

PUBLIC SUBMISSION
DATE RECEIVED: 20 JULY 2016

Dear Mr Katsoulis

Please find attached import data broken up by country and thickness in the years 2011 to 2016 released under FOI by the Department of Immigration and Border Protection (**DIBP**). I have assumed that you are utilising the same information when you refer to the "ABF Import database" in your SEF. If that is not the case, please let me know.

The data set contains serious errors. But if you were to discount those errors which are readily discernible to my client, the data has implications for the SEF and raises questions which must be addressed. Those implications and questions include the following:

1. My client has previously outlined the necessity for the ADC to make a full and proper inquiry of the Chinese manufacturer Xinyi and its relationship with CSR Viridian. Other than a single sentence in the SEF that "*Viridian does not supplement its sales with imports*", there has not been any true consideration of whether:

- a. Viridian purchases CFG from Xinyi (or a local distributor tied to Xinyi)
- b. Viridian has an alliance or arrangement with Xinyi.

If it is the case that Viridian does not purchase any imported CFG product (or the origin of which is not from offshore) then that ought to be stated in clear and unambiguous terms.

My client also insists that you inquire into the statement made by Viridian in public documents (including page 12 of its Application in support of this inquiry that "*The majority of volume previously supplied from Ingleburn will be supplied by Viridian's Dandenong facility in Victoria and supplemented by imported supply from strategic partners.*" It is not credible that CSR Viridian says it will supplement its supplies with imports from strategic partners as recently as February this year if there was no validity or semblance of truth to the claim.

Additionally, my client requests that, for the purposes of your undercutting analysis, you inquire with Viridian as to whether it has in its possession any price comparison or price offer from Xinyi which was forwarded to it by a customer who demanded a lower price based on the Xinyi price offer; and if that is the case, why such documentation was not delivered or volunteered by Viridian at the time of your verification visit.

2. In figure 4 of the SEF (page 22), Xinyi is excluded from the "China" bar chart but included the bar chart titled "all other countries". Disappointingly, at no time does the SEF actually specify the import volumes of Xinyi. That 'gap' in information in the SEF has now been answered by the FOI response. Based on the FOI response, it is clear beyond doubt that having regard to Figure 4, imports from Chinese producers **other than Xinyi are miniscule or non-existent**. The data released under FOI by the DIBP shows that Chinese exports of CFG (being the goods under consideration and excluding 2mm CFG) resulted in:

- a. 1,457,868 49 sqm of CFG being placed into the Australian market in 2015 and the customs value of that was AU\$12,911,293.27.
- b. 902,316.019 sqm of CFG being placed into the Australian market in 2014 and the customs value of that was AU\$7,748,512.19
- c. 954,803.72 sqm of CFG being placed into the Australian market in 2013 and the customs value of that was AU\$ 7,641,781.89
- d. 883,185.84 sqm of CFG being placed into the Australian market in 2012 and the customs value of that was AU\$6,417,412.70

The only conclusion when you marry up the information Figure 4 in the SEF and the DIBP FOI data is that predominately all (if not absolutely all) of the Chinese CFG exported to Australia in 2012, 2013, 2014, 2015 was exported by Xinyi. Additionally, the volume and value of product from Xinyi has nearly doubled. This underscores the fact that any meaningful inquiry must take serious account of Xinyi's impact on the market.

3. In 5.2 of the SEF, the ADC acknowledges the problems that it has faced with the data in its database. My client's analysis is that the dataset is unreliable and riddled with error. My client has created the table at the end of this email to substantiate its claim. The data analysis relates to the category "exceeding 3mm but not exceeding 4mm" as the rest of the categories in the FOI dataset combine the thicknesses. In any event the following conclusions emerge:

- a. The entries shaded blue are clearly incorrect - it is impossible that Indonesia's pricing is \$0.02/M2 or \$3/Mt in 2011 or, that Thailand's 3mm price was AU\$1,193 per Mt in 2013.
- b. The China pricing swing is alarming – pricing in 2016 is 32% down compared to 2015 when it was \$840 per Mt. CFG pricing does not fluctuate widely, which is reflected in the relatively stable pricing \$/M2 from Thailand and Indonesia
- c. If the data is correct, then it defies credibility that Xinyi was able to:
 - i. triple its export volume of 3mm CFG between 2014 (114,636.17 sqm) and 2015 (366,028.54 sqm), and
 - ii. nearly quadruple the customs value of 3mm CFG between 2014 (AU\$599,311.80) and 2015 (AU\$2,196,753.09),

but do so when the customs value of its 3mm CFG was \$6.00/M2 in 2015 compared with product from Indonesia which was at \$4.14/M2 - a 45% lower price.

- d. It is a well-known fact (and one that can be checked by you with Viridian) that global pricing does not support any imports from China of 3mm CGG in the range of \$657-840/Mt.

4. There is an uneasy tension between the information in DIBP's FOI response and figure 2 in part 5.5 of the SEF. Based on figure 2 in part 5.5 of the SEF, Viridian enjoyed a 63% market share of a total Australian market size of 9.7M sqm in 2015 (ie Viridian's market share is about 6.1M sqm). However, the import statistics show that the total imports of CFG in 2015 (ie CFG being the goods under consideration which excludes 2mm CFG) were 6,370,018.52M sqm. It must follow that:

- a. if your quoted figure of 9.7M sqm is accurate and represents the total size of the Australian market and, we know from the FOI response that 6,370,018.52M sqm was imported from offshore, then Viridian's local manufacturing capacity must be 3.329M sqm of CFG.
- b. if figure 2 in part 5.5 is accurate and CSR Viridian enjoyed a 63% market share, then it must have sold 6.1M sqm of CFG.
- c. Given the difference between a. and b. above, CSR Viridian must have sourced 2.771M sqm of CFG from a strategic partner or somebody or entity.
- d. If the conclusion in c. is wrong, then it can only be because a. or b. is wrong and you have relied on incorrect data.

Before leaving this point, it is now known that CSR Viridian relies on Indonesian CFG to service its New Zealand fabrication operations - the inference being it is unable to supply its New Zealand operations from Australia. Viridian has asserted that it does not import glass (but has never denied that it does not purchase or have an arrangement or understanding with a third party or local agent for the supply of CFG in Australia), and to my client's knowledge it does not export CFG. In the circumstances how does CSR Viridian claim that it is able to meet local supply demands in the future given its limited production capacity and the absence of any imports or reliance on a 'strategic partner' or offshore ally.

Finally, in its most recent submission dated 18 July 2016, CSR Viridian claims that there is no local price premium. On the assumption that figure 2 in part 5.5 is accurate, CSR Viridian enjoyed between a 63% to 67% market share between 2012 and 2015. As the dominant player in the Australian CFG market, given CSR Viridian's market share and market power, it must enjoy a local price premium. Indeed the SEF recognises the advantages it enjoys *vis a vis* its local production and delivery (lead) times. Any attempts by CSR Viridian to downplay these facts should be rejected.

Conclusions

Our client is concerned that the dataset you are relying on is riddled with error and particularly in so far as it concerns China (or more correctly Xinyi). That has ramifications for many of the graphs depicted in the SEF and the analysis you have undertaken and conclusions reached. We urge you to restart the process; widen your inquiry to obtain information from Xinyi; and invite the importers to give you the data required to verify the information necessary to underpin your conclusions.

My client is concerned that the conclusions you have reached have been founded on incomplete, inaccurate or false data. That should be corrected before any report is presented to the Minister.

Alternatively, the measures should cease. CSR Viridian can then make a new application for the imposition of measures against China (including Xinyi); Indonesia and Thailand. We note in this regard, that Australian manufacturers of CFG have been very active in applying for dumping duties and seeking measures and have done so since at least 1992 (nearly 25 years ago) - there is no reason to think that CSR Viridian is shy in making such applications if measures were ceased.

Regards

Zac Chami, Partner

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Exceeding 3mm but not exceeding 4mm							
	Year	Volume (sm)	Value (Final line CVAL AU \$)	\$/M2	% change over prev. year	M2/Mt (Guardian's estimate based on ANZ standard)	\$/Mt
Import from Thailand	2011	179,569.34	\$687,712.57	\$3.83		140	\$536
	2012	9,014.08	\$39,438.94	\$4.38	14%	140	\$613
	2013	625.00	\$5,325.74	\$8.52		140	\$1,193
	2014	-	\$0.00			140	
	2015	2,503.28	\$11,040.15	\$4.41	1%	140	\$617
	2016	18,103.71	\$79,015.76	\$4.36	-1%	140	\$611
Import from Indonesia	2011	71,469,455.90	\$1,413,811.90	\$0.02		140	\$3
	2012	345,871.47	\$1,174,163.89	\$3.39		140	\$475
	2013	353,987.74	\$1,319,978.25	\$3.73	10%	140	\$522
	2014	485,709.87	\$1,870,112.27	\$3.85	3%	140	\$539
	2015	450,863.43	\$1,864,384.71	\$4.14	7%	140	\$579
	2016	202,593.22	\$852,041.64	\$4.21	2%	140	\$589
Import from China	2011	201,411.00	\$1,009,977.90	\$5.01		140	\$702
	2012	207,594.26	\$979,617.73	\$4.72	-6%	140	\$661
	2013	169,644.36	\$796,400.91	\$4.69	-1%	140	\$657
	2014	114,636.17	\$599,311.80	\$5.23	11%	140	\$732
	2015	366,028.54	\$2,196,753.09	\$6.00	15%	140	\$840
	2016	125,826.93	\$514,081.73	\$4.09	-32%	140	\$572

			Volume sm	Value (Final line CVAL AU\$)
2011				
7005.29.00 Float glass having a nominal thickness:				
THAILAND				
09	sm .	Not exceeding 3 mm	0	0
03	sm .	Exceeding 3 mm but not exceeding 4 mm	179,569.34	687,712.57
04	sm .	Exceeding 4 mm but not exceeding 6 mm	334,414.25	2,051,780.57
05	sm .	Exceeding 6 mm but not exceeding 10 mm	79,256.86	757,488.40
06	sm .	Exceeding 10 mm	43,185.41	514,308.80
07	sm	Other.	0	0
INDONESIA				
09	sm .	Not exceeding 3 mm	0	0
03	sm .	Exceeding 3 mm but not exceeding 4 mm	71,469,455.90	1,413,811.90
04	sm .	Exceeding 4 mm but not exceeding 6 mm	16,296,659.79	2,881,449.40
05	sm .	Exceeding 6 mm but not exceeding 10 mm	102,611.10	887,296.47
06	sm .	Exceeding 10 mm	84,697.27	910,486.78
07	sm	Other.	889.00	12,375.81
CHINA				
09	sm .	Not exceeding 3 mm	0	0
03	sm .	Exceeding 3 mm but not exceeding 4 mm	201,411.00	1,009,977.90
04	sm .	Exceeding 4 mm but not exceeding 6 mm	555,649.72	3,818,620.68
05	sm .	Exceeding 6 mm but not exceeding 10 mm	141,719.73	1,465,569.71
06	sm .	Exceeding 10 mm	150,471.38	2,113,911.00
07	sm	Other.	8,716.95	156,930.48
OTHER				
09	sm .	Not exceeding 3 mm	0	0
03	sm .	Exceeding 3 mm but not exceeding 4 mm	178,886.44	979,236.30
04	sm .	Exceeding 4 mm but not exceeding 6 mm	375,124.73	3,582,682.27
05	sm .	Exceeding 6 mm but not exceeding 10 mm	184,900.84	2,871,525.17
06	sm .	Exceeding 10 mm	203,802.29	2,431,385.75
07	sm	Other.	703.37	12,101.39

Volume sm Value (Final line CVAL AU\$)

2012

7005.29.00 Float glass having a nominal thickness:

THAILAND

09	sm .	Not exceeding 3 mm	437,662.87	1,038,636.00
03	sm .	Exceeding 3 mm but not exceeding 4 mm	9,014.08	39,438.94
04	sm .	Exceeding 4 mm but not exceeding 6 mm	13,738.64	129,422.67
05	sm .	Exceeding 6 mm but not exceeding 10 mm	682.68	7,803.38
06	sm .	Exceeding 10 mm	366.14	7,254.57
07	sm	Other.	0	0

INDONESIA

09	sm .	Not exceeding 3 mm	274,493.03	652,727.52
03	sm .	Exceeding 3 mm but not exceeding 4 mm	345,871.49	1,174,163.89
04	sm .	Exceeding 4 mm but not exceeding 6 mm	321,466.82	1,684,640.98
05	sm .	Exceeding 6 mm but not exceeding 10 mm	80,245.93	708,650.48
06	sm .	Exceeding 10 mm	63,692.80	648,420.82
07	sm	Other.	0	0

CHINA

09	sm .	Not exceeding 3 mm	43,196.14	163,269.77
03	sm .	Exceeding 3 mm but not exceeding 4 mm	207,594.26	979,617.73
04	sm .	Exceeding 4 mm but not exceeding 6 mm	396,728.37	2,725,976.43
05	sm .	Exceeding 6 mm but not exceeding 10 mm	106,807.08	908,923.21
06	sm .	Exceeding 10 mm	154,103.00	1,571,567.64
07	sm	Other.	17,953.13	231,327.69

OTHER

09	sm .	Not exceeding 3 mm	305,128.25	1,075,917.14
03	sm .	Exceeding 3 mm but not exceeding 4 mm	483,331.21	2,041,300.87
04	sm .	Exceeding 4 mm but not exceeding 6 mm	791,260.00	5,079,861.15
05	sm .	Exceeding 6 mm but not exceeding 10 mm	374,590.05	3,610,082.00
06	sm .	Exceeding 10 mm	477,963.01	3,632,923.26
07	sm	Other.	13,442.17	277,277.82

Volume sm Value (Final line CVAL AU\$)

2013

7005.29.00 Float glass having a nominal thickness:

THAILAND

09	sm .	Not exceeding 3 mm	402,352.46	925,801.39
03	sm .	Exceeding 3 mm but not exceeding 4 mm	625	5,325.74
04	sm .	Exceeding 4 mm but not exceeding 6 mm	1,829.55	26,343.23
05	sm .	Exceeding 6 mm but not exceeding 10 mm	0	0
06	sm .	Exceeding 10 mm	0	0
07	sm	Other.	0	0

INDONESIA

09	sm .	Not exceeding 3 mm	198,624.47	470,811.42
03	sm .	Exceeding 3 mm but not exceeding 4 mm	353,987.74	1,319,978.25
04	sm .	Exceeding 4 mm but not exceeding 6 mm	441,321.44	2,345,844.10
05	sm .	Exceeding 6 mm but not exceeding 10 mm	115,455.37	1,114,519.12
06	sm .	Exceeding 10 mm	69,859.61	770,226.22
07	sm	Other.	2,178.79	40,254.33

CHINA

09	sm .	Not exceeding 3 mm	33,534.36	134,481.19
03	sm .	Exceeding 3 mm but not exceeding 4 mm	169,644.36	796,400.91
04	sm .	Exceeding 4 mm but not exceeding 6 mm	525,978.70	3,831,014.80
05	sm .	Exceeding 6 mm but not exceeding 10 mm	112,921.00	1,317,389.93
06	sm .	Exceeding 10 mm	142,163.11	1,654,295.54
07	sm	Other.	4,096.55	42,680.71

OTHER

09	sm .	Not exceeding 3 mm	271,066.00	711,372.92
03	sm .	Exceeding 3 mm but not exceeding 4 mm	431,454.85	1,725,933.29
04	sm .	Exceeding 4 mm but not exceeding 6 mm	650,241.00	4,298,957.21
05	sm .	Exceeding 6 mm but not exceeding 10 mm	1,274,323.00	3,450,253.46
06	sm .	Exceeding 10 mm	203,337.48	2,527,445.25
07	sm	Other.	2,941.00	53,383.41

Volume sm Value (Final line CVAL AU\$)

2014

7005.29.00 Float glass having a nominal thickness:

THAILAND

09	sm .	Not exceeding 3 mm	392,167.92	933,548.83
03	sm .	Exceeding 3 mm but not exceeding 4 mm	0	0
04	sm .	Exceeding 4 mm but not exceeding 6 mm	401.66	5,727.61
05	sm .	Exceeding 6 mm but not exceeding 10 mm	0	0
06	sm .	Exceeding 10 mm	0	0
07	sm	Other.	0	0

INDONESIA

09	sm .	Not exceeding 3 mm	245,677.64	504,347.60
03	sm .	Exceeding 3 mm but not exceeding 4 mm	485,709.87	1,870,112.27
04	sm .	Exceeding 4 mm but not exceeding 6 mm	536,359.78	2,913,808.48
05	sm .	Exceeding 6 mm but not exceeding 10 mm	106,044.32	1,017,084.41
06	sm .	Exceeding 10 mm	70,544.50	812,920.99
07	sm	Other.	466.83	8,619.11

CHINA

09	sm .	Not exceeding 3 mm	38,097.68	114,025.61
03	sm .	Exceeding 3 mm but not exceeding 4 mm	114,636.17	599,311.80
04	sm .	Exceeding 4 mm but not exceeding 6 mm	489,426.47	3,717,051.09
05	sm .	Exceeding 6 mm but not exceeding 10 mm	134,041.68	1,449,321.44
06	sm .	Exceeding 10 mm	160,957.87	1,924,240.46
07	sm	Other.	3,254.00	58,587.40

OTHER

09	sm .	Not exceeding 3 mm	269,100.25	788,027.19
03	sm .	Exceeding 3 mm but not exceeding 4 mm	634,456.89	2,450,566.02
04	sm .	Exceeding 4 mm but not exceeding 6 mm	917,387.41	5,788,054.83
05	sm .	Exceeding 6 mm but not exceeding 10 mm	1,984,562.72	3,439,126.66
06	sm .	Exceeding 10 mm	225,117.39	3,477,269.22
07	sm	Other.	369.00	13,904.50

Volume sm Value (Final line CVAL AU\$)

2015

7005.29.00 Float glass having a nominal thickness:

THAILAND

09	sm .	Not exceeding 3 mm	460,941.29	1,100,298.35
03	sm .	Exceeding 3 mm but not exceeding 4 mm	2503.28	11,040.15
04	sm .	Exceeding 4 mm but not exceeding 6 mm	12,428.35	80,021.30
05	sm .	Exceeding 6 mm but not exceeding 10 mm	1,136.81	10,200.39
06	sm .	Exceeding 10 mm	327.42	4,225.51
07	sm	Other.	0	0

INDONESIA

09	sm .	Not exceeding 3 mm	194,593.67	500,929.25
03	sm .	Exceeding 3 mm but not exceeding 4 mm	450,863.43	1,864,384.71
04	sm .	Exceeding 4 mm but not exceeding 6 mm	559,442.12	3,257,542.92
05	sm .	Exceeding 6 mm but not exceeding 10 mm	118,697.27	1,259,887.14
06	sm .	Exceeding 10 mm	82,852.51	1,089,271.08
07	sm	Other.	3,250.20	31,374.66

CHINA

09	sm .	Not exceeding 3 mm	93,704.27	313,133.42
03	sm .	Exceeding 3 mm but not exceeding 4 mm	366,028.54	2,196,753.09
04	sm .	Exceeding 4 mm but not exceeding 6 mm	726,509.41	6,123,677.65
05	sm .	Exceeding 6 mm but not exceeding 10 mm	180,283.65	2,062,252.56
06	sm .	Exceeding 10 mm	181,593.89	2,357,004.25
07	sm	Other.	3,453.00	171,605.72

OTHER

09	sm .	Not exceeding 3 mm	225,018.69	708,267.54
03	sm .	Exceeding 3 mm but not exceeding 4 mm	1,497,425.08	2,618,767.18
04	sm .	Exceeding 4 mm but not exceeding 6 mm	1,226,932.47	5,872,515.27
05	sm .	Exceeding 6 mm but not exceeding 10 mm	564,404.47	3,255,809.97
06	sm .	Exceeding 10 mm	391,230.62	2,387,290.34
07	sm	Other.	656.00	51,423.54

Volume sm Value (Final line CVAL AU\$)

1 Jan 2016 to 21 June 2016

7005.29.00 Float glass having a nominal thickness:

THAILAND

09	sm .	Not exceeding 3 mm	167,421.76	485,885.85
03	sm .	Exceeding 3 mm but not exceeding 4 mm	18,103.71	79,015.76
04	sm .	Exceeding 4 mm but not exceeding 6 mm	26,489.50	178,099.18
05	sm .	Exceeding 6 mm but not exceeding 10 mm	910.88	10,390.94
06	sm .	Exceeding 10 mm	232.18	4,712.55
07	sm	Other.	0	0

INDONESIA

09	sm .	Not exceeding 3 mm	67,991.91	189,598.71
03	sm .	Exceeding 3 mm but not exceeding 4 mm	202,593.22	852,041.64
04	sm .	Exceeding 4 mm but not exceeding 6 mm	267,512.01	1,540,522.32
05	sm .	Exceeding 6 mm but not exceeding 10 mm	52,175.57	625,165.10
06	sm .	Exceeding 10 mm	29,497.95	418,563.21
07	sm	Other.	313.20	6,492.38

CHINA

09	sm .	Not exceeding 3 mm	30,728.49	96,307.15
03	sm .	Exceeding 3 mm but not exceeding 4 mm	125,826.93	514,081.73
04	sm .	Exceeding 4 mm but not exceeding 6 mm	477,523.08	3,332,243.58
05	sm .	Exceeding 6 mm but not exceeding 10 mm	134,172.28	1,644,480.01
06	sm .	Exceeding 10 mm	123,847.53	1,445,739.79
07	sm	Other.	3,616.66	175,156.97

OTHER

09	sm .	Not exceeding 3 mm	51,268.47	177,079.50
03	sm .	Exceeding 3 mm but not exceeding 4 mm	507,517.12	583,866.00
04	sm .	Exceeding 4 mm but not exceeding 6 mm	248,770.07	2,037,970.66
05	sm .	Exceeding 6 mm but not exceeding 10 mm	104,019.02	1,161,966.60
06	sm .	Exceeding 10 mm	37,546.62	846,242.18
07	sm	Other.	6,304.00	37,609.35