considered that in accordance with the ITA Act and the ADR, which empower the Commission to investigate and address cases where circumvention undermines the effectiveness of anti-dumping measures. Evidence gathered during this investigation indicates that the Applicant has provided prima facie evidence of circumvention through "country hopping" via Malaysia.

The Commission analysed whether the elements of country hopping, as outlined in ADR 60.8, were met regarding imports of the subject product, particularly after the imposition of provisional payments and final duties. Exporters in China switched to a supplier in Malaysia. It was found that the Malaysian supplier is related to a Chinese supplier subject to anti-dumping duties.

The relationship between the Chinese exporter, against which the duties have been imposed, and the related exporter/supplier in Malaysia was examined in accordance with the provisions of ADR 1. Additionally, the Commission evaluated import trends to determine if there has been a diversion of imports from China to Malaysia.

The Commission considered that there is a decline in import volumes of the subject product from China, subject to anti-dumping duties, while there is a simultaneous increase in imports of the same product from Malaysia, a third country not subject to these duties. The import statistics indicate a downward trend in imports from China, accompanied by a significant rise in imports from Malaysia. This evidence suggests that circumvention through country hopping is occurring.

Comments by Wholesale Motor Glass (Pty) Ltd ("WMG") to the Commission's essential facts letter

WMG stated that it has never circumvented, attempted to circumvent, or otherwise violated the anti-dumping duties imposed on windscreens for vehicles classified under Tariff Subheading 7007.21.20. Similarly, WMG asserted that it has not imported any glass product under this classification from Malaysia and therefore, has no doubt it hasn't circumvented or attempted to circumvent the associated anti-dumping duties Furthermore, WMG's imported products were verified and cleared by third-party regulatory bodies. There is no clear evidence of country hopping taking place, nor has any material injury to the SACU market been proven.

Commission's consideration

The Commission disagrees with WMG's claim that it has not imported any glass products of this classification from Malaysia. According to the verification report, it was found that WMG sourced windscreens for vehicles from Xinyi Energy. The importer stated that, prior to September 2024, the windscreens were imported from China. The exporter in China asked WMG if they would agree to have some of the windscreens shipped from Malaysia instead, to which WMG consented. This provides sufficient evidence of a switch in sourcing among related suppliers, which cannot be economically justified since imports from China are subject to anti-dumping duties while those from Malaysia are not.

Furthermore, the Commission considered that in a circumvention investigation; the main focus is on determining whether anti-dumping duties are being circumvented. It is not necessary to prove injury to the domestic industry. The investigation primarily examines whether imports are evading existing measures.

Based on the above, the Commission made a final determination that circumvention in the form of country hopping is taking place.

5. DUMPING

General methodology

Article 60 of the ADR states as follows:

60.1 "Other than circumvention contemplated in subsections 2(a) and (d), circumvention shall be deemed to take place if one or more of the following conditions are met:

(c) dumping can be found in relation to normal values previously established for the like or similar products.

In considering imposing duties, the Commission is guided by the ADRs. ADR 62.3 provides that the Commission may use "*the normal values previously established [i.e., in the original investigation] until such time as the exporter or foreign producer has submitted proper information*". Given that the Commission was provided with and verified information on normal values by the exporter discussed below, the following calculated margins of dumping are based on such normal values.

5.1 METHODOLOGY IN THIS INVESTIGATION FOR XINYI ENERGY SMART (MALAYSIA) SDN BHD ("XINYI ENERGY")

Sales in the ordinary course of trade

Section 8.3 of the ADR provides that:

"Domestic sales of the like product shall normally be considered a sufficient volume to determine a normal value if such sales constitute five per cent or more of the sales volume of the product to the SACU. Sales representing less than 5 per cent of export sales to the SACU may nevertheless be deemed sufficient where such sales are of sufficient magnitude to provide a proper comparison."

Commission's consideration

The Commission made a final determination that sales representing less than 5 per cent of export sales to the SACU be considered not a sufficient volume to determine a normal value. The Commission further decided to use other methods in such instances.

The Commission considered that domestic sales of plain passenger windscreens (ARG) in Malaysia exceeded the 5% threshold of exports to SACU; therefore, verified domestic sales were used to determine normal value.

Additionally, if more than 20% (by volume) of all sales of a particular product type or model took place at less than cost, such sales must be excluded in the determination of the normal value, and the normal value should be based on the weighted average price of all remaining sales.

Section 8.2 of the ADR provides that:
"Domestic sales or export sales to a third country may be considered to be not in the ordinary course of trade if the Commission determines that such sales – took place at prices below total costs, including cost of production and administrative, selling, general and packaging costs, provided such sales took place – in substantial quantities equalling at least 20 per cent by volume of total domestic sales during the investigation period; and over an extended period of time, which period shall normally be a year, but in no case less than 6 months; were made to a related party; or do not reflect normal commercial quantities."

Footnote 5 to Article 2.2.1 of the Anti-Dumping Agreement also provides that:
"Sales below per unit costs are made in substantial quantities when the authorities establish that the weighted average selling price of the transactions under consideration for the determining of the normal value is below the weighted average per unit costs, or that the volume of sales below per unit costs represents not less than 20 per cent of the volume sold in transactions under consideration for the determination of the normal value."

Commission's consideration

The Commission made a final determination that where sales made below costs constitute more than 20% in volume of the total volume of sales by the interested party, those sales be regarded as not being made in the ordinary course of trade and thus excluded when calculating the normal value.

It was found that there were sales of the passenger windscreens that were sold at a loss in the domestic market. For Xinyi Energy, the sales determined to be at a loss exceeded 20%. As a result, these sales were not included in determining the normal value.

Normal value

Xinyi Energy produced and sold laminated passenger windscreens of low-value and high-value for the ARG on the domestic market during the period of investigation.

Xinyi Energy explained that low-value windscreens refer to plain windscreens (without accessories), while high-value windscreens are those that come with additional accessories. In the original investigation all windscreens for vehicles with accessories such as heating devices or other electrical or electronic devices that fall under chapters 86 to 88 were disregarded when determining the normal value and export price.

Consistent with the original investigation, windscreens with accessories (heating/electrical/electronic devices falling under Chapters 86–88) were disregarded. Normal value was determined on sales of plain passenger windscreens.

Adjustments to the normal value

The following adjustments were claimed to arrive at the ex-factory normal value:

a) **Cost of payment terms**

Xinyi Energy offers different credit terms to various customers, which results in varying credit costs that affect the ex-factory prices in Malaysia, SACU, and other country markets. This is why Xinyi Energy claims adjustments to the cost of payment terms.

It was found that Xinyi Energy specified payment days on invoices for some customers, while others were not. Additionally, it was clarified that there is no agreement or contract in place with their customers regarding these payment terms. Xinyi Energy stated that it has adopted a basis on total days per year, as well as the average short-term lending interest rate to calculate the cost of payment terms.

Comments by the Applicant to the Commission's Preliminary Report

The Applicant noted that the Commission accepted the adjustment claimed for the cost of payment terms, even though these terms were specified on only some invoices. The Applicant indicated that it finds this surprising, as the Commission has stated that it will only accept an adjustment for payment terms that impacted price comparability when the price was set. This implied that the payment terms should be clearly indicated on each invoice, rather than just on select invoices. If the payment terms are not present on all invoices, then a blanket adjustment cannot be applied to all sales. Therefore, it requested the Commission to reconsider its preliminary determination and to disallow this adjustment.

Comments by the Applicant to the Commission's essential facts letter

The Applicant noted that the Commission is considering allowing the adjustment claimed by Xinyi Energy for cost of payment terms for purposes of its final determination, notwithstanding, the fact that the terms were only specified on some invoices. It reiterated its request for the Commission to disallow this adjustment. for the purpose of its final determination.

Commission's consideration

It is the Commission's practice to consider adjustments to the normal value only if the adjustments affected price comparability at the time of setting prices. The Commission reiterated that although there were other invoices that did not display the payment days, those invoices were minimal and only for one customer and have an insignificant impact on the total cost of the payment terms.

The Commission made a final determination to allow the cost of payment terms as this cost was demonstrated to have affected price comparability at the time of setting prices.

b) Packaging cost

Xinyi Energy uses wooden boxes for packaging in both domestic and export sales, and there is no difference between the wooden boxes for domestic and export. Xinyi Energy has allocated the total packaging cost to each transaction in the sales schedule.

Comments by the Applicant to the Commission's Preliminary Report

The Applicant stated that regarding this adjustment, the exporter indicated that there are no differences between the packaging used for domestic sales and export sales. Therefore, no adjustment needs to be made. However, the Commission curiously accepted the argument that the adjustment should nevertheless be made, since the differences in quantities sold on the domestic market and the *export market.*

The Applicant argued that no packaging adjustment should be made because Xinyi Energy confirmed that packaging for domestic and export sales is identical, meaning there is no cost difference affecting prices. The Applicant disagreed with the Commission's consideration of an adjustment based on differences in sales volumes, stating that the key test is whether the cost difference was known and relevant when prices were set. Since the manufacturer knew that packaging costs were the same for both markets, the Applicant maintained that no packaging adjustment is justified.

Commission's consideration

The Commission noted the Applicant's argument that Xinyi Energy indicated that there is no difference in packaging costs between the domestic and export markets and the Commission also verified that the packaging for both markets is the same. The Commission generally considers adjustments to the normal value only if those adjustments impact price comparability at the time prices are set. Since the packaging is identical for both markets, it did not affect the pricing decisions, and the exporter could not have taken it into account when setting prices.

The Commission made a final determination not to allow the packaging cost adjustment, as this cost was not demonstrated to have affected price comparability at the time of setting prices.

Export price

Xinyi Energy exported low-value and high-value laminated Passenger windscreens for the ARG to the SACU market during the period of investigation.

Consistent with the original investigation, windscreens with accessories (heating/electrical/electronic devices falling under Chapters 86–88) were disregarded. The export price for Xinyi Energy was determined based on plain Passenger windscreens.

Adjustments to the export price

The following adjustments were claimed to arrive at the ex-factory normal value:

a) **Cost of payment terms**

Xinyi Energy offers different credit terms to various customers, which results in varying credit costs that affect the ex-factory prices in Malaysia, SACU, and other country markets. This is why Xinyi Energy claims adjustments to the cost of payment terms.

It was found that Xinyi Energy specified payment days on invoices for some customers, while others were not. Additionally, it was clarified that there is no agreement or contract in place with their customers regarding these payment terms. Xinyi Energy stated that it has adopted a basis on total days per year, as well as the average short-term lending interest rate to calculate the cost of payment terms.

Comments by the Applicant to the Commission's Preliminary Report

The Applicant noted that the Commission accepted the adjustment claimed for the cost of payment terms, even though these terms were specified on only some invoices. The Applicant indicated that it finds this surprising, as the Commission has stated that it will only accept an adjustment for payment terms that impacted price comparability when the price was set. This implied that the payment terms should be clearly indicated on each invoice, rather than just on select invoices. If the payment terms are not present on all invoices, then a blanket adjustment cannot be applied to all sales. Therefore, it requested the Commission to reconsider its preliminary determination and to disallow this adjustment.

Comments by the Applicant to the Commission's essential facts letter

The Applicant reiterated that the Commission is considering allowing the adjustment claimed by Xinyi Energy for cost of payment terms for purposes of its final determination, notwithstanding, the fact that the terms were only specified on some invoices. It further reiterated its request for the Commission to disallow this adjustment. for the purpose of its final determination.

Commission's consideration

It is the Commission's practice to consider adjustments to the normal value only if the adjustments affected price comparability at the time of setting prices. The Commission reiterated that although there were other invoices that did not display the payment days, those invoices were minimal and only for one customer and have an insignificant impact on the total cost of the payment terms.

The Commission made a final determination to allow the cost of payment terms as this cost was demonstrated to have affected price comparability at the time of setting prices.

b) Packaging cost

Xinyi Energy uses wooden boxes for packaging in both domestic and export sales, and there is no difference between the wooden boxes for domestic and export. Xinyi Energy has allocated the total packaging cost to each transaction in the sales schedule.

Comments by the Applicant to the Commission's Preliminary Report

The Applicant stated that regarding this adjustment, the exporter indicated that there are no differences between the packaging used for domestic sales and export sales. Therefore, no adjustment needs to be made. However, the Commission curiously accepted the argument that the adjustment should nevertheless be made, since the differences in quantities sold on the domestic market and the export market.

The Applicant argued that no packaging adjustment should be made because Xinyi Energy confirmed that packaging for domestic and export sales is identical, meaning there is no cost difference affecting prices. The Applicant disagreed with the Commission's consideration of an adjustment based on differences in sales volumes, stating that the key test is whether the cost difference was known and relevant when prices were set. Since the manufacturer knew that packaging costs were the same for both markets, the Applicant maintained that no packaging adjustment is justified.

Commission's consideration

The Commission noted the Applicant's argument that Xinyi Energy indicated that there is no difference in packaging costs between the domestic and export markets and the Commission also verified that the packaging for both markets is the same. The Commission generally considers adjustments to the normal value only if those adjustments impact price comparability at the time prices are set. Since the packaging is identical for both markets, it did not affect the pricing decisions, and the exporter could not have taken it into account when setting prices.

The Commission made a final determination not to allow the packaging cost adjustment, as this cost was not demonstrated to have affected price comparability at the time of setting prices.

c) **Delivery Charges**

Xinyi Energy delivers the products from the factory to the port in Malaysia. The logistic company bill Xinyi Energy according to the commercial invoice. Xinyi Energy has allocated the total delivery charges for each transaction.

Commission's consideration

It is the Commission's practice to consider adjustments to the export price to bring the price back to the ex-factory level. The delivery charges adjustment was verified and found to be correct.

The Commission made a final determination to allow the delivery charges adjustment.

Dumping Margin

The dumping margin of windscreens for vehicles of 9,45 % was calculated for Xinyi Energy.

Comments by Xinyi Energy Smart (Malaysia) Sdn Bhd ("Xinyi Energy") to the Commission's Preliminary Report

Xinyi Energy indicated that the costs and selling prices of different models vary widely. The price difference between various models can be as much as ten times. Therefore, it is partial, biased, and unreasonable to conduct simple calculations without distinguishing between the products. As a result, Xinyi Energy argued that the cost test should be performed based on the classifications detailed in the domestic and export sales schedules. The correct dumping margin should be adjusted to 9.44% based on the ex-factory export price. The 9.44% of Xinyi Energy was determined by taking the FOB export prices of the low and high windscreens, then, less the ex-factory export price of low and high windscreens.

Commission's consideration

The Commission is of the view that the methodology used by Xinyi Energy to determine the dumping margin is incorrect, the dumping margin is calculated by subtracting the export price from the normal value. However, Xinyi Energy used the FOB export prices and deducted the ex-factory export prices, which is not the correct approach.

The Commission noted that Xinyi Energy does produce and sell low-value and high-value windscreens. The cost structure of the two types of windscreens differs vastly. It was found that when Xinyi Energy sells these two products to SACU, it classifies both low-value and high-value windscreens under the same tariff subheading, 7007.21.10. According to SARS, plain windscreens should be classified under tariff code 7007.21.20, while windscreens with accessories should be classified under tariff code 8708.22.10. However, Xinyi Energy has classified both products under the same tariff code, resulting in a discrepancy.

In the original investigation all windscreens for vehicles with accessories such as heating devices or other electrical or electronic devices that fall under Chapters 86 to 88 were disregarded when determining the normal value and export price. The Commission is considering making a final determination that the dumping margin for Xinyi Energy be determined based on plain Passenger windscreens.

Comments by Xinyi Energy Smart (Malaysia) Sdn Bhd ("Xinyi Energy") to the Commission's essential facts letter

Xinyi Energy noted that the Commission calculated a dumping margin of 9.45% for plain passenger windscreens but is considering a final determination to impose a higher margin of 12.92%. This extension would apply not only to imports from China but also to those from Malaysia. Xinyi Energy argued that the Commission's justification for this extension relies on anti-circumvention investigations, which they believe does not comply with the legal requirements of the WTO Anti-dumping Agreement and the specific wording of ADR 63(c).

Xinyi Energy emphasized that ADR 63(c) clearly requires the Commission to extend the anti-dumping duties "at the required level." This wording indicates that the Commission cannot automatically extend the existing anti-dumping duties; instead, it must extend the duties at the appropriate level to offset the effect of circumvention.

This allowed the Commission, in certain instances, to impose a higher duty than the existing anti-dumping duties if a higher dumping margin is calculated. Conversely, it might impose a lower duty if a lower anti-dumping margin is calculated. In previous cases of country-hopping circumvention, such as the investigation into the alleged circumvention of anti-dumping duties applicable to imports of clear float glass from Saudi Arabia and the United Arab Emirates by switching supply to Egypt (Commission Report No. 623), the Commission did not simply extend the existing anti-dumping duties but instead calculated the relevant dumping margin to impose anti-dumping duties at the required level.

Xinyi Energy argued that the Commission has not provided any legal justification for its change in approach from previous country-hopping circumvention cases. In any event, the Commission has not put forward any compelling reasons why the effect of the circumvention being any injury caused by the dumped imports will not be effectively addressed through the extension of anti-dumping duties at the rate of the actual dumping margin calculated.

Xinyi Energy and its corresponding importers fully cooperated in the Commission's investigation and as such the Commission should apply the Lesser duty rule in this case. The imposition of an anti-dumping duty at the individually calculated dumping margin for Xinyi Energy will have the necessary remedial effect to remove any injury caused by the dumped imports. The Commission should therefore make a final determination to impose a dumping margin of 9,45% for Xinyi Energy and not simply extend the existing anti-dumping duty imposed on imports originating or imported from China.

Comments by Grandmark (Pty) Ltd ("Grandmark") to the Commission's essential facts letter

Grandmark disagreed with the Commission's position regarding anti-circumvention reviews as outlined in ADR 63. The existing regulations do not specify which duty should automatically be extended during these reviews, nor do they mandate that the residual duty or the original investigation duty must be applied by default.

Grandmark argued that the phrase "at the required level" implies that the duty level is still to be established in the anti-circumvention review. They believe this wording does not justify the automatic extension of existing duties, especially since a company-specific dumping analysis has already been conducted. Grandmark emphasized the need for a clear legal basis for such an interpretation in light of recent proposed amendments to the ADR that are currently open for comment.

Grandmark stated that the proposed amendments to the Anti-Dumping Regulations published on 13 March 2026 by the ITAC introduced significant changes. They define anti-circumvention reviews as an enforcement measure, stipulate that the Commission will not generally re-examine material injury from original investigations, allow reliance on previously established dumping margins, and specify that the duty from the original investigation or review will be a residual duty unless an individual duty has been calculated. This wording is particularly relevant to the current discussion.

Grandmark asserted that it addresses the key issue raised in the essential facts letter regarding how the Commission determined which duty from the original case should be extended during an anti-circumvention review, and the role an individual duty calculated in that review should play. The fact that this level of detail is included in the proposed amended regulations, but not with the same clarity in the current regulations, suggests that the existing framework does not resolve this point with the certainty that the Commission seems to assume.

Grandmark argued that the Commission cannot lawfully apply a future regulatory framework before it has officially come into effect. If the current regulations clearly explained the approach reflected in the essential facts letter, there would have been no need for the proposed amendments to clarify the position in such explicit terms. The applicable regulations required that any extension of duties must be "at the required level." The Commission already calculated an individual dumping margin of 9.45% for Xinyi Energy based on the company's specific information. This is the level that should be imposed.

Grandmark also referred to the previous dumping investigations conducted by ITAC and indicted that regarding tall oil fatty acids and float glass. In the case of tall oil fatty acids from Sweden, ITAC found evidence of circumvention via the USA but determined there was no dumping occurring, resulting in the termination of the review. Similarly, for tall oil fatty acids involving country hopping through Finland, ITAC found circumvention but also identified the dumping level as negligible, leading to termination of that review.

In a more recent case involving float glass from Egypt, ITAC found evidence of circumvention from Saudi Arabia and the UAE but calculated a new dumping margin of 27.26% for Egypt, which was implemented. This margin differed from the original duties imposed on the other countries. Overall, the investigations highlight that ITAC requires proof of actual dumping before imposing or extending anti-dumping duties, regardless of circumvention.

Commission's consideration

The Commission considered that ADR 63(c) empowers the Commission to extend duties at a level required aimed at addressing circumvention and preventing any potential future occurrences. The Commission noted that producers in China are continually finding new ways to circumvent existing duties and the circumvention found in the current investigation exemplifies such practices.

To prevent these undermining effects, an anti-dumping duty of 12.92% from the original investigation concerning Xinyi Group (Xinyi Automobile Glass (Shenzhen) Co., Ltd. and Dongguan Benson Automobile Glass Co., Ltd.), which are both related parties of Xinyi Energy Malaysia, was applied in this investigation, as it represents the level required to address the circumvention effectively.

The ADR indicates that duties may be extended to exporters in the country from which the product is exported. The Commission is of the view that applying the existing anti-dumping duties to exporters in Malaysia ensures consistency, predictability, and effectiveness of the anti-dumping measures, and it provides the necessary level to eliminate the practice of "country hopping." The individual duty calculated for Xinyi Energy of 9.45%, is insufficient to address the current circumvention being materially lower than the duty in the original investigation.

Furthermore, the Commission reiterated that an anti-circumvention investigation presents unique considerations for the Commission in that it is an enforcement proceeding intended to determine whether the remedial effect of an existing anti-dumping measure is being undermined. Where circumvention is found, as in this investigation, the appropriate remedy is ordinarily the extension of the anti-dumping duties already imposed on imports, here originating in or imported from China to imports originating in or imported from Malaysia in accordance with ADR 63(c).

However, the fact that the Commission assessed exporter-specific information and calculated an individual duty for Xinyi Energy does not alter the nature of this proceeding as an anti-circumvention investigation. Unlike an original anti-dumping investigation, the purpose of this proceeding is not to determine the level of duty necessary to remove injury to the SACU industry, but rather to ensure that the remedial effect of the existing anti-dumping measure is not undermined through circumvention. Consequently, while the Commission may determine an individual duty for a cooperating exporter, such as Xinyi Energy, on the basis of verified *information, the measure itself remains an extension of the existing anti-dumping duty.*

In response to the claim that it is the Commission's practice to impose individual duties, it is emphasized that the Commission determines cases on their merits individually.

Based on the above, the Commission made a final determination to impose a dumping margin of 12,92% for Xinyi Energy, extending the existing anti-dumping duty imposed on imports originating or imported from China imposed on imports originating or imported from China to imports originating in or imported from Malaysia.

5.2 METHODOLOGY IN THIS INVESTIGATION FOR ALL OTHER PRODUCERS (RESIDUAL DUMPING MARGIN)

It is the general policy of the Commission to impose separate anti-dumping duties on specific exporters that responded to the questionnaire, and in addition, a residual duty against the country in question to cater for other possible manufactures of the subject product who might also have exported the subject product to the SACU, but did not participate in the investigation.

In accordance with ADR 63(c), this being an anti-circumvention investigation, the Commission made a final determination that the residual anti-dumping duties imposed on imports originating from China be extended to imports from Malaysia.

Margin of dumping

The Commission made a final determination to impose residual dumping margin of 129,15% for all other manufacturers/exporters from Malaysia.

SUMMARY – DUMPING

For the purpose of its final determination, the Commission found that the subject product originating in or imported from Malaysia is being dumped onto the SACU market as the following dumping margins were calculated:

Tariff subheading	**Manufacturer**	**Rate of duty**
HS 7007.21.20	Xinyi Energy Smart (Malaysia) Sdn Bhd	12,92%
	All the other manufacturers (excluding Xinyi Energy Smart (Malaysia) Sdn Bhd)	129,15%
HS 8708.22.10	Xinyi Energy Smart (Malaysia) Sdn Bhd	12,92%
	All the other manufacturers (excluding Xinyi Energy Smart (Malaysia) Sdn Bhd)	129,15%

6. MATERIAL INJURY

Article 60 of the ADR states as follows:

60.1 Other than circumvention contemplated in subsections 2(a) and (d), circumvention shall be deemed to take place if one or more of the following conditions are met:

(b) remedial effects of the anti-dumping measure are being undermined in terms of the volumes or prices of the products under investigation;

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".*

In this regard, the application was lodged within one year of the publication of the Commission's final anti-dumping duties. Based on the above, The Commission did not consider a new set of material injury information but relied on the material injury information previously established in the original investigation for purposes of the final determination.

Comments by Wholesale Motor Glass (Pty) Ltd ("WMG") to the Commission's Preliminary Report

WMG stated that the Commission indicted that this new application was lodged within one year of the publication of the Commission's final anti-dumping duties and therefore the did not need to consider a new set of material injury information. This statement raised serious concerns regarding the findings contained in the Preliminary Report. If no new information is considered, how can it be established that the purported material injury of over a year previously even persists. Further *without considering all relevant information, new or old, no accurate finding can be made.*

Comments by MyGlass to the Commission's Preliminary Report

MyGlass stated that the Commission has not adequately examined the indicators listed in WTO ADA Article 3.4, including:

- *Production volumes and capacity utilisation;*
- *Market share and profitability;*
- *Return on investment and cash flow;*
- *Supply constraints and inability to meet aftermarket demand.*
- *Domestic supply constraints, not imports, explain market conditions*

MyGlass further stated that the Applicant has faced recurring production inefficiencies, plant downtime, and supply delays. Imports complement domestic supply and prevent shortages, rather than causing injury. Therefore, the injury analysis is deficient and fails to meet WTO obligations.

Commission's consideration

The Commission considered that in accordance with ADR 62.2 the SACU industry is not required to update its injury information, provided that an anti-circumvention application is lodged with the Commission prior or within one year of the publication of the Commission's final determination. In this regard, the application was lodged within one year of the publication of the Commission's final anti-dumping duties. Therefore, the application and this submission do not contain an updated set of injury information from the industry. For the final determination, the Commission shall also use the material injury information previously established in the original investigation.

Comments by Grandmark (Pty) Ltd ("Grandmark") to the Commission's essential facts letter

Grandmark pointed out that on 17 February 2026, the Competition Commission referred a complaint against PG Glass and Glasfit to the Competition Tribunal for prosecution, alleging a long-standing agreement or concerted practice to fix prices *of automotive glass supplied to end-user customers and insurance companies, allegedly dating back to 2004 and continuing thereafter.*

Grandmark stated that the referral is not yet a final Tribunal finding. It is, however, an important public enforcement step by the Competition Commission and raises a legitimate question whether the injury information provided by PG Glass may have been distorted by coordinated conduct. If so, that necessarily bears on the reliability of price injury indicators and on the credibility of any benchmark used to derive price disadvantage or related injury information. To be precise, the essential facts letter indicated that the Commission used the unsuppressed price based on an estimate provided by the Applicant to calculate the price disadvantage.

An overly inflated unsuppressed price would lead to an incorrect price disadvantage amount. It is inconceivable that the price disadvantage for Grandmark would be 153.93% while the individual calculated dumping margin for their supplier would be 9.45%. Without prejudging the merits, the scale of that difference reinforces the need for caution before treating the domestic benchmark as robust and uncontested. Grandmark requested the Commission to consider revisiting the anti-dumping investigation on Windscreens in light of this new information. Grandmark further stated that it is not clear whether the pricing information the Commission relied upon at the time accurately reflected competitive market conditions. If the Applicant's pricing was artificially inflated, that distortion may have arisen through one or more components of the ex-factory price, including profit, selling and general administrative expenses, or cost of production. If so, that would call into question the reliability of the pricing benchmark used in the original investigation and whether the verification process sufficiently identified such distortions.

Commission's consideration

With regard to the investigation conducted by The Competition Commission into the alleged price fixing dating back to 2004, the Commission considered that the Commission does not have a mandate to investigate price fixing allegations, this falls within the jurisdiction of the Competition Tribunal. The Commission noted that

ITAC and The Competition Commission are distinct institutions engaged in various investigations, each governed by their respective laws and Acts.

Additionally, the Commission further considered that according to ADR 62.2, which states, "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." The Commission's determination was based on the information regarding material injury considered in the original investigation. This information showed that the SACU industry was experiencing material injury and facing the threat of further material injury associated with the subject product. The indicators of material injury, including the unsuppressed selling price, were verified during the original investigation, providing reliable information for the Commission's findings.

Based on the above, the Commission made a final 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.

7. SUMMARY OF FINDINGS

7.1 CIRCUMVENTION

The Commission made a final determination that circumvention in the form of country hopping is taking place.

7.2 DUMPING

The Commission found that the subject product manufactured Xinyi Energy originating in or imported from Malaysia, was exported at dumped prices to the SACU. The following dumping margins were calculated in the original investigation and extended to this investigation:

Tariff subheading	Manufacturer	Rate of duty
HS 7007.21.20	Xinyi Energy Smart (Malaysia) Sdn Bhd	12,92%
	All the other manufacturers (excluding Xinyi Energy Smart (Malaysia) Sdn Bhd)	129,15%
HS 8708.22.10	Xinyi Energy Smart (Malaysia) Sdn Bhd	12,92%
	All the other manufacturers (excluding Xinyi Energy Smart (Malaysia) Sdn Bhd)	129,15%

The Commission made a final determination that dumping of the subject product originating in or imported from Malaysia is taking place.

7.3 MATERIAL INJURY

The Commission made a final 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. FINAL DUTIES

8.1 Lesser Duty

Based on ADR 17, the Commission considers the application of the lesser duty rule in its investigations. However, this rule is applied only when both the exporter and the corresponding importer fully cooperated in the investigation. Properly documented responses were received from certain exporters and their corresponding importers of the subject product.

Comments by Xinyi Energy Smart (Malaysia) Sdn Bhd ("Xinyi Energy") to the essential facts letter

Xinyi Energy stated that it fully cooperated along with its importer in the Commission's investigation. Xinyi Energy therefore, requested the Commission to make a final determination to apply the Lesser duty rule in this investigation and to only extend the anti-dumping duties at the required level, being the individually calculated dumping margin of 9,45% for Xinyi Energy in accordance with the lesser duty rule and the clear wording of ADR63(c).

Comments by Grandmark (Pty) Ltd ("Grandmark") to the Commission's essential facts letter

Grandmark pointed out that the price disadvantage was expressed as a percentage of the FOB export price. For WMG, this percentage was calculated to be 58.58%, while for Grandmark, it was calculated at 153.93%. Grandmark highlighted that there are fundamental issues with this approach. If the Commission used a weighted average landed cost for both Grandmark and WMG, one would typically expect to see a single consolidated price disadvantage figure. Therefore, it is unclear why the Commission has presented two separate price disadvantage outcomes for WMG and Grandmark, while suggesting that the measure being considered to the one exporter.

Grandmark further pointed out that even though the Commission is proposing to extend the duties from the original investigation that it disagrees with. It must be given an opportunity to comment on the price disadvantage, just as other parties have been allowed to comment on the individual dumping margin.

Comments by the Applicant to the Commission's essential facts letter

The Applicant agreed with the Commission's view that an anti-circumvention investigation is essentially an enforcement proceeding intended to determine whether the remedial effect of an existing anti-dumping measure is being undermined and that the anti-dumping duty applicable as a result of the original investigation, should be extended in an anticircumvention review. The Applicant is of the view that in principle, the consideration of the lesser duty rule is not appropriate in an anti-circumvention investigation.

Commission's consideration

In response to Grandmark given the opportunity to comment on the price disadvantage, the Commission considered that the Applicant unsuppressed selling price is considered confidential by nature. Such information cannot be disclosed to any other interested parties.

The price disadvantages were calculated individually for each importer. The Commission agreed with Grandmark view that a weighted average price disadvantage should be calculated for two importers sourcing from the same exporter. After considering Grandmark's comments, the applicant's unsuppressed selling price was compared to the weighted landed cost of the imported subject product from the two importers. As a result, a new consolidated price disadvantage was calculated to be 140,72%.

It is important to emphasize that an anti-circumvention investigation presents unique considerations for the Commission in that it is an enforcement proceeding intended to determine whether the remedial effect of an existing anti-dumping measure is being undermined. Where circumvention is found, as in this *investigation, the appropriate remedy is ordinarily the extension of the anti-dumping duties already imposed on imports, here originating in or imported from China to imports originating in or imported from Malaysia in accordance with ADR 63(c). In this context, the Commission examined exporter-specific information submitted by Xinyi Energy and its cooperating importers and calculated a price disadvantage based on the information on record in order to assess the pricing behaviour of the cooperating exporter and determine whether an individual duty may be appropriate.*

However, the fact that the assessed exporter-specific information was assessed and calculated an individual duty for Xinyi Energy does not alter the nature of this proceeding as an anti-circumvention investigation. Unlike an original anti-dumping investigation, the purpose of this proceeding is not to determine the level of duty necessary to remove injury to the SACU industry, but rather to ensure that the remedial effect of the existing anti-dumping measure is not undermined through circumvention. Consequently, while the Commission may determine an individual duty for a cooperating exporter, such as Xinyi Energy, on the basis of verified information, the measure itself remains an extension of the existing anti-dumping duty.

Xinyi Energy

The price disadvantages for Xinyi Energy were calculated based on weighted average landed costs of Wholesale Motor Glass and Grandmark the importers. The consolidated price disadvantage was expressed as a percentage of the FOB export price was calculated to be 140.72%.

The Commission made a final determination not to apply the lesser duty rule in this investigation, while extending the existing anti-dumping duties to other imports originating in or imported from Malaysia in accordance with ADR 63(c).

9. FINAL DETERMINATION

The Commission made a final determination that there is sufficient information to indicate that:

- circumvention in the form of country hopping is taking place;
- dumping of the subject product originating in or imported from Malaysia is taking place; and
- based on the determination made in the original investigation, the SACU industry is experiencing material injury and a threat of material injury.

The Commission made a final determination to recommend to the Minister that in accordance with ADR 63(c), the anti-dumping duties imposed on windscreens for vehicles to be used in the SACU market as replacement glass in the aftermarket classifiable under tariff subheadings 7007.21.20 and originating in or imported from China be extended to the imports of the subject product originating in or imported from Malaysia.

The Commission made a recommendation to impose the same measures on front windscreens (windshields) classified under tariff subheading 8708.22.10. This is based on the concern that the proposed anti-dumping duties on subheading 7007.21.20 may be circumvented through the importation of similar goods under subheading 8708.22.10 which could potentially undermine the effectiveness of the proposed anti-dumping measures.

The applicable duties are as follows:

Tariff subheading	Manufacturer	Rate of duty
HS 7007.21.20	Xinyi Energy Smart (Malaysia) Sdn Bhd	12,92%
	All the other manufacturers (excluding Xinyi Energy Smart (Malaysia) Sdn Bhd)	129,15%
HS 8708.22.10	Xinyi Energy Smart (Malaysia) Sdn Bhd	12,92%
	All the other manufacturers (excluding Xinyi Energy Smart (Malaysia) Sdn Bhd)	129,15%

The Commission made a further recommendation that the anti-dumping duties on windscreens for vehicles to be used in the Southern African Customs Union market as replacement glass in the aftermarket be listed in the “rebate item” column in Schedule No. 2, and therefore may not be imported under rebate of customs duty without payment of anti-dumping, countervailing and safeguard duties without a recommendation from ITAC.