



BEFORE THE
COMPETITION COMMISSION OF PAKISTAN

PHASE II REVIEW

IN THE MATTER OF JOINT VENTURE BETWEEN M/S. TARIQ
GLASS INDUSTRIES LIMITED AND M/S. ICI PAKISTAN LIMITED.

CASE: 1268/Merger-CCP/22

Date of Hearing

16 May 2022

Commission

Ms. Rahat Kaunain Hassan
Chairperson

Mr. Mujtaba Ahmad Lodhi
Member

ML

On Behalf of:
Tariq Glass Industries Limited

Mr. Mohammad Baig (Deputy Managing
Director)

Mr. Waqar Ullah (Asst. Managing
Director (Finance))

Mr. Mohsin Ali – (Company Secretary)

Mr. Rashid Sadiq (Partner RS Corporate
Advisory Legal Counsel – through video
link)

Mr. Asif Jooma (Chief Executive Officer
– through video link)

Mr. Eqan Ali Khan (GM)

Ms. Laila Bhatia Bawany (General
Counsel and Company Secretary)

Mr. Umair R. Vadaria (Partner- Pinjani &
Vadaria)



ORDER

1. The Competition Commission of Pakistan (the "**Commission**") is mandated under the Competition Act, 2010 (the "**Act**") read with the Rules and Regulations framed thereunder, to ensure free competition in all spheres of commercial and economic activity, to enhance economic efficiency, protect consumers and related market players from anticompetitive behavior including abuse of dominance, deceptive marketing practices and mergers which may substantially lessen competition.
2. An Order concluding the Phase I Review was passed by the Commission on 28th April, 2022 ("**Phase I Order**"), thereby initiating a Phase II review in the instant matter ("**Phase II Review**"). This Order concludes the Phase II Review of the pre-merger application in the matter of the proposed creation of a joint venture company ("**JVCO**") by M/s. Tariq Glass Industries Limited ("**TGL**" or "**JV Partner 1**") and M/s. ICI Pakistan Limited ("**ICI**" or "**JV Partner 2**") (collectively referred to as the "**JV Partners**").

A. Background

3. On 4th March, 2022, Mergers and Acquisitions Department of the Commission received a pre-merger application (the "**Application**") submitted jointly by M/s. Tariq Glass Industries Limited and M/s. ICI Pakistan Limited concerning their intention of creating a JVCO pursuant to Section 11 of the Act read with Regulation 6 of the Competition (Merger Control) Regulations, 2016 ("**Merger Regulations**") in accordance with the provisions of the Joint Venture and Shareholders Agreement dated 18th February 2022 (the "**Agreement**"). The requisite information was completed on 08th April 2022 and, consequently, the Phase I Order was issued on 28th April, 2022, wherein, the Commission observed that there were concerns regarding the joint venture's compatibility with the Competition Law. Accordingly, a Phase II Review was initiated under Section 11 (6) of the Act.

B. PARTIES

4. The parties involved in the transaction are as follows:
 - i. JV Partner 1/TGL
 - ii. JV Partner 2/ICI

JV Partner 1/TGL

5. TGL is a public listed company incorporated under the laws of the Islamic Republic of Pakistan on September 04th, 1978 having registration number 0006434¹. Its registered office is located at 128-J, Model Town, Lahore.



Securities and Exchange Commission of Pakistan (SECP) website

[Handwritten signature]
[Handwritten initials]

6. It is a premier glass manufacturer in Pakistan that distributes and exports float glass, tableware, container ware and opal glass under the brand names Tariq Float Glass, Toyo Nasic, Omroc, Nova, Gemware and Rockware. As per the audited annual accounts for the year ended June 30, 2021, JV Partner 1/TGL's total assets were valued at PKR _____ and revenue was PKR _____.
7. JV Partner 1/TGL's Board of Directors list is as follows:
- Omer Baig
 - Mansoor Irfani
 - Muhammad Baig
 - Muhammad Ibrar Khan
 - Rubina Nayyar
 - Faiz Muhammad
 - Saad Iqbal

JV Partner 2/ICI

8. JV Partner 2/ICI is a public listed company incorporated under the laws of the Islamic Republic of Pakistan on May 13th, 1952 having registration number 0000535². The registered head office of the company is located at ICI House, 5 West Wharf, Karachi.
9. It is involved in the business of polyester staple fibre, soda ash, chemicals, pharmaceuticals, nutraceuticals, animal health products and agri-sciences. As per the audited annual accounts for the year ended June 30, 2021, JV Partner 2's total assets were valued at PKR _____ and turnover was PKR _____.
10. JV Partner 2's Board of Directors list is as follows:
- Muhammad Sohail Tabba
 - Muhammad Ali Tabba
 - Amina Abdul Aziz Bawany
 - Jawed Yunus Tabba
 - Asif Jooma
 - Khawaja Iqbal Hassan
 - Syed Muhammad Shabbar Zaidi
 - Muhammad Abid Ganatra

C. TRANSACTION

11. As briefly stated above, both JV Partners intend to form the JVCO, which shall be incorporated as a private limited company and operate a float glass manufacturing facility having a total production capacity of up to _____ tons per day. As per the agreement, the total cost of the project is estimated to be PKR _____, which will be funded through equity and debt in equal proportions.



JM
MC

12. The paid up share capital of the JVCO shall be held by the JV Partners as illustrated in the following table:

Equity sharing in JVCO	
Parties	Post-Transaction
JV Partner 1/TGL	--%
JV Partner 2/ICI	--%
Total	100%

Source: Application

D. PHASE I ORDER

13. On the basis of information presented before a two-Member Bench of the Commission, the Commission issued the Phase I Order, under Section 11(5) read with Section 31 of the Act, wherein the relevant product market in this case was identified as “**Float Glass**” while the relevant geographic market was Pakistan (the “**Relevant Market**”).
14. Moreover, the Phase I Review revealed the following facts that:
- a. There already exists a vertical relationship between the JV Partners as ICI/JV Partner 2 provides Soda Ash to TGL/JV Partner 1 for the production of Float Glass.
 - b. As per the concerned undertakings’ submissions, the market share of TGL/JV Partner 1, on the basis of value, is estimated to be %, whereas, market share of its only competitor, Ghani Glass Limited (“**GGL**”) is estimated to be %. ICI/JV Partner 2 is also a dominant undertaking in the Soda Ash market with an estimated market share of % (whereas, its major competitor M/s. Olympia Chemicals (Private) Limited (“**Olympia Chemicals**”) has an estimated market share of %).
 - c. Post-transaction, after the commencement of the business by the JVCO, its estimated market share is expected to be %.
15. It was further determined that the proposed transaction is likely to directly and indirectly strengthen the JV Partners’ dominance in the Relevant Market and the related Soda Ash market, hence, it required a more detailed assessment and the Phase II Review was initiated.



ML

E. Correspondence with the Merger Parties during the Phase II Review

16. On 29th April 2022, after the issuance of the Phase I Order, a letter was sent to the JV Partners in order to assess the in-depth impact of the intended transaction on float glass and soda ash in Pakistan. Information requested was as follows:
- Why is there a disparity between information sought through the letter dated 29th March 2022 and the Application regarding the market shares of TGL and its competitor(s) in terms of volume?
 - Is there substitutability for the relevant product market, i.e., float glass?
 - How important is Soda Ash in the production of float glass and can the same be produced without using Soda Ash? Does Soda Ash have any substitutes?
 - Kindly specify the percentage of Soda Ash used in TGL's float glass production and, as per TGL's letter dated 7 April 2022, how much Soda Ash is supplied by ICI to TGL out of the approx. % used in the glass market.
 - What are the barriers for the availability of Soda Ash through imports? Kindly provide details of the past 5 years on the number of times TGL has sourced Soda Ash from other sources/suppliers apart from ICI.
 - Kindly share the basis of the estimated share in the market for the JVCO (approx. % as per the application).
17. On 12th May, 2022, ICI vide its letter submitted that:
- There is no disparity between the information provided through its letter dated 29th March 2022 and the Application concerning the market share figures. The estimated figures were based on the estimates of packed production (saleable production) as follows:

<i>For the FY 2020-2021</i>	<i>Float Glass (Metric Tons)</i>
<i>TGL (www.tariqglass.com)</i>	
<i>Ghani Glass Limited (www.ghaniglass.com)</i>	
<i>Total</i>	

However, it was clarified that pursuant to the meeting with the concerned representatives/department of the Commission held on 29th March 2022, as requested, the parties shared the market share figures based on "the production



[Handwritten signature]
M.C.

capacities of both the local manufacturers based on their existing installed capacities and market share for FY 2020-2021 and for the six months' period from July-2021 to December-2021."

Therefore, the market share of TGL in float glass during the FY-2020-2021 and period from July-December 2021 was as under [source: TGL published financial statements and internal source]:

TGL	For the FY 2020-2021	For the Six Months Period from July-2021 to Dec-2021
<i>Float Glass Local Sales</i>	Rs.	Rs.
<i>Installed Production Capacity</i>

The market share of GHGL during the FY 2020-2021 and period from July-December 2021 was as under [source: GHGL's published financial statements and website]:

GHGL	For the FY 2020-2021	For the Six Months Period from July-2021 to Dec-2021
<i>Float Glass Local Sales</i>	Rs.	Rs.
<i>Installed Production Capacity</i> Tons Tons

It was also clarified that the "installed capacity of a plant does not translate entirely into saleable product. The production depends upon the thickness of glass which ranges from 2, to 12 mm. A glass manufacturer producing multiple thicknesses cannot achieve 100% production equivalent to its installed capacity."

Direct substitutes of float glass are sheet glass and figured glass. However, acrylic sheeting and plastic can also be categorized as the indirect substitutes of float glass.

Soda Ash is used as a catalyst in the manufacture of float glass as it reduces the melting temperature of silica sand (the basic raw material of glass). It reduces



ML.

the use of energy and CO₂ emissions, making manufacturing more cost effective and environmentally friendly. Potash (Potassium carbonate) can be used instead of Soda Ash as a substitute for the manufacturing of float glass.

- d. In terms of percentage of Soda Ash used to manufacture float glass, volumetrically _____ % of Soda Ash will be used to manufacture a batch of 1,000 kg.

During the FY 2020-2021, ICI Domestic Soda Ash Market Sales volume were _____ metric tons, with sales to glass manufacturers representing _____ % of the total sales i.e., _____ metric tons. Out of the _____ metric tons, sales to TGL and GHGL (the "Float Glass Players") were _____ metric tons while sales to other segments of glass was _____ metric tons.

Amongst the Float Glass Players, _____ metric tons sold to GHGL and _____ metric tons was sold to TGL. It may be pertinent to mention that the quantity of Soda Ash purchased by GHGL from ICI reduced in FY 2020-2021, as GHGL's Soda Ash requirements were being met through a combination of local purchase and imports as well closure of one of their float glass furnaces for major repairs. The purchase data for the previous years is as follows:

Metric Tons	2018-2019	2019-2020	2020-2021	2021-22 (Est.)
GHGL SodaAsh Purchase from ICI			1	
GHGL Soda Ash Imports				

Of the 49,097 metric tons purchased by TGL, 32,543 metric tons were utilized for the production of float glass during FY 2020-2021. The remaining quantity was used for tableware and container glass manufacturing.

- e. Soda Ash is available in the international market for import into Pakistan from multiple sources. There are no barriers to imports of Soda Ash into the country and it can be freely imported. This is apparent from the volume of soda ash imported by GHGL in the last few years.

There are applicable duties and taxes related to imports of Soda Ash into Pakistan including Customers Duty @ 11% and Additional Customs Duty @ _____% (apart from other adjustable taxes like sales tax, income tax etc.)



M. J. A.

Quality of Soda Ash, in particular low iron content, is important for glass production. TGL is particular about the quantity of its float glass and tableware production, hence, only those raw materials are sourced which meet high quality standards/specifications.

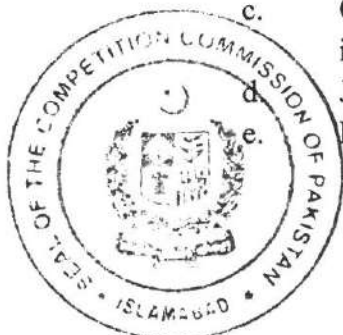
TGL has been purchasing Soda Ash (Dense) from ICI Pakistan since inception in 1982 based on competitive pricing, high product quality and consistency of supply. The other sources of supply available to TGL are M/s Olympia Chemicals Limited and imports, however due to the afore-stated reasons, TGL has not sourced Soda Ash from any vendor other than ICI Pakistan.

- f. *The total projected local market consumption of float glass in the FY 2025 is _____ metric tons, out of which the joint venture company ('JVCO') would be able to contribute _____ tons. It is therefore, estimated to have market share of 11% in the domestic market in the first full year of commercial production.*
- g. *It was further reiterated that "there is a growing demand for float glass in the local market, which is expected to exceed supply in the upcoming years. Increased demand of locally produced float glass for use in Pakistan is driven by modern design, increased vertical construction and high urbanization rate in the country. This creates an opportunity for a new local entrant in the industry. The JVCO will cater to such local demand making a positive contribution to the economy of Pakistan through import substitution, thereby, contributing positively to Pakistan's balance of payments.*

The market share of TGL will also reduce in the float glass market with the entry of the JVCO thus diluting its market share. It is pertinent to note that the JVCO will also be competing with the current Float Glass players for market share on an arm's length basis and both members of the JVCO, being listed companies, will continue to remain bound by the highest standards of governance applicable to listed companies in Pakistan."

18. On 16th May 2022, after the Hearing (see Part F below), the Bench ordered the parties to submit certain information in order to assess the in-depth impact of the intended transaction. Information requested was as follows:

- a. Segment wise consumption or use of float glass in Pakistan.
b. Packed production and installed capacities of float glass.
c. Cost of soda ash in the production of float glass for the last two years with intervals of 6 months along with the composition.
d. Justification of JVCO's market share.
e. Disclosure of material information to PSX.



ML

- f. What prices are being offered to TGL and M/s. Ghani Glass Limited (“GGL”) for last two years for Soda Ash by ICI and are there any discounts that are being offered to TGL or GGL?

19. The response letter dated 24th May 2022 submitted by TGL (received on 27th May 2022) provided the following information:

a. **Segment wise consumption or use of float glass in Pakistan.**

TGL promotes the sale of float glass items through its network of distributors, who in turn sell to consumers in their various geographic territories through wholesalers and retailers. Since TGL is not directly selling float glass to the end-consumer, TGL is not in a position to provide definite numbers related to float glass consumption in any particular segment/group of float glass consumers. However, based on market feedback, TGL understands the following information is a fair estimate of float glass consumption/use by each segment.

Area	Percentage
Commercial	1%
Residential/Housing	1%
Retail	1%
Hotel	1%
Industrial	1%
Total Local Consumption/Use	100%

It is pertinent to note that with an increasing trend for vertical and modern construction favoring glass exteriors, it is anticipated that the demand for float glass is likely to increase in the country. An increasing trend of using double-glazed glass, which offers higher heat resistance, is also expected to provide benefits in the form of reduced energy consumption.

b. **Packed production and installed capacities of float glass.**

	FY2022	FY2023	FY2024	FY2025
	Tons			
Installed Capacity				
Tariq Glass))))
Ghani Glass))))
JV CO.,	-	-	-	1
Total Capacity A))))
Projected Packed Production				



ML.

Tariq Glass				
Ghani Glass				
Total Packed Production B				
Projected Packed Percentage B/A	1%	1%	1%	1%

As can be seen from the above, the actual packed production from a float glass plant can be attained up to 67%-68% due to various reasons such as production of multiple thicknesses, wastages during transitions into colored glass and normal production wastages due to the defects and breakages during the course of normal production.

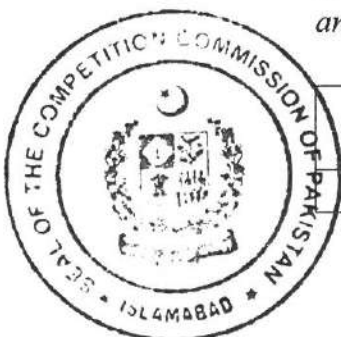
Please note that the information of the competitor of TGL namely M/s. Ghani Glass Limited (GHGL) related to the accumulated installed production capacities and packed production of float glass of any particular period are not available with us. However, it is mentioned on the website of GHGL that their average production capacity of float glass is 1,000 tons per day. Estimations have accordingly been made of packed production based on this figure (attached as Annexure-A).

c. **Cost of Soda Ash in the Production of Glass.**

The cost of Soda Ash in the total cost of glass manufacturing ranges from 1% to 1.7% for the period from September 2020 to March 2022. The main cost in manufacturing glass is fuel and power, which is now above 50% of the total cost of goods manufactured. Please note, that as of date the price of RLNG cost has increased from Rs. 1.50/- MMBTU to Rs. 2.25/- MMBTU. It is pertinent to highlight that the recent 50% increase in price of RLNG will result in a higher contribution of fuel and power in cost of goods manufactured therefore weightage of all other cost inputs will resultantly decrease, including soda ash.

d. **Justification of JVCO's Market Share:**

Historical Growth Rates for the Local Glass Market are shown below. The industry experienced a pre-COVID 4-Year CAGR (Compound Annual Growth Rate) of 15.2%. The 6-Year CAGR reduced to 803% including the COVID dip and recovery periods.



Tons	Pre-COVID Period			COVID Dip	Recovery	6-Year CAGR
	FY2015	FY2019	CAGR	FY2020	FY2021	

Handwritten signature/initials

Local Glass Market (Tons)							...%
---------------------------	--	--	--	--	--	--	------

Historical rates and positive momentum of the Construction Sector is used in determining the future growth projections of the local glass industry.

The local market is projected to grow 10% during FY2022, with the 1st Half of the Fiscal Year experiencing strong growth. The growth rate is tapered down to 7% Y-o-Y till the 1st Year of Commercial Production for the JVCO that is FY2025.

JVCO is expected to start Commercial Production FY2025 onwards. First Year's production split of 129,210 Tons is shown below.

JVCO 1st Year (Tons)	FY2025
Local Sales	
Export Sales	
Inventory Build	
Annual Production	

Export sales is projected on the higher side as the JVCO will take a few years to establish presence in the local market. Additionally, Inventory Build of 30,000 tons has been forecasted as the same is required to manage timely sales to local and international vendors of different thicknesses and colors.

JVCO 1st Year (Tons)	FY2025
Local Market Consumption	
JVCO Local Sales	
Market Share	

e. **Disclosure of Material Information to PSX.**

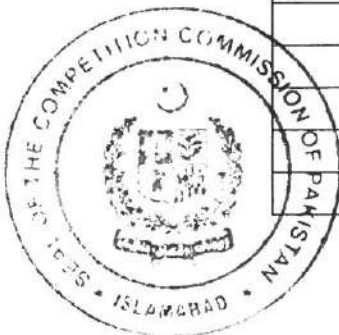
TGL and ICI Pakistan both are public listed companies and regulated under the applicable corporate laws which requires announcement of material information to the regulators and on the floor of Pakistan Stock Exchange. Copies of disclosures were also provided.



ML

- f. It was also mentioned that the creation of the JVCO “shall increase competition, create space and opportunities for new investors to enter the market and create approx. 1000 new jobs and several thousand indirect job opportunities.”
20. On 27th May 2022, another letter was sent to the JV Partners requesting the following information:
- What prices are being offered to TGL and M/s. Ghani Glass Limited for last two years for Soda Ash by ICI and are there any discounts that are being offered to TGL or GGL?
 - The data submitted in para iii of the Letter for Empirical evidence of varying cost of raw materials is of 1.5 years with 4 month intervals, however, the Bench asked the data to be of two years with intervals of 6 months and also requested for the composition of float glass i.e. raw materials and other components.
21. The response letter sent by ICI dated 03rd June 2022 stated as follows:
- Following are the Sales Prices for Soda Ash to TGL and GGL for the last two years, offered by ICI.

Soda Ash Sales Price (Ex-Works)		
Per Ton	TGL	GGL
Jan-20	45,500	45,500
Feb-20	45,500	45,500
Mar-20	45,469	45,505
Apr-20	45,575	45,500
May-20	45,500	45,500
Jun-20	45,500	45,500
Jul-20	45,500	45,500
Aug-20	45,500	45,500
Sep-20	45,500	45,500
Oct-20	44,500	44,500
Nov-20	44,500	44,500
Dec-20	44,500	44,500
Jan-21	44,950	44,950
Feb-21	46,000	46,000
Mar-21	46,000	46,000
Apr-21	46,000	46,000
May-21	46,000	46,000
Jun-21	47,468	47,468
Jul-21	48,000	48,000
Aug-21	48,166	48,166
Sep-21	51,500	51,500



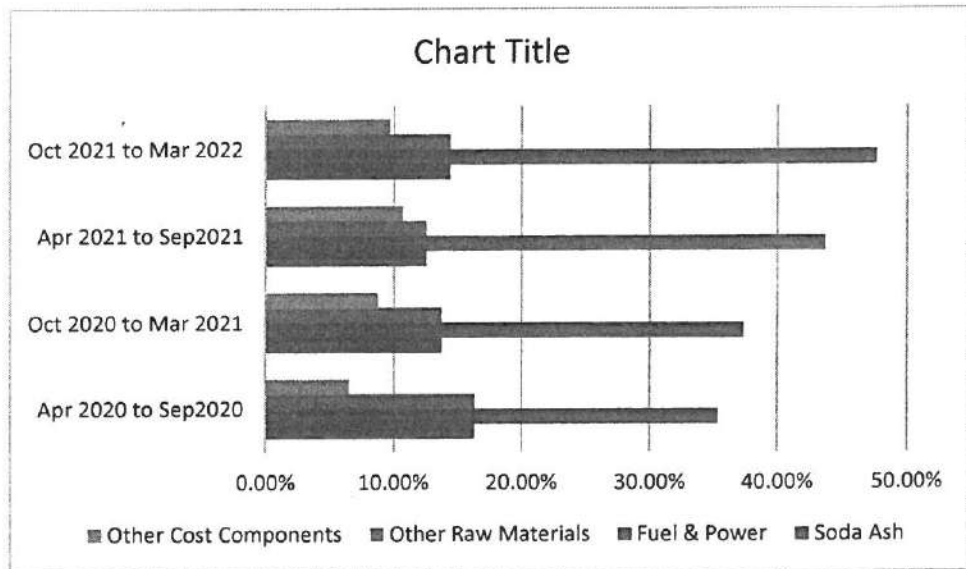
ML.

Oct-21	51,558	51,558
Nov-21	54,500	54,500
Dec-21	54,500	54,500
Jan-22	54,500	54,500
Feb-22	55,091	55,076
Mar-22	58,277	57,000
Apr-22	62,733	62,870
May-22	66,550	66,447

Please note that any difference in the sales price to TGL and GGL, if any, would be nominal and is attributable to the timing of purchase, it being clarified that prices during any single month may also be subject to change.

Discounts are offered by ICI to customers based on multiple factors including sales volumes, payment terms as well as demand and supply dynamics at the relevant time. Both GGL and TGL have availed discounts as customers of the Soda Ash business from time to time based on the above mentioned factors.

- b. Concerning the varying cost of the raw materials of float glass, the following illustration was provided:



22. Lastly, on 02nd June 2022, a letter was sent to GGL requesting for information enumerated below in order to obtain a holistic view of the industry as GGL is a significant player in the Relevant Market:



a. Please provide the current market players along with their market share in float glass?

ML.

- b. What is the installed and packed capacity of GGL for last two years? Kindly also share your market share figure based on value (sales) for last two years.
- c. What are the main ingredients/raw materials being used and their respective percentage of composition in the manufacturing of float glass?
- d. Who are the suppliers in the market for soda ash?
- e. Who are the suppliers of soda ash to GGL, this information may be provided in the following format for last two years:

Sr. No.	Soda Ash (Quantity)	Main Suppliers	Year	Price
---------	---------------------	----------------	------	-------

- f. To what extent potassium can be used as a substitute for soda ash and is it equally effective, cost-efficient and readily available in the market?

23. The response letter dated 20th June 2022 (received on 22nd June 2022), states as follows:

- a. ***Current market player along with their market share in float glass.***

Players producing float glass:

S.No	Manufacturer	Estimated Production Capacity
1	GHANI GLASS LTD	1000 MTPD
2	TARIQ GLASS LTD	0 MTPD
3	GUNJ GLASS	MTPD
4	NEELAM GLASS	MTPD
5	NOWSHERA GLASS	MTPD
6	DELI GLASS	Not Available
7	KHAWAJA GLASS	MTPD
8	OTHERS/IMPORT	Not Available

- b. ***Installed and packed capacity of GGL for last two years along with market share figure based on value (sales) for the last two years.***

Year	Installed Capacity	Packed Capacity	Sale
2020	Tons	Tons	
2021	Tons	Tons	



ML.

- c. **Main ingredients/raw materials being used and their respective percentage of composition in the manufacturing of float glass.**

Raw Material	%
Soda Ash	%
Silica	%
Feldspar	%
Others	%

- d. **Suppliers in the market for Soda Ash.**

ICI Pakistan Ltd
Olympia Chemicals
Import

- e. **Suppliers of Soda Ash to GGL for the last two years.**

Sr. No	Soda Ash (Quantity – KG)	Main Suppliers	Year	Price/KG
1		ICI Pakistan Ltd	July 2019 to June 2020	41.21
2		Olympia Chemicals		42.49
3	-	Import		-

Sr. No	Soda Ash (Quantity – KG)	Main Suppliers	Year	Price/KG
1		ICI Pakistan Ltd	July 2020 to June 2021	40.61
2		Olympia Chemicals		39.70
3		Import		36.17

- f. **To what extent potassium can be used as a substitute for Soda Ash and is it equally effective, cost-efficient and readily available in the market?**

No, Potassium cannot be used as a substitute for Soda Ash.

Hearing (16th May 2022)

As a part of the Commission's Phase II Review, an opportunity of hearing was provided to the JV Partners, which was availed on 16 May 2022. Company as well as legal representatives of both parties were present. Broadly, the main purpose of the hearing was to provide a more in-depth picture of the industry as well as the subject transaction.



M.L.

Moreover, in response to the industry specific queries raised by the Bench, the parties stated *inter alia*:

- a. TGL and GGL are the two main players in the float glass industry and by the conclusion of this year (2022) market demand is expected to be between tonnes per annum. Also, Pakistan is a small market as compared to the developed world. Approximately : tonnes are imported.
 - b. Soda Ash and Potassium can be used as a substitute however, Soda Ash is readily available in Pakistan and is significantly more cost effective.
 - c. The float glass is an unregulated sector. However, there are ISO Certificates and internal quality assurances for the companies' own internal controls.
25. The Bench directed the authorized representatives to, *inter alia*, provide some documents illustrating segment wise consumption, use of float glass in Pakistan, cost of soda ash and production of float glass as well as the justification/basis for the calculation of the JVCO's market share.

G. Analysis – Phase II Review

i. Determination of the Relevant Market

26. As stated above, the relevant product market is “**Float Glass**” and the reportable market is that of “**Soda Ash**”. Both markets are closely related with each other; soda ash being a raw material used in the production of float glass. The relevant geographic market is the whole of “**Pakistan**”.
27. Briefly, glass is a silica-based, non-crystalline amorphous solid material that has broad practical and technological properties as well as a longstanding function in decorative applications such as windows, tableware, and household appliances. Glass transmits, reflects, and refracts light, all qualities that can be enhanced through cutting and polishing for use in optical lenses, prisms, fine glassware, and optical fibres for high-speed data transmission that uses light. Float glass is largely used in construction for windows with different varieties that include clear, tinted and mirrored float glass. As stated above, JV Partner 1/TGL is engaged in the business of manufacturing float glass.
28. The production of glass requires materials such as silica sand (Silicon Dioxide), limestone (calcium carbonate), soda ash (sodium carbonate) and waste glass (obtained through recycling of used glass). Soda ash reduces the melting point of sand and, thus, reduces energy consumption. Meanwhile, limestone acts as a stabilizer which prevents the loss of chemical durability that occurs due to the use of soda ash³. JV Partner 2/ICI

https://www.pacra.com/sector_research/Glass%20Nov%202021_1637229520.pdf



[Handwritten signature]

is engaged in the business of producing soda ash, which is one of the raw materials required during the production of float glass to reduce the melting point.

ii. Issues at Hand / Theories of Harm

29. It is pertinent to note the fact that:

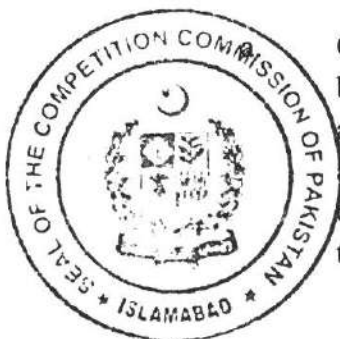
- a. JV Partner 1/TGL is a dominant player in the Relevant Market;
- b. JV Partner 1/TGL already has a pre-existing vertical relationship with JV Partner 2/ICI as a customer acquiring soda ash;
- c. JV Partner 2/ICI is a major manufacturer of soda ash in the upstream market; and
- d. JV Partner 2/ICI is a dominant player in the upstream soda ash market.

30. In light of the above, the following concerns/ issues may arise concerning the subject transaction:

- a. Unilateral effects in the case of abuse of dominance at both the vertical and horizontal level in the upstream (soda ash) and downstream (float glass) markets. For example, ICI is in a dominant position in the upstream market, hence, the subject transaction may put it in a position where it can set preferential prices/terms for its business dealings with TGL and/or the JVCO. As a supplier of soda ash, ICI may also impose exclusionary terms of sale where the float glass manufacturers may be foreclosed from purchasing soda ash from other sources.
- b. Coordinated effects can be present horizontally in the downstream float glass market between TGL and the JVCO where both parties can agree on customer/territorial restrictions related to the sale of float glass, fixing or setting the quantity of production, limiting technical development and/or investment.
- c. Although the markets are not heavily regulated, we understand that barriers to entry exist as a business operating in the Relevant Market requires heavy investment.

iii. Competition Assessment

31. Upon detailed review/perusal of the material, documents and facts on record, the Commission finds that:



Considering first, the horizontal relationship in the upstream (soda ash) market between JV Partner 2/ICI and its other major competitor (Olympia Chemicals) and secondly, the vertical relationship between ICI, TGL and the JVCO, it appears that JV Partner 2/ICI may have less incentive to take part in any anti-competitive conduct as its sales of soda ash account for only 1% of its total turnover and such sales are not limited to local glass manufacturers but are made

to various customers in numerous industries such as in textiles, footwear, oil/petroleum, food and beverage, personal care, pharmaceuticals, chemical processing, plastic, rubber, tanneries, detergents, laundry soaps, paper, ceramics, livestock, raisins and poultry.

Out of the total sales of soda ash, only approximately 1% are sold to the float glass manufacturers. In 2020-21, ICI's domestic sales volume accounted for approximately 1.5 metric tons out of which a total of 0.15 metric tonnes (10% of all Soda Ash sales) were sold to companies in the float glass industry, of which 0.1 metric tonnes (6.7% soda ash for float glass) were given to TGL and 0.05 metric tonnes (3.3% soda ash for float glass) were given to GGL.

Therefore, considering the wide and fragmented customer base of soda ash, it seems less likely that any exclusionary/customer foreclosure would take place. Moreover, as only a small portion of soda ash sales are made to float glass manufacturers and, the overall revenue generated from soda ash sales (to all industry players) is a significant chunk of ICI's turnover, it also may not seem plausible that ICI would be incentivized to enter into any downstream exclusive arrangements.

- b. Moreover, as intimated to the Commission, we understand that the float glass manufacturers can obtain soda ash from other sources other than ICI on competitive pricing conditions.
- c. The JV Partners have estimated that demand for float glass will significantly increase by 2025 (time of completion of the project as stated in the Agreement, i.e., production of float glass of 1.5 MT per day), for instance, considering the current CPEC arrangements. Based on those estimations, there may be increased manufacturing/production capacity of float glass (and, by nexus, soda ash) of existing players and/or through a new player entering the market.
- d. The float glass customer base is also heavily fragmented given the multiple uses of float glass across numerous industries, in particular, construction and real estate.
- e. A new entrant in the market will be formed, hence, bringing in a possible new competitor as well as increased capacity for local production and sales.

The JV Partners have undertaken before the Bench that the proposed JVCO will operate as an independent entity and no exclusionary/exclusive practices shall be undertaken between the concerned undertakings. Moreover, the JV Partners also stated that currently, there are no exclusive vertical arrangements between ICI and TGL and the same shall be the case for the JVCO.



[Handwritten signature]
ML

32. Furthermore, we also understand that the JV Partners are public listed companies, hence, are bound by greater ethical and legal standards applicable under the regulatory framework in Pakistan, e.g., conducting transactions on an arms-length basis and disclosing related party transactions.

H. Conditions & Conclusion

33. In light of the above, the Commission finds that, although the prevalent market conditions and facts on record lessen the probability of the concerned undertakings lessening/impeding competition in the relevant market, there does remain a possibility where the JV Partners may abuse their positions in the relevant and reportable markets. Hence, this Order is subject to the following conditions:

- a. The undertakings concerned (JV Partner 1/TGL, JV Partner 2/ICI, JVCO) shall not impose any exclusive/restrictive conditions and/or enter into any agreements amongst each other and/or with rival undertakings that may be anti-competitive in nature.
 - b. Horizontally, the JV Partner 1/TGL shall not impose any conditions on the JVCO in relation to the production, supply and/or distribution of their respective products, which may impede competition, i.e., *inter alia*, setting prices of products, setting territorial boundaries and/or client quotas, placing caps/limits on production capacity/quantities and/or limiting technical development.
 - c. The concerned undertakings shall not apply any dissimilar conditions, such as preferential treatment, on the same types of transactions.
 - d. Considering the vertical market structure, JV Partner 2/ICI shall not impose any input and customer foreclosure conditions, i.e., where JV Partner 2/ICI refuses to supply soda ash to rival undertakings in the downstream market and where it restricts JVCO and JV Partner 2/TGL from acquiring soda ash from ICI's rival undertakings.
34. Ancillary restrictions have been reported with this transaction, which may require exemption under Section 5 of the Act, read with Regulation 4 of the Competition Commission (Exemption) Regulations 2020. This Order is without prejudice to any such conditions/approval related to the same.

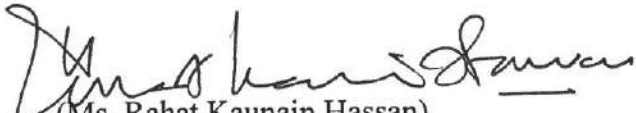
35. Without prejudice to sub-section (13) of Section 11, or any other provision under the Act and Merger Regulations hereunder (as amended from time to time), the Commission reserves the right to assess and review the effects of the subject transaction on the relevant market on its own or upon application by any other concerned undertaking(s).




[Handwritten signature]
ML

36. Subject to the conditions imposed in this Order, the proposed transaction is hereby authorized under Section 31 (1) (d) (i) of the Act.

37. It is so ordered..


(Ms. Rahat Kaunain Hassan)
Chairperson


(Mr. Mujtaba Ahmad Lodhi)
Member



Islamabad the JULY 7th, 2022.