

17 January 2022

The Director
Investigations 3
Anti-Dumping Commission
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Public File

Dear Sir/Madam

Investigation No. 582 – Statement of Essential Facts - Clear float glass exported from Malaysia and UAE

I. Background

Oceania Glass Pty Ltd (“Oceania Glass”) welcomes the publication of Statement of Essential Facts No. 582 (“SEF 582”) and the Preliminary Affirmative Determination No. 582 (“PAD 582”) in respect of exports of clear float glass (“CFG”) to Australia from the United Arab Emirates (“UAE”) for all exporters.

Oceania Glass take this opportunity to address certain matters contained in SEF 582.

II. Exports by Xinyi Energy Smart (Malaysia) Sdn Bhd

The Anti-Dumping Commission (“the Commission”) conducted a verification with the Malaysian exporter Xinyi Energy Smart (Malaysia) Sdn Bhd (“Xinyi ESM”). The results of the verification included the Commission accepting Xinyi ESM’s sales data as the basis for normal values on the basis that the Malaysian exporter sold like goods on the Malaysian domestic market.

Oceania Glass has examined the Xinyi ESM verification report (EPR Document No. 017). It is noted that the Commission made a number of adjustments to normal values for Xinyi ESM for the goods exported to Australia, however, the adjustments made relate to the sales process as separate from any differences evident in the physical characteristics of goods sold domestically (versus the exported goods).

Oceania Glass considers that the Commission should have adjusted Xinyi ESM’s normal value to account for physical differences evident in the models sold domestically in Malaysia and the goods exported to Australia. The verification report and SEF 582 are silent as to any physical differences between the goods sold in the respective markets. Further, whilst Xinyi ESM may contend that the

packaging costs incurred for domestic and export sales are the same, this is not the case (see adjustments provided to Emirates Float Glass LCC and Guardian RAK. The packaging costs associated with export sales are higher due to the packaging required to limit damage on transportation to export markets. An upward adjustment to normal values for export packaging costs is therefore required.

Oceania Glass is concerned that the Commission has established a negative 7.2 per cent dumping margin for exports of the goods to Australia by Xinyi ESM that is significantly below the positive dumping margins for UAE exporters. In the causation analysis of SEF 582 it is apparent that Xinyi ESM's selling prices in Australia are similar to the selling prices of Oceania Glass and the two major UAE exporters. Given that the raw materials purchased by CFG manufacturers are essentially at similar pricing levels, it is somewhat complexing given the substantially different dumping margins determined when selling prices in the Australian market do not show material differences.

III. Emirates Float Glass LLC

The Commission's verification of Emirates Float Glass LLC ("EFG") questionnaire response confirms that the exporter manufactured and sold the goods domestically and in the ordinary course of trade. Normal values for EFG were therefore determined under section 269TAC(1).

Oceania Glass is unable to comment on the Commission's findings in relation to the adequacy of information provided by EFG as there is insufficient information in the File note concerning verification (EPR Document No. 018) as to how the exporter has allocated costs for the purposes of determining the cost-to-make-and-sell ("CTMS") for the subject goods.

Oceania Glass acknowledges the Commission's adjustments for differences in packaging costs between domestic and export sales. As with Xinyi ESM above, Oceania Glass considers that it is likely that some adjustments would be required for physical differences between domestic and export sales for the subject goods. Based upon the Commission's analysis it would appear that EFG manufactures identical (or goods closely resembling) for both the domestic and export markets. Oceania Glass would have expected some differences to exist between clear float glass sold domestically versus the exported goods.

IV. Guardian Zoujaj International Float Glass Co., LLC

Oceania Glass is unable to comment on the Commission's findings in relation to the adequacy of information provided by Guardian Zoujaj International Float Glass Co., Inc ("Guardian ZAK") as there is insufficient information in the File note concerning verification (EPR Document No. 018) as to how the exporter has allocated costs for the purposes of determining the CTMS for the subject goods.

As with the treatment of packaging costs for EFG, Oceania Glass agrees that different costs exist for packaging for goods destined to domestic and export markets. Adjustments for packaging costs are therefore warranted.

V. Causation

Oceania Glass concurs with the Commission's analysis that it has suffered injury in the form of price depression and prices suppression impacting profits and profitability in the investigation period. The Commission's analysis contends that the selling prices for CFG from the UAE have undercut Oceania Glass' selling prices resulting in material injury to the Australian industry. Oceania Glass agrees with the Commission's analysis as replicating Oceania Glass' experience in the investigation period.

Oceania Glass therefore does not dispute the Commission's material injury finding involving exports of CFG from the UAE. Oceania Glass does, however, raise with the Commission its concerns about the dumping margin finding for Xinyi ESM that is significantly different to the finding for exporters from the UAE when all exporters encounter similar raw material costs for the manufacture of the subject goods. It is noted that the selling prices for some sales by Xinyi ESM have undercut Oceania Glass' selling prices in the investigation period (although Xinyi ESM's selling prices increased in the second half of the investigation period).

VI. Lesser duty rule

The Commission has calculated the non-injurious price ("NIP") for exporters of CFG from the UAE. Separate non-injurious prices have been determined for EFG, Guardian ZAK and "All other exporters" in the UAE.

The Commission's non-injurious price is based upon Oceania Glass' CTMS in the investigation period uplifted by a level of profit (with the level of profit being that used in Investigation 575¹).

For the purposes of Invest 582, Oceania Glass concurs with the Commission's methodology for the determination of the non-injurious price for the respective UAE exporter categories.

VII. Form of Measures

The Commission has indicated at Paragraph 12.1 that it proposes to recommend to the Minister for Industry, Science and Technology ("the Minister") that the anti-dumping measures be applied based upon the *ad valorem* duty method.

The *ad valorem* method is applied to the actual export price for shipments as declared by the exporter based upon the calculated non-injurious price margin assessed for each exporter. The Commission has published the "Effective IDD rates" to apply in Table 15 of SEF 582. The Commission is proposing to recommend measures based upon the *ad valorem* method as these are *"the simplest and easiest form of duty to administer"*.

¹ The level of profit used by the Commission is that achieved by Oceania Glass in the 2017 and 2018 years.

Oceania Glass does not support the selection of the form of duty to be applied based upon the ease at which it can be administered. It is Oceania Glass' view that the form of duty to be applied should be the method that provides the injured industry with the most effective relief from the injurious dumping.

Oceania Glass does not support the proposed recommendation to the Minister that the measures to be applied be based upon the *ad valorem* duty method. Measures applied on this basis permit the exporter to reduce export prices to absorb the impact of the duty – hence rendering the duty ineffective. This is particularly the case where the effective rate of duty to be applied is low (i.e. for Guardian ZAK exports of CFG).

Oceania Glass recommends that the appropriate form of duty to be applied is that based upon the **combination method** – that is, a fixed margin of dumping (i.e. the effective IDD rate) that includes a floor price. Where the exporter reduces the export price below the determined floor price a variable amount of duty is also applied (in addition to the fixed duty component) by the amount the actual export price is below the floor price.

VIII. Conclusions

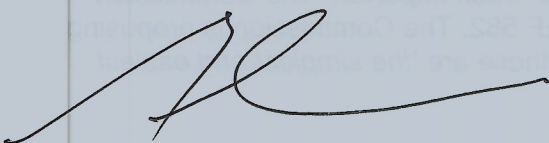
Oceania Glass welcomes the preliminary findings concerning exports of CFG to Australia from the UAE as contained in SEF 582. Oceania Glass further supports the imposition of provisional measures on exports of CFG to Australia from all UAE exporters of CFG to Australia.

Oceania Glass is concerned by the negative dumping margin finding in respect of exports to Australia by the Malaysian exporter Xinyi ESM. It would be expected that similar dumping margins for Xinyi ESM would be determined given the similar selling prices in the Australian market for Xinyi ESM and exporters from the UAE.

Oceania Glass does not support the proposed recommendation that measures be applied to exports from the UAE on an *ad valorem* basis. *Ad valorem* duties are able to be absorbed by exporters reducing the export price thereby reducing the effectiveness and intent of the measures. Oceania Glass submits that measures based upon the combination method are more effective in removing in the effects of injurious dumping that measures based upon the *ad valorem* method.

If you have any questions concerning this submission, please do not hesitate to contact me.

Yours sincerely,



Anthony Alembakis
Chief Financial Officer