

For publication

Investigations 3
Anti-Dumping Commission
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Dear Case Manager

Investigation – Dumping and Subsidisation: Clear Float Glass exported to Australia from Malaysia and the United Arab Emirates – Case No. 582

1. We act for Guardian Zoujaj International Float Glass Co. LLC (**Guardian RAK**) and refer to the Anti-Dumping Commission (**ADC**) investigation into certain clear float glass (**CFG**) products exported to Australia from Malaysia and the United Arab Emirates (**UAE**) following an application lodged by Oceania Glass Pty Ltd (**Applicant**).
2. For the purposes of this supplementary submission, we refer to:
 - (a) *Guardian RAK's submission dated 17 January 2022* - those submissions raised concerns about the injury allegedly suffered by the Applicant, as well as absence of any causal link between that alleged injury and the dumping of CFG;
 - (b) *the ADC's email dated 19 January 2022* - this email requested the Applicant to provide further information regarding its import price-parity model and its price setting mechanism; and
 - (c) *the Applicant's supplementary submission dated 24 January 2022* - which supplementary submission sought to respond to the ADC's questions.
3. Guardian RAK expresses its concern about the Applicant's response to the ADC in its supplementary submission, and makes the following observations:
 - (a) *First*, the Applicant's response to Question (i) does not directly engage with the questions raised by the ADC, in that:
 - (i) it did not address the "*customer specific price determination process*";
 - (ii) it did not provide any evidence (as required by the ADC) that the Applicant uses more than one country in its import price-parity model; and
 - (iii) it did not explain how the import price-parity model was "*factored into specific pricing negotiations*", other than the vague assertion that it engages in "*monitoring import prices*" and thereby "*is able to offer prices that are competitive with imports*".

The existence and content of the Applicant's import price-parity model was the predominant reason why the ADC was preliminarily satisfied that the Applicant had suffered material injury in the form of price suppression. The Applicant's inability to squarely answer the ADC's questions and articulate its price setting mechanism supports the conclusions urged by Guardian RAK in its submission of 17 January

2022 - namely that the Applicant has not demonstrated that it suffered either *material injury* nor *material injury caused by dumped imports* of CFG from the UAE.

- (b) *Second*, the Applicant itself admits that "*It is Oceania Glass' assessment that its prices were above import prices across the investigation period*". This statement alone is sufficient to create doubt regarding the material injury allegedly suffered by the Applicant. This admission suggests that the Applicant is not a price taker and the Applicant is able to demand prices that are above its (imported) competition.

This conclusion is fortified by the fact that the Applicant has raised its prices three times since the conclusion of the investigation period - the first of which occurred the day immediately following the investigation period. The admission and the subsequent facts also affects certain critical findings made by the ADC - e.g. at SEF p. 71 where it was said: "*Although Oceania Glass had the advantage of being the only domestic supplier, it was unable to raise its prices due to the presence of dumped exports from the UAE*" (our emphasis).

- (c) *Third*, the Applicant's response to Question (ii) does not directly engage with the questions raised by the ADC concerning the three price increases which occurred after the end of the investigation (which we note amounted to price increases of at least [REDACTED]), in that:

- (i) it did not explain how "*these price increases [were] determined*" (nor why the timing of those increases were conveniently made after the investigation period);
- (ii) although the Applicant stated that "*it has not been able to raise prices to recover all production cost increases*":
- A. no evidence was provided to support that assertion;
- B. that is a dubious proposition given that the magnitude of the Applicant's price increases have been substantial;
- C. that assertion is question-begging as it is not known whether the increase in production costs is due to other factors (e.g. labour shortages due to COVID-19 or production inefficiencies etc.); and
- (iii) it did not expressly articulate the relationship between its pricing increases and any "*consideration of competitor pricing*". This evasive response again further suggests that any injury suffered by the Applicant injury was not *caused* by the dumping of goods from the UAE.

4. Accordingly, for the reasons stated above and for the reasons contained in its previous submission of 17 January 2022, Guardian RAK urges the ADC to:

- (a) recommend that the Minister impose no dumping duty in respect of CFG exported by Guardian RAK from the UAE; and
- (b) the preliminary affirmative determination made on 14 December 2021 be immediately ceased.

Yours sincerely



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