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MINISTRY OF COMMERCE OF THE PEOPLE'S REPUBLIC OF CHINA

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Non-Confidential

Comments on the Alleged Particular Market Situation in the Anti-dumping Investigation Concerning Glass Containers Originating in the People's Republic of China

Submission of the GOC

The Government of the People's Republic of China (GOC) has taken note of the allegations made by the applicant in the present proceeding concerning the existence of a so-called "particular market situation"(PMS) in the Chinese glass container industry. Upon careful examination, the GOC finds that the evidence relied upon by the applicant is outdated, fails to reflect the actual and current state of the Chinese economy, lacks direct and specific proof, misrepresents the operation of China's economy, and misapplies the legal criteria for a "particular market situation" under the applicable regulations. The GOC hereby submits the following comments and respectfully requests the TRA to reject the applicant's claims in accordance with the WTO rules.

1. China has undertaken Market-Oriented Economic Reforms in recent years, with the market playing a decisive role in resource allocation

Since its accession to the World Trade Organization (WTO) in 2001, China's market economy status was explicitly recognised by relevant Members. Over the past decades, China has pursued steady market-oriented reforms adapted to its national circumstances, gradually building and improving a modern market-based economic system. These reforms have yielded widely recognized results: the market now plays a decisive role in resource allocation, the government's functions have become more clearly defined, economic dynamism has increased, productivity has steadily improved, and living standards have risen significantly. Importantly, all types of market entities, under the law, enjoy equal access to factors of production and participate in fair market

competition. Prices of factors of production are determined by market supply and demand.

2. Investigations and determinations on PMS should be in accordance with the WTO rules.

Without prejudice to the above, the GOC submits that the investigations and determinations on PMS should be in accordance with the WTO rules.

Article 2.2 of the Anti - Dumping Agreement (ADA) addresses the treatment of a particular market situation (PMS) as follows:

“[.....] when, because of the particular market situation ,....., such sales do not permit a proper comparison, the margin of dumping shall be determined by comparison with a comparable price of the like product when exported to an appropriate third country,, or with the cost of production in the country of origin plus a reasonable amount for administrative, selling and general costs and for profits.” The ADA makes it clear that a mere finding of the existence of a particular market situation by the investigating authority is not sufficient to disregard domestic sales prices in the determination of the normal value. For domestic sales to be set aside, the particular market situation must be such that it does not permit a proper comparison between domestic prices and export prices for the purpose of establishing the dumping margin.

PMS under Article 2.2 has been interpreted by Panel in *Australia — Anti-Dumping Measures on Paper*. The Panel found that a "particular market situation" is only relevant insofar as it has the effect of rendering domestic sales unfit to permit a proper comparison.¹ As to how to determine whether domestic prices permitted a proper comparison with export prices, the Panel in that case made it clear that the investigating authority was “obligated to assess the effect of the particular market situation on the domestic price in relation to the effect on the export price”², and “obligated to undertake the necessary additional examination to determine whether, because of the particular market situation, the domestic sales of the individual exporters do not permit a proper comparison of the domestic prices and the export prices”³. “If domestic sales do permit a proper comparison, then they cannot be disregarded as the basis for normal value, regardless of the existence of the particular market situation and its effects, whatever those may be.”⁴ The Panel states that in such an exercise by the investigating authority, a fact-specific and case-by-case analysis of the particular market situation is necessarily called for.

The TRA’s guidance further provides that prices that are artificially low or reflect non-commercial factors may indicate a particular market situation, but the TRA must consider whether there is sufficient evidence that the alleged intervention has materially affected domestic sales prices so that they no longer permit a proper comparison with export prices. The Applicant has not met this standard, the application primarily relies on findings from previous TRA investigations (e.g., AD0012 – aluminium extrusions, AD0021 – single-mode optical fibre cables) and the European Commission’s 2024 working document, attempting to extrapolate conclusions from other industries to the

¹ Panel Report, *Australia — Anti-Dumping Measures on Paper*, para. 7.21.

² Panel Report, *Australia — Anti-Dumping Measures on Paper*, para. 7.90.

³ Panel Report, *Australia — Anti-Dumping Measures on Paper*, para. 7.89. (emphasis added)

⁴ Panel Report, *Australia — Anti-Dumping Measures on Paper*, para. 7.27.

glass container industry. Its allegations are based mainly on general descriptions of China's economic system, findings made in other sectors, and broad references to land, energy, raw materials, labour and financing. Much of the evidence cited by the applicant – including findings and reports – predates the period of investigation in this case, and some of it is more than ten years ago. These materials do not demonstrate that the alleged factors affected the prices or costs of glass containers produced in China during the period of investigation. Nor do they show that any alleged effect made domestic sales prices unsuitable for comparison.

GOC submits that the application in the current investigation does not provide evidences substantiating the existence of the alleged PMS and that the price comparability is not permitted. Such evidence cannot reflect the current situation of the Chinese economy and the glass container industry. The TRA should apply prudent methodology in examining the price comparability and the alleged PMS, and it should consider case-specific situation and evidences in its examination.

3. The Chinese glass container industry is highly market-oriented, and there is no industry-wide non-commercial intervention

The Chinese glass container industry is predominantly composed of small-to-medium sized private enterprises. There is no direct government intervention in the production, operation or pricing decisions of enterprises. Capacity expansion, product pricing and market competition are all determined by enterprises autonomously, with prices moving dynamically in response to international and domestic supply and demand conditions.

The applicant misinterprets China's industrial planning policies as government intervention in the market and distortion of prices. The GOC wishes to clarify that, China's five-year plans and programs, "guidance", "policies"... etc. merely provide macro-level direction and forward-looking guidance, and therefore do not have binding force and do not intervene in enterprise pricing. Under the framework of these plans, all types of market entities operate independently and compete fairly.

Such strategic and visionary policy documents are widely available in countries around the world. For example, UK has released the white paper "Industrial Strategy - Building a Britain fit for the future" in November 2017, and later in 2025 the UK's Modern Industrial Strategy and the UK's Trade Strategy. These UK government plans or strategies generally have similar, if not the same, nature, purpose as the 14th and 15th Five-Year Plan of China. For example, in the Foreword of the UK's Modern Industrial Strategy, it provides that the Modern Industrial Strategy "represents nothing less than a whole-government effort, with ambitious plans for eight high growth sectors". Moreover, the document specifies that the UK will support frontier industries, including "Advanced Manufacturing", by prioritizing "frontier manufacturing industries with the greatest growth potential"⁵, partnering with industry to implement the Plan, reducing electricity costs for the energy-intensive manufacturer⁶, committing up to £4.3 billion in funding for the Advanced Manufacturing sector, including up to 2.8 billion in R&D funding programmes over the next 5 years⁷.

Since these UK's policy documents, which clearly identify concrete plans and financial

⁵ The UK's Modern Industrial Strategy, p.118.

⁶ The UK's Modern Industrial Strategy, p.119.

⁷ Ibid.

support to boost certain industries, are not regarded by the UK government as non-market factors in the industry that would distort the market but a legitimate and justifiable means to address economic challenges, the GOC requests the TRA, as part of the UK government agencies, to consistently and objectively apply the same evaluation criteria and approach on China's Five-Year Plan and other similar policy documents.

4. Prices of factors of production in the Chinese glass container industry are determined by market supply and demand, without “non-commercial factor distortion”.

4.1 Land

China has established a transparent, competitive, and orderly market for transactions in land use rights. The price of land use rights is influenced by multiple factors, including geographic location, supply and demand conditions, and land area, among others.

According to Article 18 of the Regulation on the Implementation of the Land Administration Law and Article 10 of the Provisions on the Assignment of the Right to Use State-owned Construction Land by Means of Tender, Auction and Listing, land use rights in China must be publicly traded on the market through bidding, auction, or listing in accordance with the law. The Provisions on the Assignment of the Right to Use State-owned Construction Land by Means of Tender, Auction and Listing also details the specific procedures for the bidding, auction, or listing of land use rights. It can be seen that China has established a standardized, transparent, and competitively orderly market for land use rights transactions. Land use rights are auctioned, bid, or listed for sale, with the base price being reasonably assessed. The final transaction price is influenced by market factors and supply and demand dynamics.

4.2 Electricity

China has been implementing market-oriented reforms in the electricity sector. In 2021, the National Development and Reform Commission (“NDRC”) issued the “Notice of NDRC on Further Deepening the Market-oriented Reform of On-Grid Electricity Price for Coal-fired Power Generation”, further deepening the market-oriented reform of coal-fired power generation on-grid prices, which called for industrial and commercial users to enter the electricity market, to purchase electricity according to the market price, and cancel the catalogue sales prices for such users. According to the abovementioned notice, all industrial and commercial users should enter the electricity market, and purchase electricity according to the market price. Overall, the Chinese Government do not participate in, or interfere with, the signing of power-purchase contracts and negotiated power-purchase prices between industrial and commercial electricity users and power-selling enterprises. China's electricity sector includes market-based pricing and trading mechanisms, and that electricity prices for industrial users are not necessarily determined by non-commercial factors.

4.3 Natural gas

China has been promoting market-oriented reform in non-residential natural gas pricing. In 2015, the NDRC changed non-residential gas pricing from maximum city-gate price management to benchmark city-gate price management, allowing suppliers and users to

negotiate the specific city-gate price within a prescribed range⁸. The China Natural Gas Development Report (2025) further states that market-oriented city-gate pricing has made significant progress, and that most gas sources have implemented market-based pricing. The above demonstrate that China's non-residential natural gas pricing includes market-based negotiation and pricing mechanisms.

4.4 Raw Materials

Raw materials for glass production – including limestone, silica sand and soda ash – are traded in fully competitive markets, with prices fluctuating in response to international commodity prices and domestic supply and demand. Mineral licensing, resource administration and environmental regulation are common regulatory features and cannot be equated with government control over downstream purchase prices. The relevant PRC laws and regulations, including The Mineral Resources Law of the People's Republic of China, also provide for paid and competitive mechanisms for obtaining mining rights.

Soda ash is a widely traded industrial chemical supplied by multiple producers and traders, and purchasers may source from different suppliers based on price, quality, delivery terms and supply stability. The price of soda ash is therefore affected by ordinary market factors rather than being determined solely by the ownership background of certain producers. Increased production capacity or supply, by itself, do not demonstrate that soda ash prices are affected by non-commercial factors. Changes in capacity, output, inventory and supply conditions are ordinary market factors that may affect price movements. A decrease in price resulting from increased supply does not, without more, establish that the price is artificially low or non-commercial.

4.5 Labour costs

Labour costs in the Chinese glass container industry are formed under ordinary labour market conditions. Chinese labour laws – including the Labour Law, the Labour Contract Law – explicitly provide for the lawful rights and interests of workers. China has a large and mobile labour market. According to the official policy interpretation of the 2024 Opinion on Further Strengthening Services and Support for Migrant Workers, the total number of migrant workers in China reached approximately 297.5 million in 2023, and household registration restrictions in small and medium-sized cities have been substantially relaxed. From an empirical perspective, average manufacturing wages in China have continuously increased over the past decade, at a growth rate exceeding that of most comparable economies for much of this period. The upward trend in labour costs suggests that the labour market is driven by supply and demand. If wages were artificially suppressed as the applicant alleges, enterprises would be able to consistently access labour at below-market costs – a proposition contradicted by the objective fact of year-on-year wage growth. Chinese enterprises face increasingly intense competition for labour, and labour costs have become a major factor in business decisions. These facts show substantial labour mobility and do not support the view that the hukou system prevents labour costs from being formed under normal labour market conditions.

4.6 Bank loans

The loans granted by China's commercial banks are based on commercial principles and

⁸ Notice on Reducing Non-residential City-gate Natural Gas Prices and Further Promoting Market-oriented Price Reform

market conditions. The GOC has long been promoting market-oriented reforms of commercial banks, leading to increasingly improved governance structures of commercial banks and significantly enhanced risk management capabilities.

The operations of Chinese financial institutions primarily adhere to the Commercial Banking Law. Article 4 of the Commercial Banking Law establishes foundational regulations for the operation of Chinese commercial banks. Commercial banks operate on the principles of safety, liquidity, and profitability, conducting autonomous operations, assuming risks, bearing profits and losses, and self-regulating. Commercial banks are free from interference by any organization or individual, there is no external body (e.g. government departments, local councils) involved in the loan decisions.

5. Conclusion.

China has established a market economy in which market forces play a decisive role in resource allocation. All types of market entities enjoy equal access to factors of production and participate in fair market competition. The available facts show that the relevant costs, including land, electricity, natural gas, raw materials, labour and financing, are determined through normal commercial practices. The Applicant has failed to show that any alleged intervention materially affected domestic sales prices or prevented a proper comparison with export prices. Accordingly, the TRA is not justified in accepting the Applicant's particular market situation allegations and should not disregard Chinese domestic sales prices or the actual cost records of the Chinese producers on that basis.

GOC requests the TRA to reject the applicant's claim of a particular market situation, conduct the investigation in accordance with UK's WTO obligations, use Chinese domestic sales prices or the actual cost records of the Chinese producers on that basis and make determinations based on evidences and objective examinations.