A-TECH AUSTRALIA PTY LTD

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A-TECH/AKJ SUBMISSION NO. 3

CHALLENGE TO THE COMMISSIONER'S FINDINGS ON TECHNICAL SUBSTITUTABILITY, CLASS 2+ COMPETITION AND CAUSATION

SUBMISSION – In response to Statement of Essential Facts No. 691

Countries Involved: Australia and China

Submitted by

A-Tech Australia Pty Ltd
Guangdong AKJ Façade and Architecture Co., Ltd

LODGEMENT DETAILS

To:
The Director – Investigations 1
Anti-Dumping Commission
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Submitted by:
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1. Goods within one description are not automatically commercially substitutable

The preliminary analysis treats broad categories of aluminium windows and doors as competing goods across multiple building classes and market segments. That conclusion cannot safely establish competition on complex Class 2+ projects.

A-Tech/AKJ supplies bespoke engineered façade and window systems. For these projects, the commercial product is not simply aluminium, glass and hardware. It is an engineered system required to satisfy a particular architectural opening, structural requirement, weather-performance requirement, glazing specification, acoustic requirement, thermal requirement, interface condition, construction methodology and programme.

2. Building class does not establish capability

A statement that a manufacturer supplies products for Classes 1–9 does not establish that it possesses a technically substitutable system for every project within those classes.

> **Could that manufacturer supply the actual system required for the actual project at the relevant time?**

3. Project-specific technical substitutability

For each material Class 2+ project relied upon in the injury findings, the Commission should establish the Australian system actually available and compare it with the imported system actually purchased.

- complete system configuration and tested dimensions;
- frame depth, mullions, transoms and operable configuration;
- structural serviceability and ultimate structural performance;
- air infiltration and water penetration;
- glazing, thermal and acoustic performance;
- hardware, anchors, subframes and façade/slab interfaces;
- installation methodology;
- AS 2047 evidence;
- AS/NZS 4284 evidence where applicable;
- engineering and manufacturing capability;
- project capacity; and
- construction programme.

> **A system that cannot satisfy the project specification is not a commercial substitute for the system that was purchased.**

4. Common materials do not establish substitutability

Two systems may both contain aluminium and glass while having materially different engineering, performance, tested limitations and project applications. The use of similar raw materials or manufacturing processes cannot replace the project-level technical analysis.

5. Causation

Section 269TAE requires alternative causes of injury to be considered and prevents injury caused by other factors from being attributed to the relevant exports. The determination must be based on facts, not merely allegations, conjecture or remote possibilities.

Where an Australian manufacturer could not satisfy the project specification, price cannot logically be the cause of that manufacturer's failure to win the project. The same applies where the decisive issue was testing, engineering, manufacturing capability, capacity, project programme, product configuration or another non-price requirement.

6. Required analysis

PROJECT REQUIREMENTS → AUSTRALIAN SYSTEM ACTUALLY AVAILABLE → TECHNICAL COMPLIANCE → IMPORTED SYSTEM → ACTUAL SUBSTITUTABILITY → ACTUAL TENDER COMPETITION → REASON FOR PROJECT OUTCOME → CAUSATION

Without that chain, a broad conclusion that the products compete does not establish that dumping caused the relevant project loss.

A-TECH

Signed:

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