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A-TECH/AKJ SUBMISSION NO. 7

AMJ — HISTORICAL MARKET PARTICIPATION, SEGMENTATION AND ACTUAL COMPETITIVE OVERLAP

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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1. Actual historical participation provides an objective market test

The Commission's broad market conclusion should be tested against the actual historical business undertaken by the relevant manufacturers.

A-Tech/AKJ's position is that approximately 90% of AMJ's Australian activity during and before the investigation period was Class 1/conventional residential work.

If AMJ is relied upon as demonstrating broad competition across the market, the Commission should test that proposition against AMJ's actual historical project records.

2. The challenge

The Commission should identify every substantial AMJ Australian project during and before the investigation period involving major Class 2 developments, high-rise residential, substantial multi-building developments, complex engineered façade packages or substantial bespoke Class 2+ window packages.

> **Project → building class → value → system → technical requirements → testing → tender date → tender participants → outcome.**

3. Actual participation is more probative than theoretical capability

The question is not whether AMJ could theoretically manufacture a product. The question is what market it actually participated in.

A business substantially engaged in conventional residential windows does not automatically establish actual competitive overlap with businesses substantially engaged in complex engineered Class 2+ façade/window packages merely because both fall within a broad goods description.

4. Market characteristics

Complex Class 2+ work can differ materially in system architecture, engineering, testing, procurement, project scale, purchasers, risk, programme, manufacturing, installation, acoustic performance, thermal performance, weather performance and façade interfaces.

Those differences must be considered when determining actual competition and causation.

5. Statutory causation

Section 269TAE requires alternative causes to be considered and the determination to be based on facts. Actual historical tender participation provides objective evidence of whether AMJ and complex Class 2+ suppliers occupied materially overlapping competitive markets.

6. No dumping-margin comparison

This submission makes no argument concerning AMJ's dumping margin and makes no comparison between AMJ's margin and AKJ's preliminary margin.

> **The issue is exclusively market participation, segmentation and actual competitive overlap.**

7. Required determination

If the Commission maintains that AMJ demonstrates broad competition with complex bespoke Class 2+ suppliers, the final report should identify the substantial historical projects supporting that conclusion.

If the records instead demonstrate that AMJ's Australian business was overwhelmingly concentrated in conventional residential work, the Commission's market and causation analysis should reflect that fact.

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