

For Publication

Dear Mr Kennedy

As you know I act for Guardian Glass.

The purpose of this email is to respond to Oceania Glass's recent submission addressing the SEF. In its submission, Oceania asserts that:

1. **(Data)** Data sourced from Thai Customs suggests that Guardian has sent significant volumes of CFG to NZ.
2. **(Proximity)** Guardian seeks to supply to countries proximate to its Thai factory (hence why NZ receives product from Thailand as it is proximate).
3. **(Executive Statement)** Guardian's GM for the Asia/Pacific region has indicated a focus on the A/Pac region including Australia and New Zealand.
4. **(Circumvention)** Guardian Glass's historical circumvention investigation.
5. **(Likelihood of recurrence)** The foregoing reasons mean that it is more likely than not that future exports of CFG from Thailand to Australia will occur.

I will address each of the above assertions in turn.

In relation to Data, the conclusions presented by Oceania are irrelevant. This is because they are based on data that includes CFG **other than** 3mm-12mm. Table 1 (mischievously and misleadingly headed CFG not exceeding 5MM) refers to Guardian's sales of such product to Australia in 2020. Other than the less than 1 ton of CFG (being the goods the subject of this investigation) for which the circumstances have been explained in our previous submissions, all the volume referred to in the table refers to **2mm glass** (which is not the subject of this investigation). In respect of table 2, (again mischievously and misleadingly headed Thai CFG - other) all the volume to Australia is **15mm glass** (which is not the subject of this investigation). Both the 2mm and 15mm glass sold to Australia in those thicknesses sell at a high premium due to the higher cost incurred to produce it, as production yields are much lower on thin and thick glass. Moreover, the volume representing sales to New Zealand is all standard thickness of 3mm-12mm, which the ADC has already considered and concluded that Guardian sells at a higher price to New Zealand than other countries in the region.

As to proximity and sales to New Zealand, New Zealand has no CFG production and Oceania is incapable of supplying the Australian market. In consequence it is totally expected and natural that our client is sought out as a regional supplier.

The executive statement by Guardian's GM for the Asia/Pacific region which signifies a focus on the A/Pac region including Australia and New Zealand is entirely unremarkable. The statements made in the article ([Glass Worldwide Issue 90 | Glass Worldwide Magazine](#))¹ focusses and highlights Guardian's efforts to concentrate on value added products for the domestic & regional markets as the majority of the \$100M investment made by it was in value added products. It is true that Guardian refurbished its Nong Khae plant furnace 9 years ago in 2012 (certainly not "recently" as Oceania suggests) but that refurbishment was directed towards creation of value added products and not for the purposes of expanding CFG production. Additionally, the references to Australia and New Zealand by the GM are totally sterile given that Australia and New Zealand are in the Asia Pacific zone.

The historical fact of circumvention does not always speak to the future. Indeed, as submitted and expressly intimated to the ADC in the course of that investigation CFG exports from Thailand were to be discontinued as its corporate intention was to solely concentrate on higher value added product for Australia. The ensuing years, as corroborated by data available to ADC (and referred to in figure 18 page 53 of the SEF), has proven that to be absolutely correct.

Finally, the ADC has correctly adjudged, based on the facts and the legal definition of the term *likely*, that Guardian is not more likely than not to export CFG from Thailand. That finding is rational, reasonable and evidently justifiable.

Kind regards

Zac Chami, Partner
Clayton Utz

Level 15, 1 Bligh Street, Sydney NSW 2000 Australia | D +612 9353 4744 | F +612 8220 6700 | M +61 434651142 |
zchami@claytonutz.com | www.claytonutz.com
Please consider the environment before printing this e-mail

¹ <https://www.glassworldwide.co.uk/Digital-Issues/glass-worldwide-issue-90>