

Non Confidential

Anti-Dumping Commission 3 AUG 2016

Email

3 August 2016

Mr George Katsoulis
Anti-Dumping Commission
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Dear Mr Katsoulis

**Guardian Industries Corp Ltd (Guardian)
Clear Float Glass (CFG) exported from China, Indonesia and Thailand (Continuation Inquiry No. 335)**

We refer to the submission to this inquiry made yesterday by Xinyi Ultrathin Glass (Dongguan) Co Ltd (Xinyi) at EPR 041 (Submission).

1. **Xinyi exports to Viridian**
 - 1.1 The Submission states that 'Xinyi has not exported any of the goods to Viridian in the last five years'.
 - 1.2 Guardian notes that Xinyi has clearly imported very large quantities of CFG to Australia since anti-dumping measures were imposed, since:
 - (a) In the Statement of Essential Facts (SEF) at 5.6, the Anti-Dumping Commission (ADC) acknowledged that CFG imports from countries not subject to measures and Xinyi had increased since anti-dumping measures were imposed. Figures 4 and 5 of the SEF show that increase to be very large.
 - (b) The SEF at 8.3.3 states that '*when [Figure 12 is] compared to Figure 4 and Figure 5, the Commission considers that the imposition of the anti-dumping measures in 2011 largely resulted in a shift of import supply to countries and exporters not subject to measures.*' Guardian notes that Xinyi is the only exporter not subject to measures situated in China, Indonesia or Thailand.
 - (c) Guardian's submission at EPR 036 supplies data concerning Chinese export volumes. It explains that the data, in conjunction with the information contained in the SEF, establishes that Xinyi has imported very large quantities of CFG to Australia since anti-dumping measures were imposed.
 - 1.3 It remains an open question whether and how the applicant has purchased that CFG.
 - 1.4 The Submission notes that '*Xinyi is not in possession of enough information to comment on [PT Asahimas Flat Glass Tbk]'s suggestion that Viridian may have purchased the goods as exported by Xinyi from other parties.*' This buttresses Guardian's view, expressed ten weeks ago at EPR 015, that the ADC ought to inquire into Xinyi's imports. The fruits of that inquiry will inform the ADC's findings in Continuation Inquiry No 335.
 - 1.5 Guardian notes that the ADC has not made concluded findings as to whether the applicant has directly or indirectly purchased CFG from Xinyi:

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- (a) In the CSR Viridian verification report at 5.2.2, the ADC found that '[s]ince the imposition of measures on 17 October 2011, Viridian has imported CFG in 2011 and 2012; however, the volumes imported are less than 0.1% of total imports respectively.' The meaning of the finding remains unclear for the reasons given by Guardian in its submission at EPR 031.
- (b) In the SEF at 8.4.4, the ADC considered Guardian's submission that the applicant uses imports from Xinyi to supplement its production undercapacity. The ADC made no express finding on that question, but noted that the applicant had represented that it *'does not supplement its sales with imports.'*

2. Other Xinyi imports

- 2.1 As Guardian has explained in earlier submissions, Xinyi has imported very large quantities of CFG at very low prices since anti-dumping measures were imposed. Last year, for instance, Xinyi imported around 1.5 million metric tonnes of CFG [REDACTED].
- 2.2 Xinyi's Submission does not address the correctness or significance of Guardian's contentions in this regard.
- 2.3 Xinyi's imports may be dumped. This possibility appears distinctly from Xinyi's notoriously low prices. Further, the SEF at 8.3.5 found that Brazilian anti-dumping measures against Chinese exporters, including Xinyi, were *'prima facie evidence that Chinese exporters have recently dumped CFG in other markets.'* The relevant Brazilian authority imposed a duty of US\$328.33/tonne in respect of Xinyi's imports.
- 2.4 The Submission contends that the ADC cannot recommend that Xinyi imports be made subject to measures in this Continuation Inquiry. Therefore, Guardian submits, the ADC ought to recommend that the Minister decline to continue measures so that the applicant may make a new application for measures to be imposed. The subsequent investigation can then properly consider whether Xinyi's imports are dumped, including evidence of any direct or indirect supply arrangements, pricing arrangements or rebate deals that benefit the applicant.
- 2.5 The Submission correctly describes the Minister's power under Part XVB Div 6A of the *Customs Act 1901* (Cth) as a discretionary one. Xinyi's large export volumes and exceptionally low prices must be powerful considerations in the exercise of that discretion in favour of not continuing the duties — at least against our client who supplied an infinitesimally small amount of the goods under consideration at prices that cannot be considered to be price suppressive or depressive.

Yours sincerely



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