



## **ANTI-DUMPING NOTICE NO. 2021/010**

*Customs Act 1901 – Part XVB*

### **Clear float glass**

**Exported to Australia  
from the People’s Republic of China,  
the Republic of Indonesia and the Kingdom of Thailand**

### **Initiation of a Continuation Inquiry No. 575 into Anti-Dumping Measures**

***Notice under section 269ZHD(4) of the Customs Act 1901***

I, Dale Seymour, the Commissioner of the Anti-Dumping Commission (Commissioner), have initiated an inquiry into whether the continuation of anti-dumping measures, in the form of a dumping duty notice, in respect of clear float glass (the goods) exported to Australia from the People’s Republic of China (China), the Republic of Indonesia (Indonesia) and the Kingdom of Thailand (Thailand) is justified.

The anti-dumping measures are due to expire on 17 October 2021 (specified expiry day).<sup>1</sup>

#### **1. The goods**

The goods subject to the anti-dumping measures and this inquiry are:

*Clear float glass (CFG) in nominal thickness of 3 to 12 millimetres (mm).*

The tolerances for each of these thicknesses are set out in the following table.

<b>Nominal thickness (mm)</b>	<b>Acceptable tolerances (mm)</b>	
	Minimum	Maximum
3	2.80	3.50
4	3.51	4.50
5	4.51	5.50
6	5.51	7.00

<sup>1</sup> On and from 18 October 2021, if not continued, the anti-dumping measures would no longer apply.

Nominal thickness (mm)	Acceptable tolerances (mm)	
	Minimum	Maximum
8	7.01	9.00
10	9.01	11.00
12	11.01	12.30

The goods have the following characteristics:

- transparent;
- flat; and
- rectangular or square in shape.

With respect to exports from Thailand only<sup>2</sup>, CFG with edge working in the form of an 'arris', 'rough arris' or 'seamed' edge (removal of the sharp edges of the glass), on any number of sides or faces is the goods.

With the exception of the above reference to edge-worked glass from Thailand, glass with the following characteristics is not the goods the subject of the original notice:

- coated, coloured, tinted or opaque;
- absorbent, reflective or non-reflective layer;
- wired;
- bent, edge-worked, engraved, drilled, enamelled or otherwise worked;
- framed or fitted with other materials;
- toughened (tempered) or laminated;
- acid etched; or
- low iron.

The goods are generally, but not exclusively, classified to the following tariff subheadings of Schedule 3 to the *Customs Tariff Act 1995*:<sup>3</sup>

Tariff Subheading	Statistical Code	Description
7005	FLOAT GLASS AND SURFACE GROUND OR POLISHED GLASS, IN SHEETS, WHETHER OR NOT HAVING AN ABSORBENT, REFLECTING OR NON-REFLECTING LAYER, BUT NOT OTHERWISE WORKED:	
7005.2	Other non-wired glass:	
7005.29.00	Float glass, having a nominal thickness:	
	03	Exceeding 3 mm but not exceeding 4 mm
	04	Exceeding 4 mm but not exceeding 6 mm
	05	Exceeding 6 mm but not exceeding 10 mm
	06	Exceeding 10 mm
	09	Not exceeding 3 mm

<sup>2</sup> ADN No. 2019/19 refers.

<sup>3</sup> These tariff classifications and statistical codes may include goods that are both subject and not subject to the anti-dumping measures. The listing of these tariff classifications and statistical codes are for convenience or reference only and do not form part of the goods description. Please refer to the goods description for authoritative detail regarding goods subject to the anti-dumping measures.

Tariff Subheading	Statistical Code	Description
7006.00.00	49	GLASS OF 7003, 7004 OR 7005, BENT, EDGE-WORKED, ENGRAVED, DRILLED, ENAMELLED OR OTHERWISE WORKED, BUT NOT FRAMED OR FITTED WITH OTHER MATERIALS

Table 1 Tariff classification

## 2. Background to the anti-dumping measures

The anti-dumping measures were initially imposed by public notice on 17 October 2011 by the then Attorney-General.<sup>4</sup> This followed their consideration of the recommendations in Report (REP) 159C as a result of *Investigation No. 159C* (original investigation).

The original investigation and the imposition of the anti-dumping measures resulted from an application made under section 269TB of the *Customs Act 1901*<sup>5</sup> by CSR Viridian Limited representing the Australian industry producing like goods to the goods subject to the anti-dumping measures.

On 8 September 2016, the then Assistant Minister for Industry, Innovation and Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science varied the anti-dumping measures and took steps to secure their continuation for a further five years.<sup>6</sup> This followed consideration of the Commissioner's recommendation in REP 335 as a result of *Continuation Inquiry No. 335*.

On 7 March 2019, the Minister for Industry, Science and Technology varied the notice in relation to the anti-dumping measures to include CFG exported from Thailand with edge working in the form of an 'arris', 'rough arris' or 'seamed' edge (removal of the sharp edges of the glass) on any number of sides or faces of the goods.<sup>7</sup> This followed consideration of the Commissioner's recommendation in REP 479 as a result of *Anti-Circumvention Inquiry No. 479*.

Further details on the goods and existing measures is available on the Dumping Commodity Register on the Anti-Dumping Commission's (Commission) website ([www.adcommission.gov.au](http://www.adcommission.gov.au)).

## 3. Application for continuation of the anti-dumping measures

Division 6A of Part XVB sets out, among other things, the procedures to be followed in dealing with an application for the continuation of anti-dumping measures.

In accordance with section 269ZHB(1), I published a notice<sup>8</sup> on the Commission's website on 12 November 2020. The notice invited the following persons to apply for the continuation of the anti-dumping measures:

- the person whose application under section 269TB resulted in the anti-dumping measures (see section 269ZHB(1)(b)(i)); or

<sup>4</sup> Australian Customs Dumping Notice No. 2011/50 refers.

<sup>5</sup> All legislative references in this notice are to the *Customs Act 1901*, unless otherwise stated.

<sup>6</sup> Anti-Dumping Notice (ADN) No. 2016/85 refers.

<sup>7</sup> ADN No. 2019/19 refers.

<sup>8</sup> ADN No. 2020/126 refers.

- persons representing the whole or a portion of the Australian industry producing like goods to the goods covered by the anti-dumping measures (see section 269ZHB(1)(b)(ii)).

On 11 January 2021, an application for the continuation of the anti-dumping measures was received from Oceania Glass Pty Ltd (Oceania Glass). A non-confidential version of the application is available on the Commission's public record.

Oceania Glass's application explained that, on 1 February 2019, the applicant of the original investigation, CSR Viridian Limited, was separated into two businesses; Viridian Glass Pty Ltd and Oceania Glass. Viridian Glass Pty Ltd is involved in the processing of glass, whilst Oceania Glass specialises in the manufacture, sale, and distribution of flat architectural glass and is the only manufacturer of CFG in Australia.

Having regard to the application and the previous investigations, I am satisfied that in relation to the goods the subject of the anti-dumping measures, Oceania Glass produces like goods<sup>9</sup> in Australia and that Oceania Glass represents the whole of the Australian industry producing like goods to the goods covered by the anti-dumping measures.

I am satisfied that Oceania Glass is the person specified under subsection 269ZHB(1)(b)(ii), being the person representing the whole of the Australian industry producing like goods to the goods covered by the existing measures.

#### **4. Consideration of application under section 269ZHD(1)**

Pursuant to section 269ZHD(1), I must reject an application for the continuation of anti-dumping measures if I am not satisfied of one or more of the matters referred to in section 269ZHD(2). These matters are:

- whether the application complies with section 269ZHC (see section 269ZHD(2)(a)); and
- whether there appear to be reasonable grounds for asserting that the expiration of the anti-dumping measures to which the application relates might lead, or might be likely to lead, to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent (see section 269ZHD(2)(b)).

#### **5. Assessment under section 269ZHD(2)(a) – compliance with section 269ZHC**

I consider that the application complies with the requirements of section 269ZHC because it:

- is in writing;
- is in a form approved by me (the form) for the purposes of this section;
- contains the information that the form requires;
- is signed in the manner indicated by the form; and

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<sup>9</sup> Like goods is defined under section 269T(1). Sections 269T(2), 269T(3), 269T(4), and 269T(4A) are used to determine whether the like goods are produced in Australia and whether there is an Australian industry.

- was lodged in a manner approved under section 269SMS, being by email to the Commission's email address provided in the instrument under section 269SMS.<sup>10</sup>

## **6. Assessment under section 269ZHD(2)(b) – reasonable grounds**

### Applicant's claims

In its application, Oceania Glass claims, among other things, that:

- the existing anti-dumping measures have been effective in limiting dumping and material injury since they were last continued in 2016;
- exporters from China, Indonesia and Thailand have maintained their distribution channels to Australia and have continued to export the goods to Australia;
- exporters from China and Indonesia retain excess capacity that may be directed to Australia;
- one exporter from Thailand has engaged in anti-circumvention activity, resulting in an alteration to the description of the goods covered by the notice to include the circumvention goods. It is also claimed that this exporter would be incentivised to shift its export of the goods from the United Arab Emirates to Thailand, most likely at a lower cost to the group, if the anti-dumping measures expire;
- recent exports of the goods to Australia from Indonesia have been at dumped prices. Although recent exports to Australia from China and Thailand do not appear to be at dumped prices, the expiration of measures would likely lead to a resumption of dumping from China and Thailand, because exporters from these countries would seek to match alternate sources of supply; and
- if the measures were not continued, exporters from China, Indonesia and Thailand would seek to increase volumes by decreasing prices, and the Australian industry would suffer material injury as a result. Oceania Glass claims, in particular, that it would suffer reduced sales volumes and market share, contributing to increases in the unit cost of production that could not be recovered in selling prices. Oceania Glass maintains that the CFG market in Australia continues to be competitive, particularly with respect to price. The Australian industry manufacturing like goods would be exposed to a recurrence of the material injury through price undercutting, price suppression, reduced profits and profitability if the measures expired.

### Evidence provided with the application

As part of its application, Oceania Glass provided:

- export data for the goods to demonstrate that exporters from China, Indonesia and Thailand continue to export the goods to Australia. The Commission has supplemented this with import information obtained from the Australian Border Force (ABF) import database;
- export price information and constructed normal values based on its knowledge of the likely production costs, selling general and administrative costs and profits applicable; and

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<sup>10</sup> A copy of the instrument can be found on the Commission's website at [www.adcommission.gov.au](http://www.adcommission.gov.au).

- sales and cost data in relation to its sales of like goods. This data was used to demonstrate the susceptibility of the Australian industry to experience material injury if the measures were not continued.

### The Commission's consideration

The Commission has examined Oceania Glass's application and information the Commission obtained from the ABF import database and has found that exporters from China, Indonesia and Thailand have continued to export the goods to Australia since the imposition (2011) and subsequent continuation (2016) of the anti-dumping measures. This confirms that manufacturers in China, Indonesia and Thailand have maintained distribution links into the Australian market.

The Commission acknowledges Oceania Glass's claims that the anti-dumping measures have been effective in limiting dumping and material injury since last continued.

In respect of dumping, Oceania calculated recent positive dumping margins for exporters from Indonesia. Oceania Glass also calculated recent negative dumping margins in respect of exports from China and Thailand. The Commission considers that Oceania Glass' dumping margin calculations appear reasonable, given the information available to it. The calculations support Oceania Glass' claims that dumping might be continuing for Indonesia.

Oceania Glass claimed that domestic demand in China has increased due to the COVID-19 pandemic and is expected to decrease in 2021. China is a large producer of CFG. The Commission considers that it appears reasonable for Oceania Glass to assert that excess production capacity in China could be sold to Australian customers at reduced prices (which might lead to dumping) if the measures expired.

The Commission also considers that the anti-circumvention activity (see REP 479) from Guardian Industries Corp Ltd (Guardian) in Thailand, and export activity from a related party in the United Arab Emirates, indicates that Australia continues to be a market for the Guardian group. Guardian has exported larger volumes of the goods to Australia in the past. It appears reasonable for Oceania Glass to assert that import volumes of the goods from Thailand could be increased at reduced prices (which might lead to dumping) if the measures expired.

The Commission examined the sales and cost information provided by Oceania Glass in its application. Oceania Glass demonstrated that it has recently experienced a deterioration in its economic performance. It appears reasonable that a continuation or recurrence of dumping, as addressed above, might lead to a continuation or recurrence of material injury if the measures expired.

### Conclusion

Having regard to the application, Oceania Glass's claims and other relevant information set out in this notice, I am satisfied that, in accordance with section 269ZHD(2)(b), there appear to be reasonable grounds for asserting that the expiration of the anti-dumping measures might lead, or might be likely to lead, to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent.

Based on the above findings, I have therefore decided to not reject the application.

## 7. This continuation inquiry

For the purpose of this inquiry, the period from 1 January 2020 to 31 December 2020 (the inquiry period)<sup>11</sup> will be examined to determine whether dumping has occurred and whether the variable factors relevant to the determination of duty have changed.

Following the inquiry, a recommendation will be made to the Minister as to whether the notice should:

- (iii) remain unaltered; or
- (iv) cease to apply to a particular exporter or to a particular kind of goods; or
- (v) have effect in relation to a particular exporter or to exporters generally, as if different variable factors had been ascertained; or
- (vi) expire on the specified expiry day.

## 8. Proposed model control code structure

The Commission undertakes model matching using a Model Control Code (MCC) structure to identify key characteristics that will be used to compare the goods exported to Australia and the like goods sold domestically in the country of export.<sup>12</sup>

The table below outlines the Commission's proposed MCC structure for this inquiry:

Category	Sub-category	Identifier	Sales data	Cost data
Nominal thickness	3 mm	3	Mandatory	Mandatory
	4 mm	4		
	5 mm	5		
	6 mm	6		
	8 mm	8		
	10 mm	10		
	12 mm	12		

**Table 2 Proposed MCC structure**

Proposals to modify the proposed MCC structure should be raised as soon as is practicable, but no later than **37 days from publication of this notice**.

Interested parties are encouraged to make a submission on whether any proposed modifications to the MCC structure should be accepted by the Commission. Any changes to the MCC structure will be considered by the Commission and reported in verification reports or in the statement of essential facts (SEF).

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<sup>11</sup> The Commission's policy is that such period is generally the 12 months preceding the initiation date and ending on the most recently completed quarter or month.

<sup>12</sup> Guidance on the Commission's approach to model matching is in the Dumping and Subsidy Manual, available at [www.adcommission.gov.au](http://www.adcommission.gov.au).

## 9. Public record

The Commission must maintain a public record for this inquiry. The Electronic Public Record (EPR) hosted on the Commission's website ([www.adcommission.gov.au](http://www.adcommission.gov.au)) contains, among other things, a copy of all non-confidential submissions from interested parties. Documents hosted on the EPR can be provided upon request to interested parties.

## 10. Submissions

Interested parties, as defined in section 269T(1), are invited to lodge written submissions concerning the continuation of the measures, no later than the close of business on **11 March 2021**, being 37 days after publication of this notice. The Commission's preference is to receive submissions by email to [investigations3@adcommission.gov.au](mailto:investigations3@adcommission.gov.au).

Submissions may also be addressed to:

The Director, Investigations 3  
Anti-Dumping Commission  
GPO Box 2013  
Canberra ACT 2601

Interested parties wishing to participate in the inquiry must ensure that submissions are lodged promptly. Interested parties should note that a submission received after the date indicated above may be disregarded if to have regard to it would prevent the timely placement of the SEF on the public record.

Interested parties claiming that information contained in their submission is confidential, or that the publication of the information would adversely affect their business or commercial interests, must:

- (i) provide a summary containing sufficient detail to allow a reasonable understanding of the substance of the information that does not breach that confidentiality or adversely affect those interests, or
- (ii) satisfy the Commissioner that there is no way such a summary can be given to allow a reasonable understanding of the substance of the information.

Submissions containing confidential information must be clearly marked "OFFICIAL: Sensitive". Interested parties must lodge a non-confidential version or a summary of their submission in accordance with the requirement above (clearly marked "PUBLIC RECORD").

## 11. Statement of essential facts

The dates specified in this notice for lodging submissions must be observed to enable a report to be provided to the Minister for Industry, Science and Technology (Minister) within the legislative timeframe. The SEF will be placed on the public record on or before **24 May 2021**<sup>13</sup>, that is, within 110 days after the publication of this notice, or by such later date as may be allowed in

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<sup>13</sup> The original date for publication of the SEF was 23 May 2021. As this is a Sunday, the deadline becomes the next business day.



accordance with section 269ZHI(3).<sup>14</sup> The SEF will set out the essential facts on which it is proposed to base a recommendation to the Minister concerning the continuation of the anti-dumping measures.

Interested parties are invited to lodge submissions in response to the SEF within 20 days of the SEF being placed on the public record. Submissions received in response to the SEF within 20 days of the SEF being placed on the public record will be taken into account in completing the report and recommendation to the Minister.

## **12. Report to the Minister**

A recommendation will be made to the Minister in a report on or before **7 July 2021**, that is, within 155 days after the date of publication of this notice, or such later date as may be allowed in accordance with section 269ZHI(3).

The Minister must make a declaration within 30 days after receiving the report, or if the Minister considers there are special circumstances, such longer period, ending before the specified expiry day, as the Minister considers appropriate. If the Minister receives the report less than 30 days before the specified expiry day, the Minister must make the declaration before that day.

## **13. The Commission Contact**

Enquiries about this notice may be directed to the Case Manager on telephone number +61 3 8539 2525 or [investigations3@adcommission.gov.au](mailto:investigations3@adcommission.gov.au)

Dale Seymour  
Commissioner  
Anti-Dumping Commission

2 February 2021

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<sup>14</sup> On 14 January 2017, the powers and functions of the Minister under section 269ZHI were delegated to the Commissioner. Refer to ADN No. 2017/10 for further information.