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JELD-WEN

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Ms Joanne Reid
Director Operations 2
International Trade Remedies Branch
Australian Customs and Border Protection Service
Customs House
5 Constitution Avenue
CANBERRA ACT 2601

September 14, 2011

Dear Ms Reid

Clear Float Glass Exported to Australia from the People's Republic of China, Indonesia and Thailand

Resumed Investigation

JELD-WEN Australia Pty Ltd makes a submission, a copy of which is attached in response to Blackburn Croft & Co Ltd's submission of 5 September 2011 on the Statement of Essential Facts 159C.

In our view Blackburn Croft & Co Ltd has not provided new evidence to alter either the finding of Customs that dumping did not cause material injury to the Australian industry or the merit of Customs terminating the resumed investigation.

If you wish to discuss any of the issues raised in the submission by JELD-WEN Australia Pty Ltd I can be contacted on 0417-261-560.

Yours sincerely

R. Silberberg

Ron Silberberg AO
Senior Corporate Advisor
JELD-WEN Australia Pty Ltd

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Comments on Submission by Blackburn Croft & Co Ltd, dated 5 September 2011

The Submission by Blackburn Croft & Co Ltd in response to SEF159C does not provide any new information or substantive arguments that should alter the intention of Customs to re-affirm termination of the anti-dumping application relating to the exportation of Clear Float Glass from China, Indonesia and Thailand.

The submission by Blackburn Croft & Co Ltd makes no attempt to respond to the submission made by JELD-WEN Australia Pty Ltd of 29 August 2011. Since Blackburn Croft & Co Ltd has gone to some lengths previously to dispute and take issue with evidence and arguments advanced by JELD-WEN Australia Pty Ltd, we take Blackburn Croft & Co Ltd's non-response as tacit acceptance of JELD-WEN Australia's most recent submission. Blackburn Croft & Co Ltd cannot fall back upon the claim of inadequate time to consider the JELD-WEN submission since the latter was available on the public file well before the lodgment date of Blackburn Croft & Co Ltd's submission.

Since many of the arguments contained in the JELD-WEN Australia Pty Ltd submission of 29 August deal effectively with the issues contained in the submission by Blackburn Croft & Co Ltd, in the interests of brevity we suggest that Customs consider this submission in conjunction with JELD-WEN Australia's submission of 29 August.

Internal Transfers of CFG for Further Processing

Blackburn Croft & Co Ltd takes issue with Customs incorporating CFG transferred within Viridian Upstream for further processing for the purposes of establishing market volumes. (para 12, para18). Blackburn Croft & Co Ltd states that the Trade Measures Review Officer (TMRO) "did not suggest that internal processing volumes should form part of the industry producing like goods." (para 12). Elsewhere, Blackburn Croft & Co Ltd refers to a "steady level of clear float glass supplied to the requirements of internal processing." (para10).

The TMRO recommended that Customs take to account internally processed volumes when explaining changes in Viridian's market share. The TMRO stated:

If the information on internal processing had been factored in, it could well be that the analysis would demonstrate that some of the loss of volumes was attributable to dumping, or to other factors. Such an analysis would have assisted in determining whether dumping has caused material injury in the form of lost market share. (Termination Review, page 7)

In these circumstances, it should be acknowledged that Customs has followed the recommendation of the TMRO.

JELD-WEN Australia Pty Ltd supports the approach adopted by Customs to include in its assessment of market size, volumes of CFG transferred within Viridian Upstream for further processing, such as for laminating and silver. The product being transferred for further processing *is* CFG. Blackburn Croft & Co Ltd contends that CFG transferred for processing is not 'like goods'; it is the goods. These transfers are precisely CFG. CFG has been imported by Independents (and Viridian) for further processing into Bulk Laminated and Bulk Toughened Float.

The volume of CFG transferred internally for further processing is determined by the demand for Bulk processed CFG by Viridian Downstream and Independent Glass Processors. To exclude such volumes of CFG would understate significantly Viridian's market share of CFG and increase the possibility of erroneous conclusions being made about market volumes of CFG. It would appear that Viridian provided data on the volume of CFG internally processed by Viridian Upstream after the publication of SEF159 of 5 November 2010 (Termination Report 159B, page 51).

It is assumed that Customs has included Imports of CFG utilized in further processing by Independent Glass Processors to determine market volumes and market share. To remove from Viridian Upstream's market share volumes of CFG allocated to further processing-as recommended by Blackburn Croft & Co Ltd- while including Imports of CFG utilized in further processing by Independent Glass Processors would bias downwards Viridian Upstream's market share.

Customs decided to consider changes in the overall volume of CFG- including CFG transferred internally for further processing- and Coated Float Glass. On this basis, Customs found that the reduction in aggregate volumes between YEM2009 and YEM2010 could be explained by the contraction in the building market.

In its submission of 1 July 2011, JELD-WEN Australia Pty Ltd suggested that Customs could seek to explain the *reduction* in the volume of CFG supplied by Viridian Upstream between YEM 2009 and YEM2010 by considering:

- the steep decline in the volume of residential and commercial building activity after YEM2008;
- the changing composition of Viridian Upstream's output towards Energy Efficient Glass;
- the erosion of Viridian Downstream's customer base to Independent Glass Processors which, unlike Viridian Downstream were not exclusive purchasers of float glass from Viridian Upstream.

JELD-WEN Australia contends that had Customs adopted the suggested approach to explain variations in the volume of CFG supplied by Viridian Upstream, Customs would have arrived at the same conclusion as reached by aggregating CFG volumes, including internally processed CFG as well as CFG subsequently coated by Viridian. Regardless of which methodology is adopted, the reduction in CFG volumes by Viridian Upstream was not affected by dumped imports.

JELD-WEN Australia Pty Ltd notes that Customs resolved to include Coated Float in determining market volumes. Blackburn Croft & Co Ltd considers that Coated Float (and Tint Float) should not be included in a market volume analysis. Customs did not include Tint volumes in its market analysis.

Blackburn Croft & Co Ltd argues that Coated Float Glass was included inappropriately as "like goods" (para 17). There are two distinct types of Coated Float Glass. Viridian supplies CFG (Airco-quality) to G James for Sputter (off-line coating). This CFG is, and always has been, treated as "like goods" and credited to External Sales from Viridian Upstream to Independent customers. Viridian has installed a coating technology on its Dandenong float line. The technology incorporates a chemical vapour deposition (CVD), which is introduced in the atmosphere of the tin bath. The production of Coated Float glass is based on the filling of orders placed for CFG to be coated. If the CVD process is not employed, then the output necessarily is CFG. Both technologies of coating produce thermally-efficient glass.

JELD-WEN Australia Pty Ltd maintains that in seeking to understand the dynamics in the Australian Float Glass sector it is essential to have regard to the contribution of different float glass segments. Crucial here, is the role played by the growth in the demand for energy efficient glass, including for Coated, Laminated, Tint and Double-Glazing. Much of the reduction in CFG volumes can be explained by the expansion of demand for Energy Efficient Glass.

As stated by CSR Limited, it was integral to Viridian's business strategy to "Displace commodity clear float glass with higher-functioning coated glass." (CSR Limited Analyst Site Visit Presentation, 30 June 2011). Blackburn Croft & Co Ltd states: "Customs knows Viridian's production of coated and tinted glass has not been at the expense of clear float glass." (para 32). Such a statement would appear to be at odds with not only Viridian's core business strategy but also evidence of the growth in Viridian's overall market share of energy efficient glass, as revealed in the CSR Limited Site Visit Presentation of 30 June 2011 and previous results' presentations of CSR Limited.

With the changing composition of Viridian Upstream's output towards Energy Efficient Glass, it is appropriate to consider the volume of *metric tonnes* of float glass being produced and not rely solely on square metres of float glass. The increased demand for Laminate has no effect on the amount of glass when expressed in square metres but *doubles* the volume of glass utilized when denominated in metric tonnes. Limiting the analysis of market shares based on square metres has the effect of under-stating Viridian Upstream's share of market when Viridian Upstream was supplying higher volumes of CFG for Laminating.

Blackburn Croft & Co Ltd state that when looking at market volumes adjusted to include Coated Float Glass and Internal Transfers of CFG for Bulk Processing, Customs should have requested up-dated financials for the industry producing 'like goods' (para 15, para 22). In relation to Internal Transfers of CFG allocated for further processing they are CFG. In any event, since CFG is the substrate of Laminate and Silver and Bulk Toughened, the observation by Blackburn Croft & Co Ltd brings into question the nature of the financial information provided by Viridian to Customs. For example, if the estimates of the Cost to Manufacture CFG excluded CFG transferred internally for further processing, the unit costs would have been over-stated and consequently, the financial results would have been artificially depressed.

The financial 'results' for Viridian Upstream are based on management accounts; they are not the audited profit and loss report and balance sheet of CSR Viridian Limited. The quality of management accounts depends ultimately on the reliability of cost and revenue attribution between the divisions of the business made by management. The statement by Blackburn Croft & Co Ltd implies there would be different management accounts had Viridian been asked by Customs to provide estimates of costs to manufacture all of Viridian Upstream's Bulk CFG production. Accordingly, JELD-WEN Australia submits that there are some question marks against the applicability of the 'financial information' provided to Customs by Viridian.

Exchange Rate Effects

According to Blackburn Croft & Co Ltd, the impact of the appreciating Australian dollar on the domestic price of CFG is "vastly overstated" (para35). It is difficult to reconcile this contention with repeated observations by the CSR Board of Directors about the negative effect of the strong Australian dollar on the Viridian business in its statutory reports (see JWA submission of 1 July, page 27). Viridian's largest customer, G James contended that although imports of CFG were paid for in Australian dollars, importers were very aware of the exchange rate movements and negotiated lower prices as a consequence of the rising Australian dollar (Customs' site visit report, 1 June 2011).

Since Viridian itself imports substantial volumes of float glass, it would be acutely aware of the significance of the sharp increase in the value of the Australian dollar. It is inconceivable that Viridian would not seek to reduce the prices it paid for imported float glass based on the higher Australian dollar.

Pricing

Blackburn Croft & Co Ltd attempt to discount the 5 per cent price increase passed through by Viridian in November 2010 on the grounds that the price increase fell outside of the investigation period. At the same time, Blackburn Croft & Co Ltd appears to agree with Customs that the market for float glass is quite price-sensitive (para 27). That Viridian was able to make such a large price increase stick despite intense price pressures arising from the high Australian dollar and continued soft building market conditions seems inconsistent with claims that Viridian was suffering either price undercutting or price suppression from dumped imports.

Since Viridian is by far the dominant supplier of CFG in Australia and imports of CFG are spread among a number of exporters, it should be self-evident that Viridian is the market price leader. Viridian's market power on pricing was exemplified by exporters lifting their prices of CFG imports following Viridian's November 2010 price rise. If exporters were intent on undercutting Viridian's prices to gain market share, why did they increase their prices and forego making higher sales? (see JWA submission of 1 July 2011, page 27).

If imports were being dumped then there ought to be some evidence of market penetration of dumped imports. However, Customs found that dumped imports were inconsequential to the loss of Viridian's volumes (SEF159C, page 5). According to Customs, the reduction in Viridian Upstream's market volumes could be explained by the decline in building activity. On this basis, to the extent that there were dumped imports they were not significant.

Having regard to the magnitude of supposed dumping margins of CFG from China and Indonesia presented in TER159B and the price sensitivity of Independent Glass Processors, it seems plausible that there would have been some evidence of dumped imports gaining additional market share during the investigation period. Blackburn Croft & Co Ltd contends that Viridian "could only regain volume by decreasing its prices" in the face of allegedly dumped imports in YEM2010 (para 24). But Customs has found that "the lost volume was not caused by dumping" and "price injury caused by dumping is not considered material". (SEF159C, page 5). Unfortunately, Customs did not subject the original (or revised) estimates of dumping margins to scrutiny. JELD-WEN Australia has consistently taken issue with the estimates of dumping margins prepared by Customs.

If imports were being dumped then purchases of imports by Independent Glass Processors should have increased. While there was a small increase in imports of CFG between YEM2009 and YEM2010, there was a larger increase in the purchases by Independent Glass Processors of CFG from Viridian Upstream in YEM2010.

All of the reduction in CFG volumes supplied by Viridian Upstream was due to the decline in INTERNAL TRANSFERS of CFG from Viridian Upstream to Viridian Downstream. And the reasons for the reduction in internal transfers to Viridian Downstream can be explained by the loss of Viridian Downstream's customer base to Independent Glass Processors, due to chronic service failures in the processing and distribution division and not dumping (see JWA submission of 1 July, 2011 and 29 August, 2011).

The reason Imports of CFG *and* external sales of CFG by Viridian Upstream to Independent Glass Processors increased can be found in the shift of business by window fabricators and glass merchants from Viridian Downstream to Independent Glass Processors. The customers that Viridian Downstream lost did not commence to import CFG. They moved their business to Viridian Downstream's competitors, the Independent Glass Processors.

Whereas Viridian Downstream sourced all of its CFG requirements from Viridian Upstream, Independent Glass Processors split their purchases of CFG between imports and Viridian Upstream. When Viridian Downstream suffered a loss of business due to its endemic service failures, to Independent Glass Processors it meant that imports of CFG inevitably increased, but so too did purchases of CFG from Viridian Upstream. The move by window fabricators and glass merchants from Viridian Downstream to Independent Glass Processors also saw sales of CFG by Viridian Upstream to Independents increase.

Overwhelmingly, Independent Glass Processors stayed with Viridian Upstream. Blackburn Croft & Co Ltd has never provided a credible explanation for the increase in purchases of CFG by Independent Glass Processors from Viridian Upstream during the investigation period. According to Customs, Blackburn Croft & Co Ltd did not argue that dumped imports of CFG lead to a loss of sales at the point of competition between Viridian Downstream and Independent Glass Processors (TER159B, page 48).

Since Independent Glass Processors tended to spread their purchases of CFG between Viridian Upstream and imports, the Independents would have been acutely aware of the impact of the run-up in the Australian dollar during YEM2010. It would have been unusual for a glass importer not to notice a 30 per cent appreciation of the Australian dollar against the US dollar over the course of YEM2010.

With a marked decline in Australia's building industry coinciding with a massive appreciation of the Australian dollar it is understandable that Independent Glass Processors would seek to improve their price negotiations with Viridian Upstream. G James confirmed as much during Customs' site visit (G James, Viridian Upstream's largest customer had not been interviewed during the first investigation). As Customs has found, the contraction in the building market and the high Australian dollar were more than sufficient to place downwards price pressure on Viridian Upstream.

Comments on Customs' data in SEF 159C

Blackburn Croft & Co Ltd summarises data presented by Customs in SEF 159C from Tables 8, 11 and 12. The summary is reproduced below for convenience:

China	3mm	4mm	5mm	6mm
Extent that imports are more competitive than local prices	4%	13-17%	14-19%	18-20%
Difference between undumped import prices and local prices	n/a	6%	9%	12%
Difference between undumped import prices and local prices, adjusted for local supply premium	n/a	1%	3%	6%

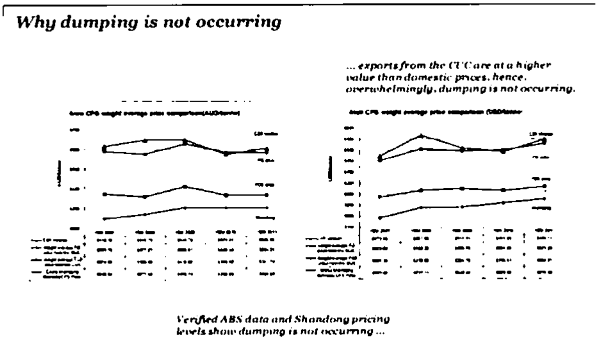
Indonesia	3mm	4mm	5mm	6mm
Extent that imports are more competitive than local prices	11-22%	13-25%	15-24%	19-28%
Difference between undumped import prices and local prices	6%	13-22%	15-22%	13-23%
Difference between undumped import prices and local prices, adjusted for local supply premium	1%	8-17%	10-18%	7-9%

Thailand	3mm	4mm	5mm	6mm
Extent that imports are more competitive than local prices	4%	8%	9%	9%
Difference between undumped import prices and local prices	1%	5%	8%	9%
Difference between undumped import prices and local prices, adjusted for local supply premium	-5%	-1%	2%	4%

We have the following observations on the above data:

1. Generally in relation to price trends:

   The above data match closely with the information JELD-WEN has previously supplied to Customs (as reproduced below in Figure 1).



Viridian is a price setter in the Australian market. It has market dominance and import prices are set with reference to its local prices, as evidenced by pricing trends shown in Fig 1 above. Further, Viridian's price increase in late 2010 was very quickly followed by importers raising their prices.

What can be taken from these data is that import prices match the local selling price. Given the high transportation costs associated with the importation of glass, it is almost inconceivable that exporters could be selling goods in their own market higher than in Australia. Indeed, this reinforces our previous assertion that, given the price sensitivity in the Australian market, exporters would not have needlessly reduced their prices (and therefore their margins) if Viridian would have struggled to compete against undumped prices.

2. Specific comments on the data:

    a. in relation to Thailand –

        i. The volumes from Thailand have remained broadly constant throughout the period from 2007, dipping in YEM2010 (Fig 2 below refers). Given that Thai prices are less than Chinese prices for 4mm CFG, it is difficult to see why Thai volumes would reduce while Chinese volumes increased over the period YEM2009 to YEM 2010; and

        ii. the difference in the price of undumped imports to local goods is almost exactly the same as the level of price undercutting. Hence, it is difficult to see how dumping is occurring and therefore the investigation as it relates to Thailand should be terminated.

    b. in relation to Indonesia

        i. ignoring 3mm, it is similarly difficult to see how dumping is occurring - the difference between undumped import prices and local prices is almost exactly the same as the difference in local and import prices; and

        ii. in Indonesia, 3mm CFG is a standard thickness. However, this is not the case in Australia where 4mm glass is predominant and is sold at a significant premium (Viridian successfully lobbied for 4mm glass as minimum thickness in 2006). Hence, volumes of 3mm glass are low. Given the discrepancies in the two markets, pricing is not representative, but nonetheless, the FIS price of imported CFG tracks local prices.

    c. in relation to Chinese imports, the ABS data previously supplied to Customs by JELD-WEN show that import prices of 4mm CFG from China are in fact **higher** than those from Indonesia, and around the same as those for Thailand[1]. On that basis, the conclusion for China should be the same as for Indonesia or Thailand – ie it is difficult to see how dumping is occurring and therefore the investigation should be terminated.

[1] Refer to JELD-WEN submission of 1 July 2011, figure 9 at para 5.3.

Figure 2 – Pricing trends and volumes from YEM2007 to YEM2010