

PUBLIC RECORD  
AMENDED VERSION RECEIVED 2 AUGUST 2016  
Amended version corrects an error on Page 2, first sentence, last paragraph.

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1 August 2016

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By email

Dear Mr Katsoulis

## **Xinyi Ultrathin Glass (Dongguan) Co., Ltd Inquiry concerning the continuation of anti-dumping measures Clear float glass from China, Indonesia and Thailand**

We write on behalf of our client Xinyi Ultrathin Glass (Dongguan) Co., Ltd ("Xinyi") in relation to the abovementioned inquiry ("the continuation inquiry") by the Anti-Dumping Commission ("the Commission").

Xinyi's exports are not subject to the anti-dumping measures concerned. Xinyi's exports of clear float glass ("the goods") were determined to have a *de minimis* dumping margin in the original investigation conducted by the Australian Customs and Border Protection Service.

It has come to Xinyi's attention that the Commission has received submissions from interested parties which make allegations directly concerning Xinyi and the presence of its exports in the Australian market. We have been instructed to offer the following clarifications and comments for the Commission's benefit.

One of the interested parties to this inquiry, Guardian Industries Co., Ltd ("Guardian"), has persistently alleged that CSR Viridian Ltd ("Viridian"), being the Australian industry for the purposes of this inquiry, has purchased the goods from Xinyi, in very significant volumes, and that there has been some kind of "strategic arrangement" between Xinyi and Viridian. Guardian has requested the Commission to make inquiries about Xinyi's exports to Australia. For example, in submission No.15, Guardian states the following:

2. *The current continuation inquiry excludes [REDACTED].*

3. *Viridian, the applicant, is unable to fully satisfy the demand for 3mm to 12 mm clear float glass for the Australia market. In an effort to satisfy such demand, Viridian has forged an alliance or arrangement with [REDACTED] for it to supply Viridian to meet as much of that demand as it can.*

...

*In view of the above we are instructed to request that the Australian Anti-Dumping Commission inquire into the following:*

1. The level of imports by [REDACTED] (by tonnage and square metre) into Australia during the relevant investigation period - and prior periods.
2. The total tonnage (and square metres) of CFG supplied by [REDACTED] to Viridian and at what price.
3. The sale of [REDACTED] CFG being the subject of this inquiry sold to other Australian importers and at what prices. [our underlining]

Whilst the submission blacked out the party referred to in the letter, Guardian's subsequent submissions indicate the redacted word is "Xinyi":<sup>1</sup>

4. **(Viridian imports)** I am instructed that Viridian does import CFG or purchases imported CFG. In the SEF, it is said that *Viridian does not supplement its sales with imports*. At page 12 of the Viridian verification report at page 12 it is said at 5.2.2. "**Import Trends** Since the imposition of measures on 17 October 2011, Viridian has imported CFG in 2011 and 12; however the volume imported are (sic) less than 0.1% of total imports respectively." You confirmed that what was meant by that statement is that Viridian did import product in the 2013, 2014 and 2015 years, but that these constituted 0.1% of total imports. Whilst I must take you at your word, I am finding it difficult to understand your use of the word *respectively* at the end of the sentence. I presumed that the word *respectively* operated on your earlier reference to the 2011 and 2012 years - for that is the only natural reading.

In any case, I am instructed that Viridian relies on a significant amount of imported product per year. This is corroborated by a report published by CSR Limited on 11 March 2013 (attached), wherein it was said that, following the close of Viridian's Ingleburn facility, Viridian would supplement its supply by "*imported supply from strategic partners*". I would encourage the ADC to re-check its facts; consider and respond to my client's letter (EPR 15) and determine whether Viridian, even if it is not recorded as the direct importer on the DIBP databases, is purchasing CFG from Xinyi, its local representative or some other undisclosed strategic partner.

Further, in Guardian's latest submission dated 20 July 2016, it states again:<sup>2</sup>

1. My client has previously outlined the necessity for the ADC to make a full and proper inquiry of the Chinese manufacturer Xinyi and its relationship with CSR Viridian. Other than a single sentence in the SEF that "Viridian does not supplement its sales with imports", there has not been any true consideration of whether:

- a. Viridian purchases CFG from Xinyi (or a local distributor tied to Xinyi)
- b. Viridian has an alliance or arrangement with Xinyi.

In response to the above comments, Xinyi wishes to advise the Commission that:

- Xinyi has not exported any of the goods to Viridian in the last five years; and
- Xinyi did not and still does not have any alliance or "strategic" partnership arrangement with Viridian.

Guardian's allegations and speculations that there may be some kind of secretive supply arrangement or other arrangement between Xinyi and Viridian in the Australian market for the goods are incorrect, misleading and misinformed.

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<sup>1</sup> Submission No. 31  
<sup>2</sup> Submission No. 36

In this regard, Xinyi also notes the submission from Indonesian exporter PT Asahimas Flat Glass Tbk (“AMG”), which states:<sup>3</sup>

It is reported in the SEF that Viridian claims that it “does not supplement its sales with imports”.<sup>1</sup> It is our understanding that, because it has insufficient production capacity to meet the market demand, Viridian does in fact supplement its sales with a significant volume of imports from Xinyi Ultrathin (Dongyuan) Co Ltd, China (“Xinyi”), by either importing directly from Xinyi or by purchasing from an Australian customer of Xinyi. It is paramount that the Commission thoroughly investigates Viridian’s claim that it does not supplement its sales with imports from Xinyi.

As already stated above, Xinyi did not export the goods to Viridian in the last five years, either directly or indirectly. On the other hand, Xinyi is not in possession of enough information to comment on AMG’s suggestion that Viridian may have purchased the goods as exported by Xinyi from other parties.

Lastly, we note Guardian’s request that the continuation inquiry must be “restart[ed]” and “widen[ed]” by way of obtaining information from Xinyi, and from other importers, or that the measures should cease. In this regard all we would say is that a continuation inquiry operates in a different fashion to an anti-dumping investigation, and that what must be concluded at the end of such an inquiry is also different to an anti-dumping investigation. In a continuation inquiry, the facts which are relevant are those pertaining to the question of whether *“the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping or subsidisation and the material injury that the anti-dumping measure is intended to prevent”*. The “blame” and “finger pointing” that Guardian and AMG have engaged in is not only baseless but ultimately irrelevant. Simply put – would the expiration be likely to lead to a continuation or recurrence of dumping and injury. A continuation inquiry is a fact finding exercise, with the relevant facts being those which go towards the elucidation and satisfaction of that statutory test, and ultimately the exercise by the Minister of his or her discretion to continue the measures.

The Commission has already collected and analysed information concerning exports from China, which include Xinyi’s exports. Further, as shown in Statement of Essential Facts 335, the Commission has isolated the information about Xinyi’s exports from those exports from China which are subject to the current measures, and has come to the requisite conclusion that expiration of the measures would likely lead to a continuation or recurrence of dumping and of injury.

Xinyi reserves its right to take whatever action it believes may be necessary to deal with false and defamatory accusations made against it by interested parties in this matter.

Yours sincerely



Charles Zhan  
Associate

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<sup>3</sup> Submission 33