



KEMENTERIAN PERDAGANGAN ANTARABANGSA DAN INDUSTRI
MINISTRY OF INTERNATIONAL TRADE AND INDUSTRY

Menara Perdagangan Antarabangsa dan Industri,
No.7, Jalan Sultan Haji Ahmad Shah,
50480 Kuala Lumpur,
MALAYSIA

Tel : 603 8000 8000
Faks (Fax) : 603 6206 4693
Laman Web (Web) : www.miti.gov.my
E-mel (E-mail) : webmiti@miti.gov.my

MITI.S.600-2/29/1 (2)

30 June 2021

The Director
Investigations 3
GPO Box 2013
Canberra ACT 2601
Australia

Dear Sir,

SUBMISSION OF THE GOVERNMENT QUESTIONNAIRE RELATING TO THE ANTI-DUMPING AND SUBSIDISATION INVESTIGATION ON IMPORTS OF CLEAR FLOAT GLASS (HS CODE 7005.29.00) FROM MALAYSIA

Reference is made to the initiation of the dumping and subsidisation investigation on imports of Clear Float Glass by the Anti-Dumping Commission, Department of Industry, Science, Energy and Resources, Australia on 27 April 2021 which was published on the Commission's website through Anti-Dumping Publication Notice ADN2021/054.

2. Please find attached herewith the submission of responses by the Government of Malaysia (GOM) and the accompanying appendices for your further action. Should you require more information, please contact Ms. Raja Noor Diana Raja Hishan Shah (+603-6208 4660 or diana@miti.gov.my) or Mr. Ahmad Afif Abdul Aziz (+603-6208 4637 or afif.aziz@miti.gov.my) for clarification.

3. In addition to that, Ministry of International Trade and Industry (MITI) would also like to convey the concerns of the GOM with regard to the investigation as follows:

i. Alleged subsidy programmes

The GOM would like to refute claims that it provided subsidies to Malaysian Clear Float Glass producers, which resulted in exports that have caused material injury to the domestic industry in Australia.

The Government of Malaysia (GOM) would like to emphasize that pursuant to Article 10 of the WTO Agreements on Subsidies and Countervailing Measures (SCM Agreement), Members shall take all necessary steps to ensure that the imposition of countervailing duty on any product of the territory of any Member imported into the territory of another Member is in accordance with the provisions of Article VI of GATT 1994 and the terms of the SCM Agreement. Countervailing duties may only be imposed pursuant to investigation initiated and conducted in accordance with the provisions of the SCM Agreement.

Article 11.2 of SCM Agreement provides that:

"An application under paragraph 1 shall include sufficient evidence of the existence of (a) a subsidy and, if possible, its amount, (b) injury within the meaning of Article VI of GATT 1994 as interpreted by this Agreement, and (c) **a causal link between the subsidized imports and the alleged injury. Simple assertion, unsubstantiated by relevant evidence, cannot be considered sufficient to meet the requirements of this paragraph...**" [emphasis added]

ii. Injury suffered by the domestic industry in Australia

Based on the petition filed by Oceania Glass Pty Ltd, the GOM intends to highlight observations on claims pertaining to the injury factors as follows:

- the Australian domestic industry is deemed not to have been materially injured since there was strong evidence in the Petition that the production, sales volume and revenue, and profitability of the domestic industry have been on the rise since 2017 to 2020. Moreover in 2020, the domestic industry recorded an increase of 15 and 8 index points from 2019 for both volume and revenue; and
- injury, if any, to the Australian domestic industry could be contributed by other factors, and not imports from Malaysia i.e. self-inflicting injury by which the domestic industry is also importing the goods from the alleged company from Malaysia to cater to the domestic demand. It is apparent that the domestic industry is unable to meet the domestic demand.

Article 15.4 of the SCM Agreement, stipulates that the investigating authority shall examine all relevant elements in determining that the subsidised imports have had an adverse effect on the state of their domestic industry.

4. In conclusion, MITI on behalf of the GOM urges the Australian Anti-Dumping Commission to thoroughly and objectively assess the factors causing injury to the domestic industry in Australia. It is hoped that the Commission would ensure that the investigation be conducted in a fair manner consistent with the SCM Agreement as well as Anti-Dumping Agreement.

Thank you.

Yours sincerely,


(NORAZAH ABDUL JABBAR)

Director
Trade Practices Section
for Secretary General
Ministry of International Trade and Industry Malaysia

c.c.

The Australian High Commission

6, Jalan Yap Kwan Seng
Kampung Baru
50450 Kuala Lumpur

High Commission of Malaysia

7 Perth Avenue Yarralumla ACT
2600 Canberra
Australia